

2008 No. 2787

LOCAL GOVERNMENT, ENGLAND

**The Local Authorities (Functions and Responsibilities)
(England) (Amendment No. 3) Regulations 2008**

<i>Made</i>	- - - -	<i>23rd October 2008</i>
<i>Laid before Parliament</i>		<i>30th October 2008</i>
<i>Coming into force</i>	- -	<i>28th November 2008</i>

The Secretary of State, in exercise of the powers conferred by sections 13 and 105 of the Local Government Act 2000(a), makes the following Regulations:

Citation, commencement, application and interpretation

1.—(1) These Regulations may be cited as the Local Authorities (Functions and Responsibilities) (England) (Amendment No. 3) Regulations 2008, and shall come into force on 28th November 2008.

(2) These Regulations apply in relation to local authorities in England.

(3) In these Regulations, “the 2000 Regulations” means the Local Authorities (Functions and Responsibilities) (England) Regulations 2000(b).

Amendment

2. The 2000 Regulations are amended as follows.

3. In regulation 2 (functions not to be the responsibility of an authority’s executive)—

(a) omit paragraph (6C) and (6D);

(b) for paragraph (7), substitute—

“(7) Section 101 (arrangements for discharge of functions by local authorities) of the 1972 Act shall not apply with respect to the discharge of any function mentioned in paragraph (5), (6)(a) to (c) or (6A), (6B), (6E) or (6F).”.

(a) 2000 c.22. For the application of sections 13 and 105 of the Local Government Act 2000 to Wales, see section 106 of that Act.
(b) S.I. 2000/2853, to which relevant amendments have been made by S.I. 2001/2212, S.I. 2002/1916, S.I. 2007/806, S.I. 2008/1430 and S.I. 2008/516. There are other amendments not relevant to these Regulations.

4. In paragraph B (licensing and registration functions) of Schedule 1 (functions not to be the responsibility of an authority's executive)—

(a) in column (1), after item 71 insert—

“72. Functions relating to the registration of common land and town or village greens.”; and

(b) in column (2), in relation to the entry in column (1) for item 72 insert—

“Part 1 of the Commons Act 2006 (c.26) and the Commons Registration (England) Regulations 2008 (S.I. 2008/1961).”(a).

5. Omit paragraph EA (functions relating to changing governance arrangements) of Schedule 1 (functions not to be the responsibility of an authority's executive).

6. In paragraph I (miscellaneous functions) of Schedule 1 (functions not to be the responsibility of an authority's executive)—

(a) in column (1), after item 50 insert—

“51. Power to apply for an enforcement order against unlawful works on common land.”;

(b) in column (2), in relation to the entry in column (1) for item 51 insert—

“Section 41 of the Commons Act 2006.”;

(c) in column (1), after item 51 insert—

“52. Power to protect unclaimed registered common land and unclaimed town or village greens against unlawful interference.”;

(d) in column (2), in relation to the entry in column (1) for item 52 insert—

“Section 45(2)(a) of the Commons Act 2006.”;

(e) in column (1), after item 52 insert—

“53. Power to institute proceedings for offences in respect of unclaimed registered common land and unclaimed town or village greens.”; and

(f) in column (2), in relation to the entry in column (1) for item 53 insert—

“Section 45(2)(b) of the Commons Act 2006.”.

(a) As to the commencement of Part 1 of the Commons Act 2006 *see* in relation to England generally, the Commons Act 2006 (Commencement No. 3, Transitional Provisions and Savings) (England) Order 2007 (S.I. 2007/2584), and in relation to the pilot areas, the Commons Act 2006 (Commencement No. 4 and Savings) (England) Order 2008 (S.I. 2008/1960).

Revocation

7. In regulation 4 (functions not to be the responsibility of an authority's executive) of the Local Authorities (Functions and Responsibilities) (England) (Amendment) Regulations 2008^(a)—

- (a) paragraph (b) is revoked in so far as it inserts paragraphs (6C) and (6D) into regulation 2 (functions not to be the responsibility of an authority's executive) of the 2000 Regulations; and
- (b) paragraph (c) is revoked.

Signed by authority of the Secretary of State for Communities and Local Government

23rd October 2008

John Healey
Minister of State
Department for Communities and Local Government

(a) S.I.2008/516.

EXPLANATORY NOTE

(This note is not part of the Order)

These Regulations amend the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (“the 2000 Regulations”). They apply in relation to local authorities in England.

Part 2 of the Local Government Act 2000 (“the 2000 Act”) provides for the discharge of a local authority’s functions by an executive of the authority, unless those functions are specified as functions that are not to be the responsibility of the authority’s executive.

Regulation 2 of, and Schedule 1 to, the 2000 Regulations are concerned with functions that are not to be the responsibility of the executive.

Section 48(6) of the 2000 Act already provides for functions relating to changing governance arrangements under Part 2 of that Act to not be the responsibility of the executive. Changes subsequently made by S.I. 2008/516 to the 2000 Regulations to specify these functions in regulation 2 of, and paragraph EA of Schedule 1 to, the 2000 Regulations were therefore unnecessary. Regulations 3, 5 and 7 of these Regulations revoke the references to these functions in the 2000 Regulations.

Regulations 4 and 6 of these Regulations make other changes to Schedule 1 to the 2000 Regulations. Regulation 4 inserts into paragraph B a new item specifying functions under Part 1 of the Commons Act 2006 and under the Commons Registration (England) Regulations 2008. Regulation 6 inserts into paragraph I new items specifying functions under sections 41 and 45 of the Commons Act 2006. The effect of these amendments is that none of these functions are to be the responsibility of the executive.

A full impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

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