

2009 No. 2983 (W.260)

**LOCAL GOVERNMENT,
WALES**

**The Local Authorities (Executive
Arrangements) (Functions and
Responsibilities) (Wales)
(Amendment) Regulations 2009**

EXPLANATORY NOTE

(This note is not part of the Regulations)

Part II of the Local Government Act 2000 provides for the discharge of a local authority's functions by an executive of an authority (which must take one of the forms specified in section 11(2) to (5) of that Act) unless those functions are not to be the responsibility of the authority's executive. The Local Authorities (Executive Arrangements) (Functions and Responsibilities) (Wales) Regulations 2007 (SI 2007/399 (W.45)) ("the Principal Regulations") specify those functions that are not to be the responsibility of an authority's executive or are to be the responsibility of such an executive only to a limited extent or only in specified circumstances.

These Regulations amend the Principal Regulations.

Schedule 2 to the Principal Regulations lists those functions which may be (but need not be) the responsibility of an authority's executive. Regulation 4 of these Regulations amends this list by inserting specified functions under the Highways Act 1980, the Wildlife and Countryside Act 1981 and the Gambling Act 2005. The effect of these amendments is that a local authority has discretion as to whether the functions in question are exercised by the executive.

Regulation 5 amends the Principal Regulations by using generic wording to refer to the children and young people's plans to be prepared and published by local authorities in accordance with regulations made under section 26 of the Children Act 2004. It also provides that rights of way improvement plans must not be the sole responsibility of the executive.

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Made *10 November 2009*

Laid before the National Assembly for Wales

11 November 2009

Coming into force *2 December 2009*

The Welsh Ministers make the following Regulations in exercise of the powers conferred on the National Assembly for Wales by sections 13, 105 and 106 of the Local Government Act 2000(1) and now vested in them(2).

Title and commencement

1. The title of these Regulations is The Local Authorities (Executive Arrangements) (Functions and Responsibilities) (Wales) (Amendment) Regulations 2009 and they come into force on 2 December 2009.

Amendment

2. The Local Authorities (Executive Arrangements) (Functions and Responsibilities) (Wales) Regulations 2007(3) are amended as follows.

3. In Part D of Schedule 1 (functions not to be the responsibility of an authority's executive), omit paragraph 18.

(1) 2000 c.22.

(2) The powers of the National Assembly for Wales are now vested in the Welsh Ministers by virtue of paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c.32).

(3) SI 2007/399 (W. 45).

4. In Schedule 2 (functions which may be, but need not be, the responsibility of an authority's executive)—

(a) for paragraph 18 substitute—

“18. Any of the following functions in respect of highways—

- (a) the making of agreements for the execution of highways works⁽¹⁾;
- (b) the functions contained in the following provisions of Part III of the Highways Act 1980 ⁽²⁾ (creation of highways)—
 - (i) section 25 – creation of footpath, bridleway or restricted byway by agreement;
 - (ii) section 26 – compulsory powers for creation of footpaths, bridleways or restricted byways;
- (c) the functions contained in the following provisions of Part VIII of the Highways Act 1980 (stopping up and diversion of highways etc)⁽³⁾—
 - (i) section 116 – power of magistrates' court to authorise stopping up or diversion of highway;
 - (ii) section 117 – application for order under section 116 on behalf of another person;
 - (iii) section 118 – stopping up of footpaths, bridleways and restricted byways;
 - (iv) section 118ZA – application for a public path extinguishment order;
 - (v) section 118A – stopping up of footpaths, bridleways and restricted byways crossing railways;
 - (vi) section 118B – stopping up of certain highways for purposes of crime prevention etc;

(1) Section 278 of the Highways Act 1980 (c.66) was substituted by section 23 of the New Roads and Street Works Act 1991 (c.22).

(2) 1980 c.66.

(3) Sections 118ZA, 118B, 118C, 119ZA, 119B, 119C, 119D and 121B were inserted by section 57 of, and Part 1 of Schedule 6 to, the Countryside and Rights of Way Act 2000 (c.37). Sections 118A and 119A were inserted by section 47 of, and Schedule 2 to, the Transport and Works Act 1992 (c.42).

- (vii) section 118C – application by proprietor of school for special extinguishment order;
- (viii) section 119 – diversion of footpaths, bridleways and restricted byways;
- (ix) section 119ZA – application for a public path diversion order;
- (x) section 119A – diversion of footpaths, bridleways and restricted byways crossing railways;
- (xi) section 119B – diversion of certain highways for purposes of crime prevention etc;
- (xii) section 119C – application by proprietor of school for special diversion order;
- (xiii) section 119D – diversion of certain highways for protection of sites of special scientific interest;
- (xiv) section 120 – exercise of powers of making public path extinguishment and diversion orders;
- (xv) section 121B – register of applications;
- (d) the functions contained in the following provisions of Part IX of the Highways Act 1980 (lawful and unlawful interference with highways and streets)—
 - (i) section 130 – protection of public rights;
 - (ii) sections 139 – control of builders’ skips;
 - (iii) section 140 – removal of builders’ skips;
 - (iv) section 140A(1) – builders’ skips: charges for occupation of the highway;
 - (v) section 142 – licence to plant trees, shrubs etc in a highway;
 - (vi) section 147 – power to authorise erection of stiles etc on footpath or bridleway;

(1) Section 140A was inserted by the New Roads and Street Works Act 1991 (c.22) (section 168 and Part 1 of Schedule 8).

- (vii) section 147ZA(1) – agreements relating to improvements for benefit of persons with mobility problems;
 - (viii) section 149 – removal of things so deposited on highways as to be a nuisance etc;
 - (ix) section 169 – control of scaffolding on highways;
 - (x) section 171 – control of deposit of building materials and making of excavations in streets;
 - (xi) section 171A(2) and regulations made under that section – works under s169 or s171: charge for occupation of the highway;
 - (xii) section 172 – hoardings to be set up during building etc;
 - (xiii) section 173 – hoardings to be securely erected;
 - (xiv) section 178 – restriction on placing of rails, beams etc over highways;
 - (xv) section 179 – control of construction of cellars etc under street;
 - (xvi) section 180 – control of openings into cellars etc under streets, and pavement lights and ventilators;
 - (e) exercising functions under section 34 of the Wildlife and Countryside Act 1981(3) (limestone pavement orders); and
 - (f) exercising functions under section 53 of the Wildlife and Countryside Act 1981(4) (duty to keep definitive map and statement under continuous review).”;
- (b) for paragraph 24 substitute—

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- (1) Section 147ZA was inserted by section 69(3) of the Countryside and Rights of Way Act 2000 (c.37).
 - (2) Section 171A was inserted by the New Roads and Street Works Act 1991 (c.22) (section 168 and Part 1 of Schedule 8).
 - (3) 1981 c.69. Section 34 was amended by paragraph 83 of Schedule 11 to the Natural Environment and Rural Communities Act 2006 (c.16). By section 27AA of the 1981 Act section 34 has effect as if references to Natural England were references to the Countryside Council for Wales.
 - (4) Section 53 was amended by the Countryside and Rights of Way Act 2000 (c.37) (section 51 and Part 1 of Schedule 5) and the Natural Environment and Rural Communities Act 2006 (c.16) (section 70).

“24. Functions in respect of gambling under the following provisions of the Gambling Act 2005(1)—

- (a) section 29 – licensing authority information;
- (b) section 30 – other exchange of information;
- (c) section 166 – resolution not to issue casino licences;
- (d) section 212 and regulations made under that section – fees;
- (e) section 284 – removal of exemption;
- (f) section 304 – authorised persons;
- (g) section 346 – prosecutions by licensing authority;
- (h) section 349 – three-year licensing policy;
- (i) section 350 – exchange of information;
- (j) Part 5 of Schedule 11 – registration with local authority.”.

5. In Schedule 3 (functions not to be the sole responsibility of an authority’s executive)—

- (a) in column (1) for “Single Education Plan” substitute “Children and Young People’s Plan”;
- (b) in column (2) for “The Single Education Plan (Wales) Regulations 2006 (SI 2006/877 (W. 82))” substitute “Regulations made under section 26 of the Children Act 2004(2)”;
- (c) at the end—
 - (i) in column (1), insert “Rights of Way Improvement Plan”;
 - (ii) in column (2) in relation to that entry in column (1), insert “Section 60 of the Countryside and Rights of Way Act 2000(3).”.

Brian Gibbons

Minister of Social Justice and Local Government, one of the Welsh Ministers.

10 November 2009

(1) 2005 c.19.
(2) 2004 c.31.
(3) 2000 c.37.