
STATUTORY INSTRUMENTS

2001 No. 2237

The Local Authorities (Executive and Alternative Arrangements) (Modification of Enactments and Other Provisions) (England) Order 2001

Disability of members of authorities for voting on account of prejudicial interests

45.—(1) Where a local authority are operating either executive arrangements or alternative arrangements, the provisions in this article shall apply.

(2) Subject to the provisions of paragraphs (5) and (6), a member of the local authority must regard himself as having a prejudicial interest in a matter if—

- (a) he is present at a meeting of an overview and scrutiny committee of the local authority or a sub-committee of such a committee (whether or not he is a member of the committee or sub-committee);
- (b) the matter is the subject of consideration at the meeting; and
- (c) the matter was the subject of, or relates to, a decision made, or action taken, by—
 - (i) another committee or sub-committee; or
 - (ii) a joint committee or sub-committee of a joint committee, of which he is also a member.

(3) Subject to paragraph (7), where a member regards himself as having a prejudicial interest in a matter in accordance with paragraph (2), he must—

- (a) disclose the existence of the interest at the commencement of the discussion of the matter or, if later, as soon as it becomes apparent to him that he must regard himself as having a prejudicial interest in the matter;
- (b) immediately after he has disclosed the existence of the interest, withdraw from the meeting at which the matter is being considered, unless he has obtained a dispensation from the Secretary of State under the provisions of paragraphs (5) and (6); and
- (c) not return to the meeting while the matter is under consideration.

(4) The proper officer of the authority shall record in a book to be kept for the purpose particulars of any disclosure made under paragraph (3)(a) and the book shall be open at all reasonable hours to the inspection of any member of the authority and, where the authority have a mayor and council manager executive, the council manager of the authority.

(5) The Secretary of State may, subject to such conditions as he may think fit to impose, remove any disability imposed by paragraphs (2) and (3) in any case in which the number of members of the overview and scrutiny committee, or the sub-committee of such a committee, disabled by those paragraphs at any one time would be so great a proportion of the whole as to impede the transaction of business, or in any other case in which it appears to the Secretary of State in the interests of the inhabitants of the area that the disability should be removed.

(6) The power of the Secretary of State under paragraph (5) includes power to remove, either indefinitely or for any period, any such disability which would otherwise attach to any member, or any class or description of member, of the authority, of an overview and scrutiny committee, or of

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a sub-committee of such a committee, by reason of such interests, and in respect of such matters, as may be specified by the Secretary of State.

(7) Nothing in paragraph (3) precludes any person from taking part in the consideration or discussion of, or voting on, any question whether an application should be made to the Secretary of State for the exercise of the powers conferred by paragraphs (5) and (6) above.

(8) In this article any reference to an overview and scrutiny committee shall include a reference to a committee of an authority operating alternative arrangements which is appointed to review or scrutinise decisions made, or other action taken, in connection with the discharge of functions of that authority.

(9) The provisions in this article shall cease to have effect with respect to a local authority as soon as that local authority adopt a code of conduct within the meaning of Part III of the Local Government Act 2000 (conduct of local government members and employees).