

2002 No. 1057

LOCAL GOVERNMENT, ENGLAND

**The Local Authorities (Executive Arrangements)
(Modification of Enactments) (England) Order 2002**

Made - - - - - *11th April 2002*

Laid before Parliament *15th April 2002*

Coming into force - - *6th May 2002*

The Secretary of State for Transport, Local Government and the Regions, in exercise of the powers conferred upon him by sections 47 and 105 of the Local Government Act 2000(a), and of all other powers enabling him in that behalf, hereby makes the following Order:

Citation, commencement, application and interpretation

1.—(1) This Order may be cited as the Local Authorities (Executive Arrangements) (Modification of Enactments) (England) Order 2002 and shall come into force on 6th May 2002.

(2) This Order applies to England only(b).

(3) In this Order—

“the 1972 Act” means the Local Government Act 1972(c);

“the 1983 Act” means the Representation of the People Act 1983(d); and

“the 1995 Order” means the Returning Officers (Parliamentary Constituencies) (England) Order 1995(e).

Modification of enactments

2. The following enactments, in their application to England, are modified in accordance with articles 3 to 14—

(a) the Patriotic Fund Reorganisation Act 1903(f);

(b) the Naval and Military War Pensions, &c, Act 1915(g);

(c) the 1972 Act;

(d) the Administration of Justice Act 1973(h);

(e) the Local Government Act 1974(i);

(f) the 1983 Act;

(g) the Local Government Act 1985(j);

(a) 2000 c. 22.

(b) For the application of sections 47 and 105 of the Local Government Act 2000 to Wales, see section 106(1) of that Act.

(c) 1972 c. 70.

(d) 1983 c. 2.

(e) S.I. 1995/2061.

(f) 1903 c. 20.

(g) 1915 c. 83.

(h) 1973 c. 15.

(i) 1974 c. 7.

(j) 1985 c. 51.

- (h) the Defamation Act 1996^(a);
- (i) the Parliamentary Writs Order 1983^(b); and
- (j) the 1995 Order.

Constitution of the Royal Patriotic Fund Corporation

3.—(1) In paragraph 1 of Schedule 1 to the Patriotic Fund Reorganisation Act 1903^(c) (constitution of Corporation)—

- (a) in sub-paragraph (c), after “the Greater London Council”, there shall be inserted—
“and of the council of any London borough that has a mayor and cabinet executive or a mayor and council manager executive”;
- (b) in the proviso to sub-paragraph (c), after “some other person”, there shall be inserted—
“(other than a member of an executive)”;
- (c) in sub-paragraph (cc), at the end, there shall be inserted—
“that does not have a mayor and cabinet executive or a mayor and council manager executive”; and
- (d) in sub-paragraph (f), at the end, there shall be inserted—
“but none of whom shall be a member of an executive”.

(2) After paragraph 15, there shall be added—

“Interpretation

16. In paragraph 1, “executive”, “mayor and cabinet executive” and “mayor and council manager executive” have the same meaning as in Part II of the Local Government Act 2000.”.

Provisions as to the Royal Patriotic Fund Corporation

4. In section 6 of the Naval and Military War Pensions, &c, Act 1915 (provisions as to Corporation)—

- (a) in subsection (1), after “some other person”, there shall be inserted—
“(other than a member of an executive)”;
- (b) in subsection (2), after “of persons”, there shall be inserted—
“(other than members of an executive)”;
- (c) at the end, there shall be added—
“(6) In this section, “executive” has the same meaning as in Part II of the Local Government Act 2000.”.

Style of mayor and deputy mayor

5. In section 245 of the 1972 Act^(d) (status of certain districts, parishes and communities), after subsection (4), there shall be inserted—

“(4A) Where—

- (a) a council are operating executive arrangements which involve a mayor and cabinet executive or a mayor and council manager executive; and
- (b) the chairman or vice-chairman of the council has previously used the style of mayor or deputy mayor by virtue of subsection (4)(b), the chairman or vice-chairman, as the case may be, shall no longer use that style.”.

(a) 1996 c. 31.

(b) S.I. 1983/605.

(c) Paragraph 1(cc) was inserted by the Local Authorities etc. (Miscellaneous Provisions) (No. 2) Order 1974 (S.I. 1974/595).

(d) Section 245 was amended by section 46 of, and paragraph 11 of Schedule 3 to, the Local Government Act 2000.

Meetings and proceedings of local authorities

6. In paragraph 1(2) of Part I of Schedule 12 to the 1972 Act(a) (meetings and proceedings of local authorities—principal councils), after sub-paragraph (a), there shall be inserted—

“(aa) in a year of an election for the return of an elected mayor to the council, which is not a year of ordinary elections of councillors to the council, on the eighth day after the day of retirement of an elected mayor or such other day within the twenty-one days immediately following the day of retirement as the council may fix;”.

Justices of the peace

7. In Part II of Schedule 1 to the Administration of Justice Act 1973(b) (justices of the peace (consequential re-enactments and amendments)), after paragraph 7, there shall be inserted—

“7A. Where the council of a London borough are operating executive arrangements, which involve a mayor and cabinet executive or a mayor and council manager executive, paragraph 7 shall have effect as if for the expression “mayor of a London borough” there were substituted “chairman of a London borough”.

7B. In this Part, “executive arrangements”, “mayor and cabinet executive” and “mayor and council manager executive” have the same meaning as in Part II of the Local Government Act 2000.”.

Reports on investigations

8.—(1) In section 30 of the Local Government Act 1974(c) (reports on investigations), after subsection (2AA), there shall be inserted—

“(2AB) Where an authority are operating executive arrangements which involve a mayor and cabinet executive or mayor and council manager executive, subsection (2) shall have effect as if the words “, or, as the case may be, mayor of that authority” were omitted.”.

(2) In subsection (1) of section 34 of the Local Government Act 1974(d) (interpretation of Part III), after the definition of “local authority”, there shall be inserted—

““mayor and cabinet executive” and “mayor and council manager executive” have the same meaning as in Part II of the Local Government Act 2000;”.

Returning officers

9.—(1) In subsection (1) of section 24 of the 1983 Act(e) (returning officers: England and Wales)—

(a) after paragraph (d), there shall be inserted—

“(dd) where a council of a London borough are operating executive arrangements which involve a mayor and cabinet executive or a mayor and council manager executive, paragraph (d) shall have effect as if for the words “the mayor” there were substituted “the chairman”; and

(b) in paragraph (e), after “the mayor”, there shall be inserted “or the chairman”.

(2) After subsection (1) of section 24 of the 1983 Act, there shall be inserted—

“(1A) In subsection (1), “executive arrangements”, “mayor and cabinet executive” and “mayor and council manager executive” have the same meaning as in Part II of the Local Government Act 2000.”.

(a) There are amendments to Schedule 12 which are not relevant to this Order.

(b) Paragraph 7 was amended by section 73 of, and paragraph 13 of Schedule 5 to, the Justices of the Peace Act 1997 (c. 25) and by section 102 of, and Schedule 17 to, the Local Government Act 1985.

(c) Subsection (2AA) was inserted by section 74 of the Greater London Authority Act 1999 (c. 29) and subsection (2A) was repealed by Part V of Schedule 18 to the Government of Wales Act 1998 (c. 38). There are other amendments to section 30 which are not relevant to this Order.

(d) Subsection (1) was amended by article 10(2) of the Local Authorities (Executive and Alternative Arrangements) (Modification of Enactments and Other Provisions) (England) Order 2001 (S.I. 2001/2237). There are other amendments to section 34 which are not relevant to this Order.

(e) There are amendments to section 24 which are not relevant to this Order.

Discharge of returning officer's functions

10. In subsection (1)(a) of section 28 of the 1983 Act^(a) (discharge of returning officer's functions in England and Wales), after “the mayor”, there shall be inserted “or the chairman”.

Disqualification

- 11.** In section 35 of the Local Government Act 1985^(b) (disqualification)—
- (a) in subsection (1), after “any such office or employment”, there shall be inserted—
“or by an elected mayor”; and
 - (b) at the end, there shall be added—
“(4) In this section, “elected mayor”, “executive”, “executive arrangements”, “executive leader” and “leader and cabinet executive” have the same meaning as in Part II of the Local Government Act 2000.”.

Statements privileged subject to explanation or contradiction

- 12.** In paragraph 11 of Schedule 1 to the Defamation Act 1996^(c) (statements privileged subject to explanation or contradiction)—
- (a) in sub-paragraph (1)(a), for “, local authority committee or in the case of a local authority which are operating executive arrangements the executive of that authority or a committee of that executive”, there shall be substituted “or local authority committee”;
 - (b) after sub-paragraph (1)(a), there shall be inserted—
“(aa) in the case of a local authority which are operating executive arrangements, the executive of that authority or a committee of that executive;”;
 - (c) in sub-paragraph (2)—
 - (i) after “In sub-paragraphs (1)(a)”, there shall be inserted “, (1)(aa)”;
 - (ii) the definitions of “executive” and “executive arrangements” shall be omitted; and
 - (d) after sub-paragraph (2), there shall be inserted—
“(2A) In sub-paragraphs (1) and (1A)—
“executive” and “executive arrangements” have the same meaning as in Part II of the Local Government Act 2000.”.

Form of notices to Clerk of the Crown

13. In the Schedule to the Parliamentary Writs Order 1983 (form of notices to Clerk of the Crown), at the end of the forms set out in paragraphs 1 and 2, there shall be added in each case—

“Chairman of the London Borough of”.

Returning officers

- 14.—**(1) After article 4A of the 1995 Order^(d) (returning officer for a parliamentary election), there shall be inserted—
- “**4B.—**(1) Where a London borough council are operating executive arrangements which involve a mayor and cabinet executive or a mayor and council manager executive, article 4 shall have effect as if for the expression “mayor of a London borough” there were substituted “chairman of a London borough”.
- (2) In this article, “executive arrangements”, “mayor and cabinet executive” and “mayor and council manager executive” have the same meaning as in Part II of the Local Government Act 2000.”.

(a) Section 28(1)(a) was amended by paragraph 68(4) of Schedule 16 to the Local Government (Wales) Act 1994 (c. 19).
(b) Section 35(1) was amended by article 12 of S.I. 2001/2237.
(c) Paragraph 11 was amended by article 31 of S.I. 2001/2237.
(d) Article 4A was inserted by article 2 of the Returning Officers (Parliamentary Constituencies) (England) (Amendment) Order 1996 (S.I. 1996/898).

(2) In Schedule 2 to the 1995 Order (returning officers for certain borough constituencies in Greater London), in the right-hand column, in the heading after “mayor”, there shall be inserted “or chairman”.

Revocation

15. Paragraphs (a) and (c) of article 31 (statements privileged subject to explanation or contradiction) of the Local Authorities (Executive and Alternative Arrangements) (Modification of Enactments and Other Provisions) (England) Order 2001^(a) are hereby revoked.

Signed by authority of the Secretary of State
for Transport, Local Government and the Regions

Nick Raynsford
Minister of State,
Department for Transport,
Local Government and the Regions

11th April 2002

^(a) S.I. 2001/2237.

EXPLANATORY NOTE

(This note is not part of the Regulations)

This Order modifies primary and secondary legislation for the purposes of, in consequence of, or for giving full effect to, provisions in Part II of the Local Government Act 2000 (“the 2000 Act”) (arrangements with respect to executives etc.). This Order and the modifications made by it apply to England only.

Article 3 modifies Schedule 1 to the Patriotic Fund Reorganisation Act 1903 so as to exclude a member of an executive of a London borough from appointment to the membership of the constitution of the Royal Patriotic Fund Corporation.

Article 4 modifies section 6 of the Naval and Military War Pensions, &c, Act 1915 so that a mayor of a London borough who is a member of the constitution of the Royal Patriotic Fund Corporation by virtue of the Patriotic Fund Reorganisation Act 1903, cannot appoint a member of an executive to be a member in his place. This section is also modified so that a member of an executive cannot become a co-opted member of the general council of the Corporation.

Article 5 modifies section 245 of the Local Government Act 1972 (“the 1972 Act”) so that where a district council have been granted a borough charter and are operating executive arrangements involving an elected mayor, the chairman or vice-chairman of the council can no longer use the style of mayor or deputy mayor.

Article 6 modifies Part I of Schedule 12 to the 1972 Act to make provision for a principal council which are operating executive arrangements involving an elected mayor, to fix the date of the annual meeting in a year of an election for the return of the elected mayor, which is not a year of ordinary elections of councillors to the council.

Article 7 modifies Part II of Schedule 1 to the Administration of Justice Act 1973 so that where a London borough council are operating executive arrangements involving an elected mayor, the chairman of the council, not the elected mayor, is to undertake certain acts prescribed in the Justices of the Peace Act 1997.

Article 8 modifies section 30 of the Local Government Act 1974 so that where an authority are operating executive arrangements which involve an elected mayor, the Local Commissioner’s report into an investigation is sent to the chairman of the authority.

Article 9 modifies section 24 of the Representation of the People Act 1983 (“the 1983 Act”) so that where a London borough council are operating executive arrangements which involve an elected mayor, the chairman of the council, not the elected mayor, is to be the returning officer for a parliamentary election.

Article 10 modifies section 28 of the 1983 Act so that the chairman of a London borough is included amongst those who discharge the duties of returning officer by virtue of section 24 of the 1983 Act.

Article 11 modifies section 35 of the Local Government Act 1985 so that it is extended to include appointments made by the elected mayor of an authority.

Article 12 modifies paragraph 11 of Schedule 1 to the Defamation Act 1996 to correct an ambiguity caused by the modification made by article 31 of the Local Authorities (Executive and Alternative Arrangements) (Modification of Enactments and Other Provisions) (England) Order 2001, and article 31(a) and (c) of that Order are revoked by **article 16**. Records of public meetings of the executive or committees of the executive and records of decisions made by individual members of an executive are classified as information that is privileged subject to explanation or contradiction in defamation proceedings.

Article 13 amends the forms set out in the Schedule to the Parliamentary Writs Order 1983 so as to include the chairman of a London borough who is a returning officer in a parliamentary election.

Article 14 modifies the Returning Officers (Parliamentary Constituencies) (England) Order 1995 so that where a London borough council listed in Schedule 2 to the Order are operating executive arrangements which involve an elected mayor, the chairman of the council, not the elected mayor, is to be the returning officer in a parliamentary election.

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