
STATUTORY INSTRUMENTS

2008 No. 2867

**The Local Government (Structural Changes)
(Transitional Arrangements) (No.2) Regulations 2008**

PART 5

MEMBERSHIP OF CERTAIN LICENSING AND PLANNING COMMITTEES

Interpretation of Part 5

15.—(1) In this Part—

“the 1989 Act” means the Local Government and Housing Act 1989⁽¹⁾;

“2009-electing council” means a single tier council to which elections are to be held in 2009;

“licensing function” means any function conferred by or under—

- (a) the Gambling Act 2005⁽²⁾,
- (b) the Licensing Act 2003⁽³⁾, or
- (c) any other enactment relating to the licensing of premises for any purpose, where the function is for the time being listed in paragraph B (licensing and registration functions) of Schedule 1 to the 2000 Regulations) (functions not to be the responsibility of an authority’s executive) so far as not covered by any other paragraph of that Schedule;

“planning function” means any function—

- (a) conferred by or under Part 3 of the Town and Country Planning Act 1990⁽⁴⁾ (control over development), or
- (b) for the time being listed in Section A of Schedule 1 to the 2000 Regulations (functions relating to town and country planning and development control);

“pre-election period”, in relation to a 2009-electing council, means the period beginning on the reorganisation date and ending on the fourth day after the ordinary day of election of councillors in 2009; and

“relevant committee” means a committee of a 2009-electing council established—

- (a) under section 6(1) of the Licensing Act 2003⁽⁵⁾;
- (b) for the purpose of the exercise by the council of any other licensing function; or
- (c) for the purpose of the exercise by the council of any planning function.

(2) For the purposes of this Part—

(1) 1989 c.42. Subsection(3) of section 13 excepts members of a committee or sub-committee falling within subsection (4) from the restriction on voting imposed by subsection (1).
(2) 2005 c.19.
(3) 2003 c.17.
(4) 1990 c.8.
(5) 2003 c.17.

- (a) a 2009-electing council is related to a preparing council if it succeeds the preparing council on the reorganisation date; and
- (b) a preparing council is related to a predecessor council if it is the successor council to the predecessor council.

Temporary co-opted membership of committees discharging licensing or planning functions

16.—(1) Subject to paragraph (6), where the Implementation Executive of a 2009-electing council so resolves, a person specified in the resolution who—

- (a) immediately before the passing of the resolution is a member of the Implementation Executive; and
- (b) is not a member of the related preparing council,

shall, for the duration of the pre-election period, be a co-opted member of such one or more relevant committees of the 2009-electing council as the Implementation Executive shall specify in the resolution.

(2) Subject to paragraph (6), where the Implementation Executive of a preparing council which on the reorganisation date will be a 2009-electing council so resolves before the reorganisation date—

- (a) a member of the Implementation Executive specified in the resolution who, immediately before the passing of the resolution, is not a member of the related preparing council; or
- (b) a person specified in the resolution who is a member for the time being of a committee referred to in paragraph (3),

shall, for the duration of the pre-election period, be a co-opted member of such one or more relevant committees as exercise licensing functions as the Implementation Executive shall specify in the resolution.

(3) The committee mentioned in paragraph (2) is a committee that discharges licensing functions of a predecessor council that is related to the preparing council concerned.

(4) Subject to paragraph (6), where the Implementation Executive of a preparing council which on the reorganisation date will be a 2009-electing council so resolves before the reorganisation date—

- (a) a member of the Implementation Executive specified in the resolution who, immediately before the passing of the resolution, is not a member of the related preparing council; or
- (b) a person specified in the resolution who is a member for the time being of a committee referred to in paragraph (5),

shall, for the duration of the pre-election period, be a co-opted member of such one or more relevant committees as exercise planning functions as the Implementation Executive shall specify in the resolution.

(5) The committee mentioned in paragraph (4) is a committee that discharges planning functions of a predecessor council that is related to the preparing council concerned.

(6) Paragraphs (1), (2) and (4) do not apply where the preparing council is a district council.

(7) For the purposes of paragraphs (1), (2) and (4) it is immaterial that a person, who before the reorganisation date is a member of a predecessor council, ceases on that date to be a member of it.

(8) Section 102(2) of the 1972 Act shall not apply in relation to a person who is a co-opted member of a relevant committee of a description specified in paragraph (b) or (c) of the definition of “relevant committee”; and the term of office of any such person shall be the pre-election period.

(9) Subsection (1) of section 13 of the 1989 Act (voting rights of members of certain committees: England and Wales), shall not apply to a person who is a co-opted member of a relevant committee by virtue of a resolution under paragraph (2) or (4).

(10) Nothing in paragraph (1), (2), (4) or (8) shall prevent the Implementation Executive of a 2009-electing council from resolving on or after the reorganisation date—

- (a) that a person in respect of whom a resolution had been passed under this regulation before that date should from such date as may be specified in the resolution cease to be a co-opted member of a relevant committee; or
- (b) that a member of the Implementation Executive who was not a member of the 2009-electing council's related preparing council should be a co-opted member of a relevant committee.

Political balance on certain licensing and planning committees

17.—(1) Section 15 of 1989 Act (duty to allocate seats to political groups) shall not apply in relation to—

- (a) the appointment before the reorganisation date by a preparing council to which paragraph (3) applies of persons to be members of a relevant committee of its related 2009-electing council; or
- (b) the appointment after the reorganisation date by a 2009-electing council of persons to be members of a relevant committee of that council,

where the period of membership falls within the pre-election period.

(2) But, subject to paragraphs (4) and (5), in making appointments of the description specified in paragraph (1), the preparing council or the 2009-electing council (as the case may be) shall—

- (a) so far as practicable, ensure that the seats on the relevant committee are allocated to particular political groups in the same proportion as the seats on the preparing council's Implementation Executive are for the time being or, in the case of appointments by the 2009-electing council, were immediately before the reorganisation date, filled by persons who are members of particular political groups; and
- (b) take into account the membership of particular political groups of the persons (if any) in respect of whom the preparing council has resolved (under regulation 15) that they should be co-opted to the relevant committee concerned.

(3) This paragraph applies to a preparing council which—

- (a) before the reorganisation date is a county council, and
- (b) on that date becomes a 2009-electing council.

(4) At any time before the reorganisation date the Implementation Executive of a preparing council which is a county council may resolve that the requirements of paragraph (2) shall not apply to the making of appointments of the description specified in paragraph (1); but this is subject to paragraph (6).

(5) At any time during the pre-election period, the Implementation Executive of a 2009-electing council may resolve that the requirements of paragraph (2) shall not apply to the making of appointments of the description specified in paragraph (1); but this is subject to paragraph (6).

(6) A resolution may not be passed under paragraph (4) or (5)—

- (a) unless different provision is made by arrangements approved by the preparing council or, as the case may be, the 2009-electing council in the manner for the time being prescribed in regulations made by the Secretary of State for the purposes of section 17 of the 1989 Act (exceptions to and extensions of political balance requirements); and
- (b) if any member of the Implementation Executive votes against it.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.
