

**EXPLANATORY MEMORANDUM TO**  
**THE LOCAL AUTHORITIES (ARRANGEMENTS FOR THE DISCHARGE OF**  
**FUNCTIONS) (ENGLAND) REGULATIONS 2012**

**2012 No. 1019**

1. This explanatory memorandum has been prepared by the Department for Communities and Local Government and is laid before Parliament by Command of Her Majesty.

2. **Purpose of the instrument**

The Local Authorities (Arrangements for the Discharge of Functions)(England) Regulations 2012 (“the Regulations”) provide for local authorities operating executive arrangements under section 9C of the Local Government Act 2000 (“the 2000 Act”) – either the mayor and cabinet executive or the leader and cabinet executive (England) – to make arrangements for the discharge of their functions by another local authority, by the executive of another local authority, or jointly with other local authorities.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

None.

4. **Legislative Context**

4.1 Sections 21 and 22 of, and Schedules 2 and 3 to, the Localism Act 2011 (“the 2011 Act”) inserted a new Part 1A (Arrangements with respect to local authority governance in England) into the 2000 Act, to apply to England only, and limited existing Part 2 of the 2000 Act to Wales. Under section 9B of the 2000 Act, a local authority must operate executive arrangements, a committee system, or arrangements as may be prescribed by Regulations under section 9BA of the 2000 Act. Section 9C of the 2000 Act provides that the following executive arrangements are available to local authorities in England – the mayor and cabinet executive or the leader and cabinet executive (England).

4.2 Section 9E of the 2000 Act makes provision in relation to the discharge of functions in local authorities operating executive arrangements. The provisions at section 9E of the 2000 Act are subject to regulations made under sections 9EA and 9EB of the 2000 Act.

4.3 The Regulations, which are made under sections 9EA and 9EB, make provision for local authorities operating executive arrangements to arrange for the discharge of its functions by another local authority, by the executive of another local authority, or jointly with other local authorities. The Regulations revoke and replace the Local Authorities (Arrangements for the Discharge of Functions)(England) Regulations 2000 (SI 2000/2851) (“the 2000 Regulations”), and incorporate, as appropriate, changes resulting from the Local Government and Public Involvement in Health Act 2007 (“the 2007 Act”) and the 2011 Act.

## **5. Territorial Extent and Application**

This instrument applies to local authorities in England.

## **6. European Convention on Human Rights**

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

## **7. Policy background**

- *What is being done and why*

7.1 The 2011 Act, which received Royal Assent on 15 November 2011, implemented the Government's policy on giving local authorities in England greater freedoms and flexibilities in relation to their governance arrangements.

7.2 To a large extent the provisions in the Regulations mirror those set out in the 2000 Regulations. As a result of the provisions on local authority governance in the 2011 Act however, a number of changes from the 2000 Regulations are necessary. The opportunity has also been taken to update the 2000 Regulations in light of changes made to the 2000 Act by the 2007 Act – including removing references to the now abolished mayor and council manager governance model.

7.3 The principal change made in the Regulations is to reflect that the 2011 Act removed from the 2000 Act the previous prescriptions, including the maximum area over which an area committee could have been established, which applied to the discharge of executive functions by an area committee of the local authority. Provision permitting the executive to arrange for executive functions to be discharged by an area committee of the local authority is now set out on the face of the 2000 Act (section 9E of the 2000 Act), and therefore, no provision is required to be made in respect of area committees in the Regulations.

- *Consolidation*

7.4 This is the first exercise of the enabling power.

## **8. Consultation outcome**

8.1 In drafting the Regulations, the Department has drawn on the provisions set out in the 2000 Regulations. The Department has not therefore undertaken any formal consultation on the Regulations.

8.2 However, the Regulations, as drafts, have been the subject of an informal soundings exercise with external partners - the Local Government Association, the Society of Local Authority Chief Executives, the Centre for Public Scrutiny and the Association of Council Secretaries and Solicitors.

8.3 The Department received responses from the Centre for Public Scrutiny and the Association of Council Secretaries and Solicitors, in which they raised a number of drafting points. The Department has had regard to the responses it received when finalising the Regulations.

**9. Guidance**

The Regulations largely mirror the provisions of the 2000 Regulations with which local authorities are already familiar, so the Regulations are considered to be self-explanatory and there is no intention to issue separate guidance.

**10. Impact**

A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

**11. Regulating small business**

The legislation does not apply to small business.

**12. Monitoring & review**

It is not intended to put in place any formal mechanism for monitoring and reviewing the Regulations. The Department maintains close dialogue with the Local Government Association, the Society of Local Authority Chief Executives, the Centre for Public Scrutiny and the Association of Council Secretaries and Solicitors. Any issues relating to the Regulations will be identified through these channels.

**13. Contact**

Tayo Peters at the Department for Communities and Local Government can answer any queries regarding the instrument (Tel: 0303 444 2551 or Email: [tayo.peters@communities.gsi.gov.uk](mailto:tayo.peters@communities.gsi.gov.uk)).