



CYNULLIAD CENEDLAETHOL CYMRU

NATIONAL ASSEMBLY FOR WALES

OFFERYNNAU STATUDOL

STATUTORY INSTRUMENTS

2002 Rhif 803 (Cy.88)

2002 No. 803 (W.88)

**LLYWODRAETH LEOL,
CYMRU**

**LOCAL GOVERNMENT,
WALES**

**Gorchymyn Awdurdodau Lleol
(Trefniadau Gweithrediaeth)
(Addasu Deddfiadau a
Darpariaethau Pellach) (Cymru)
2002**

**The Local Authorities (Executive
Arrangements) (Modification of
Enactments and Further
Provisions) (Wales) Order 2002**

NODYN ESBONIADOL

EXPLANATORY NOTE

(Nid yw'r nodyn hwn yn rhan o'r Gorchymyn)

(This note is not part of the Order)

Mae'r Gorchymyn hwn yn addasu deddfwriaeth ac yn gwneud darpariaethau eraill er mwyn rhoi eu heffaith lawn i ddarpariaethau yn Rhan II o Ddeddf Llywodraeth Leol 2000 ("Deddf 2000") (trefniadau mewn perthynas â gweithrediaethau etc.) ac o ganlyniad i hynny. Mae'r Gorchymyn yn gymwys i gynghorau sir a chynghorau bwrdeistref sirol yng Nghymru.

This Order modifies legislation and makes other provisions 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 applies in relation to county and county borough councils in Wales.

Mae Erthygl 3 yn addasu adran 101 o Ddeddf Llywodraeth Leol 1972 ("Deddf 1972"). Mae Erthygl 3(a) yn atal yr awdurdodau lleol rhag gwneud trefniadau i swyddogaethau gael eu cyflawni gan awdurdod lleol arall i'r graddau y mae'r swyddogaeth o dan sylw yn gyfrifoldeb i weithrediaeth yr awdurdod lleol arall hwnnw. Mewn achosion o'r fath, fe allai'r swyddogaeth (i'r graddau hynny) ddod yn gyfrifoldeb i weithrediaeth yr awdurdod lleol hwnnw, ond nid i'r awdurdod lleol ei hun.

Article 3 modifies section 101 of the Local Government Act 1972 ("the 1972 Act"). Article 3(a) prevents local authorities from making arrangements for the discharge of functions by another local authority to the extent that the function in question is the responsibility of the executive of that other local authority. In such cases the function (to that extent) could become the responsibility of the executive of that local authority, but not of the local authority themselves.

Mae'r addasiadau yn erthygl 3 yn darparu hefyd fod y trefniadau i swyddogaethau awdurdod lleol gael eu cyflawni gan naill ai awdurdod lleol arall neu gyd-bwyllgor sy'n bodoli pryd y mae unrhyw un o'r awdurdodau lleol sy'n cymryd rhan ynddo yn dechrau rhoi trefniadau gweithrediaeth ar waith yn dod i ben i'r graddau y daw'r swyddogaeth o dan sylw yn gyfrifoldeb i weithrediaeth unrhyw un o'r awdurdodau hynny.

The modifications in article 3 also provide that the arrangements for the discharge of a local authority's functions, by either another local authority or a joint committee, existing at the time when any of the participating local authorities begin to operate executive arrangements, shall cease to the extent that the function in question becomes the responsibility of the executive of any of those authorities.

Mae Erthygl 4 yn addasu adran 102 o Ddeddf 1972 i alluogi'r awdurdodau lleol i benodi pwyllgorau ardal er mwyn cyflawni swyddogaethau a ddirprwyir gan y weithrediaeth. Bydd y diwygiad yn fodd hefyd i'r awdurdodau lleol benodi pwyllgorau ymgynghorol i gynghori gweithrediaeth yr awdurdod lleol ac unrhyw bwyllgor neu aelod unigol o'r weithrediaeth honno.

Mae Erthygl 5 yn addasu adran 8 o Ddeddf Llywodraeth Leol a Thai 1989 ("Deddf 1989"), gan alluogi rheoliadau a wneir gan yr Ysgrifennydd Gwladol ynghylch rheolau sefydlog yr awdurdodau lleol mewn perthynas â staff gynnwys darpariaeth arbennig mewn perthynas â phenodi cynorthwydd maer awdurdod lleol.

Os oes gan awdurdod lleol weithrediaeth maer a rheolwr cyngor, mae Erthygl 6 yn addasu adran 13 o Ddeddf 1989 i sicrhau y caiff rheolwr y cyngor, neu unrhyw swyddog arall a benodir yn lle'r person hwnnw, fod yn aelod sy'n pleidleisio o unrhyw gyd-bwyllgor (neu o is-bwyllgor i bwyllgor o'r fath) sy'n arfer swyddogaethau sy'n gyfrifoldeb i'r weithrediaeth ac y mae'r person hwnnw yn aelod ohono. Mae'r erthygl hon hefyd yn gwneud diwygiad canlyniadol i Atodlen 1 i Ddeddf 2000.

Mae Erthygl 7 yn cyflwyno gofyniad i awdurdodau lleol sydd wrthi yn gweithredu trefniadau gweithrediaeth o dan Ran II o Ddeddf Llywodraeth Leol 2000, neu a fydd yn eu gweithredu, wneud rheolau sefydlog mewn perthynas â chontractau'r awdurdod lleol ac yn pennu'r darpariaethau sydd i'w cynnwys yn y rheolau sefydlog, gan gynnwys y weithdrefn sydd i'w dilyn wrth i gontractau o'r fath gael eu gwneud.

Article 4 modifies section 102 of the 1972 Act to enable local authorities to appoint area committees for the purpose of discharging functions delegated by the executive. The amendment will also enable local authorities to appoint advisory committees to advise the executive of the local authority and any committee or individual member of that executive.

Article 5 modifies section 8 of the Local Government and Housing Act 1989 ("the 1989 Act"), enabling regulations made by the Secretary of State concerning local authorities' standing orders with respect to staff to include special provision in relation to the appointment of a local authority mayor's assistant.

Article 6 modifies section 13 of the 1989 Act to ensure that, where a local authority are operating a mayor and council manager executive, the council manager, or any other officer appointed in that person's place, may be a voting member of any joint committee (or sub-committee of such a committee) which exercises functions which are the responsibility of the executive and of which that person is a member. This article also makes a consequential amendment to Schedule 1 to the 2000 Act.

Article 7 introduces a requirement for local authorities who are or will be operating executive arrangements under Part II of the Local Government Act 2000 to make standing orders in respect of local authority contracts and specifies the provisions that are to be included in the standing orders, including the procedure to be followed in the making of such contracts.

2002 Rhif 803 (Cy.88)**2002 No. 803 (W.88)****LLYWODRAETH LEOL,
CYMRU****LOCAL GOVERNMENT,
WALES****Gorchymyn Awdurdodau Lleol
(Trefniadau Gweithrediaeth)
(Addasu Deddfiadau a
Darpariaethau Pellach) (Cymru)
2002****The Local Authorities (Executive
Arrangements) (Modification of
Enactments and Further
Provisions) (Wales) Order 2002***Wedi'u gwneud**21 Mawrth 2002**Made**21st March 2002**Yn dod i rym**1 Ebrill 2002**Coming into force**1st April 2002*

Mae Cynulliad Cenedlaethol Cymru drwy arfer y pwerau a roddwyd iddo gan adrannau 47, 105 a 106(1) o Ddeddf Llywodraeth Leol 2000(a) drwy hyn yn gwneud y Gorchymyn canlynol:

The National Assembly for Wales in exercise of the powers conferred upon it by sections 47, 105 and 106(1) of the Local Government Act 2000(a) hereby makes the following Order:

Enwi, cychwyn, cymhwyso a dehongli**Name, commencement, application and interpretation**

1. -(1) Enw'r Gorchymyn hwn yw Gorchymyn Awdurdodau Lleol (Trefniadau Gweithrediaeth) (Addasu Deddfiadau a Darpariaethau Pellach) (Cymru) 2002 a daw i rym ar 1 Ebrill 2002.

1.-(1) This Order is called the Local Authorities (Executive Arrangements) (Modification of Enactments and Further Provisions) (Wales) Order 2001 and shall come into force on 1st April 2002.

(2) Mae'r Gorchymyn hwn yn gymwys i Gymru (**b**).

(2) This Order applies to Wales(**b**).

(3) Yn y Gorchymyn hwn -

(3) In this Order -

ystyr "Deddf 1972" ("*the 1972 Act*") yw Deddf Llywodraeth Leol 1972(**c**)

"the 1972 Act" means the Local Government Act 1972(**c**)

ystyr "Deddf 1989" ("*the 1989 Act*") yw Deddf Llywodraeth Leol 1989(**ch**); ac

"the 1989 Act" means the Local Government and Housing Act 1989(**d**); and

ystyr "Deddf 2000" ("*the 2000 Act*") yw Deddf Llywodraeth Leol 2000.

"the 2000 Act" means the Local Government Act 2000.

Addasu Deddfau**Modification of Acts**

2. Mae Deddf 1972, Deddf 1989 a Deddf 2000, o'u cymhwyso at Gymru, yn cael eu haddasu yn unol ag erthyglau 3 i 6.

2. The 1972 Act, the 1989 Act and the 2000 Act, in their application to Wales, are modified in accordance with articles 3 to 6.

(a) 2000 p.22.

(b) I weld sut mae adrannau 47 a 105 o Ddeddf Llywodraeth Leol 2000 yn gymwys i Gymru, gweler adran 106(1) o'r Ddeddf honno.

(c) 1972 p.70.

(ch) 1989 c.42.

(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) 1989 c.42.

Trefniadau i awdurdodau lleol gyflawni swyddogaethau

3. Yn adran 101 o Ddeddf 1972 Act(a) (trefniadau i awdurdodau lleol gyflawni swyddogaethau) -

(a) ar ôl is-adran (1), mewnosodir -

"(1A) A local authority may not under subsection (1)(b) above arrange for the discharge of any of their functions by another local authority if, or to the extent that, that function is also a function of the other local authority and is the responsibility of the other authority's executive.

(1B) Arrangements made under subsection (1)(b) above by a local authority ("the first authority") with respect to the discharge of any of their functions shall cease to have effect with respect to that function if, or to the extent that, -

(a) the first authority are operating or begin to operate executive arrangements, and that function becomes the responsibility of the executive of that authority; or

(b) the authority with whom the arrangements are made ("the second authority") are operating or begin to operate executive arrangements, that function is also a function of the second authority and that function becomes the responsibility of the second authority's executive.

(1C) Subsections (1A) and (1B) above do not affect arrangements made by virtue of section 19 of the Local Government Act 2000 (discharge of functions of and by another authority)."; a

(b) ar ôl is-adran (5), mewnosodir -

"(5A) Arrangements made under subsection (5) above by two or more local authorities with respect to the discharge of any of their functions shall cease to have effect with respect to that function if, or to the extent that, the function becomes the responsibility of an executive of any of the authorities.

(5B) Subsection (5A) above does not affect arrangements made by virtue of section 20 of the Local Government Act 2000 (joint exercise of functions).".

Penodi pwyllgorau

4. Yn adran 102 o Ddeddf 1972(b) (penodi pwyllgorau) -

(a) ar ôl is-adran (1), mewnosodir -

(a) Ceir diwygiadau eraill i adran 101 nad ydynt yn berthnasol i'r Gorchymyn hwn.

(b) Diwygiwyd adran 102(1) gan baragraff 31(1) o Atodlen 13 i Ddeddf Plant 1989 (p.41). Ceir diwygiadau eraill i adran 102 nad ydynt yn berthnasol i'r Gorchymyn hwn.

Arrangements for discharge of functions by local authorities

3. In section 101 of the 1972 Act(a) (arrangements for discharge of functions by local authorities) -

(a) after subsection (1), there shall be inserted -

"(1A) A local authority may not under subsection (1)(b) above arrange for the discharge of any of their functions by another local authority if, or to the extent that, that function is also a function of the other local authority and is the responsibility of the other authority's executive.

(1B) Arrangements made under subsection (1)(b) above by a local authority ("the first authority") with respect to the discharge of any of their functions shall cease to have effect with respect to that function if, or to the extent that, -

(a) the first authority are operating or begin to operate executive arrangements, and that function becomes the responsibility of the executive of that authority; or

(b) the authority with whom the arrangements are made ("the second authority") are operating or begin to operate executive arrangements, that function is also a function of the second authority and that function becomes the responsibility of the second authority's executive.

(1C) Subsections (1A) and (1B) above do not affect arrangements made by virtue of section 19 of the Local Government Act 2000 (discharge of functions of and by another authority)."; and

(b) after subsection (5), there shall be inserted -

"(5A) Arrangements made under subsection (5) above by two or more local authorities with respect to the discharge of any of their functions shall cease to have effect with respect to that function if, or to the extent that, the function becomes the responsibility of an executive of any of the authorities.

(5B) Subsection (5A) above does not affect arrangements made by virtue of section 20 of the Local Government Act 2000 (joint exercise of functions).".

Appointment of committees

4. In section 102 of the 1972 Act(b) (appointment of committees) -

(a) after subsection (1), there shall be inserted -

(a) There are amendments to section 101 which are not relevant to this Order.

(b) Section 102(1) was amended by paragraph 31(1) of Schedule 13 to the Children Act 1989 (c.41). There are other amendments to section 102 which are not relevant to this Order.

"(1A) For the purpose of discharging any function in pursuance of arrangements made under regulations made under section 18 of the Local Government Act 2000 (discharge of functions by area committees) -

- (a) a local authority may appoint a committee of the authority; or
- (b) any such committee may appoint one or more sub-committees."(a);
- (b) yn is-adrannau (2) a (3), ar ôl "subsection (1)", ym mhob lle y gwelir y geiriau hynny, mewnosodir "or (1A)"; ac
- (c) yn is-adran (4), ar ôl y geiriau "to advise the appointing authority or authorities", mewnosodir y geiriau ", or, where the appointing authority or each of the authorities operate executive arrangements, any executive of that or those authorities, or a committee or member of that executive,".

Rheolau sefydlog mewn perthynas â staff awdurdodau lleol

5. Yn adran 8 o Ddeddf 1989 (dyletswydd i fabwysiadu rheolau sefydlog mewn perthynas â staff), yn lle paragraff (d) o is-adran (4), rhoddir -

- "(d) without prejudice to section 191(1) below, special provision in relation to the appointment of persons -
- (i) in pursuance of section 9 below;
- (ii) for the purposes of functions exercised by joint committees on which relevant authorities are represented; and
- (iii) in pursuance of regulations made under paragraph 6 of Schedule 1 to the Local Government Act 2000 (mayor's assistant)."

Hawliau aelodau cyd-bwyllgorau i bleidleisio

6.-(1) Yn adran 13 o Ddeddf 1989(b) (hawliau aelodau o bwyllgorau penodol i bleidleisio: Cymru a Lloegr) -

- (a) ar ôl is-adran (5), mewnosodir -
- "(5A) Nothing in this section shall prevent the appointment of a council manager of a local authority, or one other officer of that local authority in that person's place, as a voting member of a joint committee, or a sub-committee of such a committee, where -

(a) *Gweler* rheoliad 6 o Reoliadau Awdurdodau Lleol (Trefniadau Gweithrediaeth) (Cyflawni Swyddogaethau) (Cymru) 2001 (O.S. 2001/2287 (Cy.175)).

(b) Diwygiwyd adran 13(9) gan baragraff 36 o Atodlen 4 i Ddeddf yr Heddlu a Llysoedd Ynadon 1994 (p. 29) a pharagraff 96(5) o Atodlen 37 a Rhan 1 o Atodlen 38 i Ddeddf Addysg 1996 (p.56). Ceir diwygiadau eraill i adran 13 nad ydynt yn berthnasol i'r Gorchymyn hwn.

"(1A) For the purpose of discharging any function in pursuance of arrangements made under regulations made under section 18 of the Local Government Act 2000 (discharge of functions by area committees) -

- (a) a local authority may appoint a committee of the authority; or
- (b) any such committee may appoint one or more sub-committees."(a);
- (b) in subsections (2) and (3), after "subsection (1)", in each place where those words appear, there shall be inserted "or (1A)"; and
- (c) in subsection (4), after the words "to advise the appointing authority or authorities", there shall be inserted the words ", or, where the appointing authority or each of the authorities operate executive arrangements, any executive of that or those authorities, or a committee or member of that executive,".

Standing orders with respect to local authority staff

5. In section 8 of the 1989 Act (duty to adopt standing orders with respect to staff), for paragraph (d) of subsection (4), there shall be substituted -

- "(d) without prejudice to section 191(1) below, special provision in relation to the appointment of persons -
- (i) in pursuance of section 9 below;
- (ii) for the purposes of functions exercised by joint committees on which relevant authorities are represented; and
- (iii) in pursuance of regulations made under paragraph 6 of Schedule 1 to the Local Government Act 2000 (mayor's assistant)."

Voting rights of members of joint committees

6.-(1) In section 13 of the 1989 Act(b) (voting rights of members of certain committees: England and Wales) -

- (a) after subsection (5), there shall be inserted -
- "(5A) Nothing in this section shall prevent the appointment of a council manager of a local authority, or one other officer of that local authority in that person's place, as a voting member of a joint committee, or a sub-committee of such a committee, where -

(a) *See* regulation 6 of the Local Authorities (Executive Arrangements)(Discharge of Functions) (Wales) Regulations 2001 (S.I. 2001/2287 (W.175)).

(b) Section 13(9) was amended by paragraph 36 of Schedule 4 to the Police and Magistrates' Courts Act 1994 (c. 29) and paragraph 96(5) of Schedule 37 and Part 1 of Schedule 38 to the Education Act 1996 (c.56). There are other amendments to section 13 not relevant to this Order.

- (a) that local authority have a mayor and council manager executive(a); and
 - (b) the joint committee or the sub-committee has been appointed for the purpose of discharging functions which, as respects that local authority, are the responsibility of that executive."; a
- (b) yn is-adran (9), ar ôl y geiriau "In this section -", mewnosodir -
- ""council manager", "executive" and "mayor and council manager executive" have the same meaning as in Part II of the Local Government Act 2000 (arrangements with respect to executives etc.); and".

(2) Ym mharagraff 3 o Atodlen 1 i Ddeddf 2000 (trefniadau gweithrediaeth: darpariaeth bellach (Gweithrediaethau maer a rheolwr cyngor)) -

- (a) yn is-baragraff (10), yn lle'r geiriau "sub-paragraph (11)", rhoddir y geiriau "sub-paragraphs (11) and (12A)"; a
- (b) ar ôl is-baragraff (12), mewnosodir -

"(12A) The council manager of a local authority is entitled to vote at a meeting of a joint committee, or sub-committee of such a committee, if -

- (a) that joint committee or sub-committee has been appointed for the purpose of discharging functions which, as respects that local authority, are the responsibility of the executive of the local authority; and
- (b) the council manager is a member of that joint committee or sub-committee."

Rheolau sefydlog mewn perthynas â contractau awdurdodau lleol

7.-(1) Cyn i awdurdod lleol roi trefniadau gweithrediaeth ar waith o dan Ran II o Ddeddf 2000 rhaid iddynt wneud rheolau sefydlog o dan adran 135 o Ddeddf 1972 (contractau awdurdodau lleol) mewn perthynas â gwneud contractau ar eu rhan wrth i swyddogaethau sy'n gyfrifoldeb i weithrediaeth yr awdurdod hwnnw gael eu cyflawni.

(2) Rhaid i'r rheolau sefydlog gynnwys darpariaeth ar gyfer sicrhau bod rhaid i unrhyw gontract sydd -

- (a) o werth a bennir gan yr awdurdod yn y rheolau sefydlog, neu o werth uwch na hynny; neu
- (b) o ddisgrifiad a bennir gan yr awdurdod yn y rheolau sefydlog, fod yn ysgrifenedig.

(3) Rhaid i swyddogaeth pennu gwerth neu

- (a) *Gweler* rheoliadau 11 a 12 o Reoliadau Awdurdodau Lleol (Trefniadau Gweithrediaeth) (Cyflawni Swyddogaethau) (Cymru) 2001 (O.S. 2001/2287 (Cy.175)).

- (a) that local authority have a mayor and council manager executive(a); and
- (b) the joint committee or the sub-committee has been appointed for the purpose of discharging functions which, as respects that local authority, are the responsibility of that executive."; and

(b) in subsection (9), after the words "In this section -", there shall be inserted -

""council manager", "executive" and "mayor and council manager executive" have the same meaning as in Part II of the Local Government Act 2000 (arrangements with respect to executives etc.); and".

(2) In paragraph 3 of Schedule 1 to the 2000 Act (executive arrangements: further provision (Mayor and council manager executives)) -

- (a) in sub-paragraph (10), for the words "sub-paragraph (11)", there shall be substituted the words "sub-paragraphs (11) and (12A)"; and
- (b) after sub-paragraph (12), there shall be inserted -

"(12A) The council manager of a local authority is entitled to vote at a meeting of a joint committee, or sub-committee of such a committee, if -

- (a) that joint committee or sub-committee has been appointed for the purpose of discharging functions which, as respects that local authority, are the responsibility of the executive of the local authority; and
- (b) the council manager is a member of that joint committee or sub-committee."

Standing orders with respect to local authority contracts

7.-(1) Before a local authority operate executive arrangements under Part II of the 2000 Act they shall make standing orders under section 135 of the 1972 Act (contracts of local authorities) with respect to the making of contracts on their behalf in the course of the discharge of functions which are the responsibility of the executive of that authority.

(2) The standing orders shall include provision for securing that any contract which -

- (a) is of or above a value specified in the standing orders by the authority; or
- (b) is of a description specified in the standing orders by the authority, must be in writing.

(3) The function of specifying a value or a

- (a) *See* regulations 11 and 12 of the Local Authorities (Executive Arrangements) (Discharge of Functions) (Wales) Regulations 2001 (S.I. 2001/2287 (W.175)).

ddisgrifiad contractau at ddibenion y paragraffau sy'n ofynnol o dan baragraff (2) gael eu cyflawni gan yr awdurdod ei hun ac ni fydd adran 101 o Ddeddf 1972 (trefniadau i awdurdodau lleol gyflawni swyddogaethau) yn gymwys mewn perthynas â'r swyddogaeth honno.

(4) Rhaid i'r rheolau sefydlog gynnwys darpariaeth ar gyfer sicrhau bod rhaid i unrhyw contract y mae'r darpariaethau sy'n ofynnol o dan baragraff (2) yn gymwys iddo -

- (a) cael ei wneud o dan sêl yr awdurdod a chael ei ardystio gan o leiaf un swyddog i'r awdurdod nad yw, yn achos awdurdod ag iddo weithrediaeth maer a rheolwr cyngor, yn rheolwr i'r cyngor, p'un a gaiff y sêl ei hardystio hefyd neu beidio -
 - (i) gan unrhyw un o aelodau'r awdurdod; neu
 - (ii) yn achos awdurdod ag iddo weithrediaeth maer a rheolwr cyngor, gan reolwr y cyngor; neu
- (b) cael ei lofnodi gan o leiaf ddau o swyddogion yr awdurdod, p'un a yw'r contract yn cael ei lofnodi gan aelod o'r awdurdod hefyd neu beidio.

Llofnodwyd ar ran Cynulliad Cenedlaethol Cymru o dan adran 66(1) o Ddeddf Llywodraeth Cymru 1998(a)

21 Mawrth 2002

Llywydd y Cynulliad Cenedlaethol

description of contracts for the purposes of the provisions required by paragraph (2) shall be discharged by the authority themselves and section 101 of the 1972 Act (arrangements for the discharge of functions by local authorities) shall not apply to that function.

(4) The standing orders shall include provision for securing that any contract to which the provisions required by paragraph (2) apply must -

- (a) be made under the authority's seal and be attested by at least one officer of the authority who, in the case of an authority having a mayor and council manager executive, is not the council manager, whether or not the seal is also attested -
 - (i) by any member of the authority; or
 - (ii) in the case of an authority having a mayor and council manager executive, by the council manager; or
- (b) be signed by at least two officers of the authority, whether or not the contract is also signed by any member of the authority.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(a)

21st March 2002

D. Elis-Thomas

The Presiding Officer of the National Assembly

(a) 1998 p.38.

(a) 1998 c.38.

2002 Rhif 803 (Cy.88)

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