

2007 No. (W.)

**LOCAL GOVERNMENT,
WALES**

**The Local Authorities (Executive
Arrangements) (Functions and
Responsibilities) (Wales) Regulations
2007**

EXPLANATORY NOTE

(This note is not part of the Regulations)

Part II of the Local Government Act 2000 (“the 2000 Act”) provides for the discharge of a local authority’s functions by an executive of the authority (which must take one of the forms specified in section 11(2) to (5) of that Act) unless those functions are specified as functions that are not to be the responsibility of the authority’s executive. These regulations specify functions that are not to be the responsibility of an authority’s executive or are to be the responsibility of an executive only to a limited extent or only in specified circumstances. These regulations revoke the Local Authorities Executive Arrangements (Functions and Responsibilities) (Wales) Regulations 2001, the Local Authorities Executive Arrangements (Functions and Responsibilities) (Amendment) (Wales) Regulations 2002, the Local Authorities Executive Arrangements (Functions and Responsibilities) (Amendment) (Wales) Regulations 2003 and the Local Authorities Executive Arrangements (Functions and Responsibilities) (Amendment) (Wales) Regulations 2004 (“the 2001, 2002, 2003 and 2004 Regulations”), consolidate the provisions of those regulations and make further provision.

Regulations 3, 4, 5 and 6, by reference to the Schedules to the Regulations, set out the limitations on what functions may be exercised by an executive. Schedule 1 lists those functions which must not be exercised by an executive and Schedule 2 lists those functions which may be the responsibility of an authority’s executive, if the authority so decides. Regulation 5, by reference to Schedule 3, sets out what actions may not be the sole responsibility of an authority’s executive.

By regulation 6 those functions listed in Schedule 4, which but for regulation 6 would be the responsibility of an executive, are not to be an executive's responsibility in the circumstances set out in column (2) of that Schedule.

Regulation 7 revokes the 2001, 2002, 2003 and 2004 Regulations.

A regulatory appraisal has been carried out in connection with these Regulations and is available from the Local Government Policy Division, National Assembly for Wales, Cathays Park, Cardiff CF10 3NQ (telephone 02920825111).

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**The Local Authorities (Executive
Arrangements) (Functions and
Responsibilities) (Wales) Regulations
2007**

Made 2007

Coming into force 16 February 2007

The National Assembly for Wales makes the following Regulations in exercise of the powers given to it by sections 13 and 105 and 106 of the Local Government Act 2000⁽¹⁾.

Title, commencement and application

1.—(1) The title of these Regulations is the Local Authorities (Executive Arrangements) (Functions and Responsibilities) (Wales) Regulations 2007 and they come into force on 16 February 2007.

(2) These Regulations apply to Wales.

Interpretation

2. In these Regulations —

“the 1972 Act” (“*Deddf 1972*”) means the Local Government Act 1972⁽²⁾;

“the 2000 Act” (“*Deddf 2000*”) means the Local Government Act 2000;

“enactment” (“*deddfiad*”) includes an enactment contained in a local Act or comprised in subordinate legislation

“Executive” (“*Gweithrediaeth*”) is to be construed in accordance with section 11 of the 2000 Act.

⁽¹⁾ 2000 c.22.

⁽²⁾ 1972 c.70.

Functions not to be the responsibility of an authority's executive

3.—(1) The functions specified in column (1) of Schedule 1 to these Regulations by reference to the enactments specified in relation to those functions in column (2) of that schedule are not to be the responsibility of an executive of an authority.

(2) The functions of —

- (a) imposing any condition, limitation or other restriction on an approval, consent, licence, permission or registration granted —
 - (i) in the exercise of a function specified in column (1) of Schedule 1; or
 - (ii) otherwise than by an executive of the authority, in the exercise of any function under a local Act; or
- (b) determining any other terms to which any such approval, consent, licence, permission or registration is subject,

are not to be the responsibility of an executive of the authority.

(3) The function of determining whether, and in what manner, to enforce —

- (a) any failure to comply with an approval, consent, licence, permission or registration granted in the exercise of a function specified in column (1) of Schedule 1,
- (b) any failure to comply with a condition, limitation or term to which any such approval, consent, licence, permission or registration is subject, or
- (c) any other contravention in relation to a matter with regard to which the function of determining an application for approval, consent, licence, permission or registration would not be the responsibility of an executive of the authority,

is not to be the responsibility of the executive of the authority.

(4) The function of —

- (a) amending, modifying or varying any such approval, consent, licence, permission or registration granted or any condition, limitation, restriction or term as mentioned in paragraph (2) to which it is subject; or
- (b) revoking any such approval, consent, licence, permission or registration,

is not to be the responsibility of an executive of the authority.

(5) The function of making any scheme authorised or required by regulations under section 18 of the Local Government and Housing Act 1989 (schemes for basic, attendance and special responsibility allowances for local

authority members), or of amending, revoking or replacing any such scheme, is not to be the responsibility of an executive of the authority.

(6) The functions of determining —

- (a) the amount of any allowance payable under —
 - (i) subsection (5) of section 22 of the 1972 Act (chairman's expenses);
 - (ii) subsection (4) of section 24 of that Act (vice-chairman's expenses);
 - (iii) subsection (4) of section 173 (financial loss allowance) of that Act⁽¹⁾;
 - (iv) section 175 of that Act (allowances for attending conferences and meetings);
- (b) the rates at which payments are to be made under section 174 of that Act (travelling and subsistence allowances);
- (c) the amount of any allowance payable pursuant to a scheme under section 18 of the Local Government and Housing Act 1989 or regulations made under section 100 of the 2000 Act, or the rates at which payments by way of any such allowance are to be made;
- (d) whether a charge should be made for any approval, consent, licence, permit or registration the issue of which is not the responsibility of an executive of the authority; and
- (e) where a charge is made for any such approval, consent, licence, permit or registration, the amount of the charge;

are not to be the responsibility of an executive of the authority.

(7) Section 101 of the 1972 Act (arrangements for discharge of functions by local authorities) does not apply with respect to the discharge of any function mentioned in paragraph (5) or (6)(a) to (c).

(8) Subject to any provision of regulations under section 20 (joint exercise of functions) of the 2000 Act the function of making arrangements for the discharge of functions by a committee or officer under section 101(5) of the 1972 Act is not to be the responsibility of an executive of the authority.

(9) The function of making appointments under section 102 (appointment of committees) of the 1972 Act is not to be the responsibility of an executive of the authority.

(10) Unless otherwise provided by these Regulations, a function of a local authority which, by virtue of any enactment (passed or made before the making of these Regulations) may be discharged only by an authority is

(1) Section 173(4) was amended by the Local Government and Housing Act 1989 (c.42), Schedule 11, paragraph 26. A relevant saving was made by article 3(2) of the Local Government and Housing Act 1989 (Commencement No. 11 and Savings) Order 1991 (S.I. 1991/344).

not to be the responsibility of an executive of the authority.

Functions which may be the responsibility of an authority's executive

4.—(1) The functions specified in Schedule 2, may, but need not be, the responsibility of an executive of the authority.

(2) Nothing in these Regulations prevents a local authority from exercising those functions delegated to an executive of the authority

Functions which are not to be the sole responsibility of an authority's executive

5.—(1) In connection with the discharge of the function of —

- (a) formulating or preparing a plan, scheme or strategy of a description specified in column (1) of Schedule 3 to these Regulations;
- (b) formulating a plan, scheme or strategy for the control of the authority's borrowing or capital expenditure; or
- (c) formulating or preparing any other plan, scheme or strategy whose adoption or approval is, by virtue of regulation 6(1), a matter for determination by the authority;

the actions designated by paragraph (3) ("the designated actions") must not be the responsibility of an executive of the authority.

(2) Subject as provided in paragraph (1) the functions mentioned in that paragraph must be the responsibility of an executive.

(3) The designated actions are —

- (a) the giving of instructions requiring an executive to reconsider any draft plan, scheme or strategy submitted by an executive for the authority's consideration;
- (b) the amendment of any draft plan, scheme or strategy submitted by an executive for the authority's consideration;
- (c) the approval, for the purpose of its submission to the National Assembly for Wales or any Minister of the Crown for approval of any plan, scheme or strategy (whether or not in the form of a draft) of which any part is required to be so submitted;
- (d) the adoption (with or without modification) of the plan, scheme or strategy.

(4) The function of amending, modifying, varying or revoking any plan, scheme or strategy of a description referred to in paragraph (1), (whether approved or

adopted, before or after the coming into force of these Regulations) —

(a) is the responsibility of an executive of the authority to the extent that the making of the amendment, modification, variation or revocation —

(i) is required for giving effect to requirements of the National Assembly for Wales or a Minister of the Crown in relation to a plan, scheme or strategy submitted for approval or to any part so submitted; or

(ii) is authorised by a determination made by the authority when making the arrangements or approving or adopting the plan, scheme or strategy, as the case may be; but

(b) is not the responsibility of an executive to any other extent.

(5) Except to the extent mentioned in paragraph (6), the function of making an application —

(a) under subsection (5) of section 135 of the Leasehold Reform, Housing and Urban Development Act 1993 (programmes for disposals)(1); or

(b) under section 32 (power to dispose of land held for the purposes of Part II or section 43 (consent required for certain disposals not within section 32) of the Housing Act 1985(2),

is the responsibility of an executive of the authority.

(6) The extent mentioned in this paragraph is the authorisation of the making of the application.

(7) The function of making such an application as is referred to in paragraph (5), to the extent mentioned in paragraph (6), is not the responsibility of an executive of the authority.

(8) Section 101 of the 1972 Act does not apply with respect to the discharge —

(a) of a function specified in paragraph (1) to the extent that, by virtue of that paragraph, it is not the responsibility of an executive of the authority;

(b) of the functions specified in paragraphs (4) and (5) to the extent that they are not the responsibility of an executive of the authority.

(9) In connection with the discharge of the function of—

(1) 1993 c.28, to which there are amendments not relevant to these Regulations.

(2) 1985 c.68. Relevant amendments, in subsection (3) of section 32 and subsection (1)(a) of section 43, were made by paragraph 3(a), (d) and (e) of the Schedule to S.I. 1997/74.

- (a) subject to the provisions in respect of calculations of council tax base in paragraph 22 of Schedule 2 making a calculation in accordance with any of sections 32 to 37, 43 to 51, 52I, 52J, 52T and 52U of the Local Government Finance Act 1992⁽¹⁾, whether originally or by way of substitute; or
- (b) issuing a precept under Chapter IV of Part 1 of that Act,

the actions designated by paragraph (11) (“the designated actions”) are the responsibility of an executive of the authority.

(10) Subject as provided in paragraph (9), the function mentioned in that paragraph is not the responsibility of an executive.

(11) The designated actions are —

- (a) the preparation, for submission to the authority for their consideration, of —
 - (i) estimates of the amounts to be aggregated in making the calculation or of other amounts to be used for the purposes of the calculation;
 - (ii) the amounts required to be stated in the precept;
- (b) the reconsideration of those estimates and amounts in accordance with the authority’s requirements;
- (c) the submission for the authority’s consideration of revised estimates and amounts.

Discharge of specified functions by authorities

6.—(1) Subject to paragraph (2), a function of any of the descriptions specified in column (1) of Schedule 4 (which, but for this paragraph, might be the responsibility of an executive of the authority), is not the responsibility of an executive in the circumstances specified in column (2) in relation to that function.

(2) Paragraph (1) does not apply in relation to the discharge of a function of the description specified in paragraph 3 of column (1) of Schedule 4 where —

- (a) the circumstances which render necessary the making of the determination may reasonably be regarded as urgent; and
- (b) the individual or body by whom the determination is to be made has obtained from the chairperson of a relevant scrutiny committee or, if there is no such person or the chairperson of every relevant scrutiny committee is unable or unwilling to act, from the chairperson of the

(1) 1992 c.14; sections 52I, 52J, 52T and 52U were inserted by the Local Government Act 1999 (c.27) Schedule 1, paragraph 1.

authority or, in that person's absence, from the vice-chairperson, a statement in writing that the determination needs to be made as a matter of urgency.

(3) In paragraph (2) "relevant scrutiny committee" means a scrutiny committee of the authority whose terms of reference include the power to review or scrutinise decisions or other action taken in the discharge of the function to which the determination relates.

(4) The individual or body by whom a determination is made pursuant to paragraph (2) must, as soon as reasonably practicable after the making of the determination, submit to the authority a report which shall include particulars of —

- (a) the determination;
- (b) the emergency or other circumstances in which it was made; and
- (c) the reasons for the determination.

(5) Section 101 of the 1972 Act does not apply with respect to the discharge of a function referred to in paragraph (1) which, by virtue of that paragraph, is not the responsibility of an executive of the authority.

Revocation

7. The following are revoked—

- (a) the Local Authorities Executive Arrangements (Functions and Responsibilities) (Wales) Regulations 2001⁽¹⁾;
- (b) the Local Authorities Executive Arrangements (Functions and Responsibilities) (Amendment) (Wales) Regulations 2002⁽²⁾;
- (c) the Local Authorities Executive Arrangements (Functions and Responsibilities) (Amendment) (Wales) Regulations 2003⁽³⁾; and
- (d) the Local Authorities Executive Arrangements (Functions and Responsibilities) (Amendment) (Wales) Regulations 2004⁽⁴⁾.

⁽¹⁾ SI. 2001 / 2291 (W.179).

⁽²⁾ SI. 2002 / 783 (W.84).

⁽³⁾ S.I 2003 / 153 (W.23).

⁽⁴⁾ S.I 2004 / 3093 (W.267).

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

Date

The Presiding Officer of the National Assembly

⁽¹⁾ 1998 c.38.

SCHEDULE 1

Regulation 3

FUNCTIONS NOT TO BE THE RESPONSIBILITY OF AN AUTHORITY'S EXECUTIVE

(1)	(2)
Function	Provision of Act or Statutory Instrument
A. Functions relating to town and country planning and development control	
1. Power to determine applications for planning permission.	Sections 70(1)(a) and (b) and 72 of the Town and Country Planning Act 1990 (c.8).
2. Power to determine applications to develop land without compliance with conditions previously attached.	Section 73 of the Town and Country Planning Act 1990.
3. Power to grant planning permission for development already carried out.	Section 73A of the Town and Country Planning Act 1990(1).
4. Power to decline to determine application for planning permission.	Section 70A of the Town and Country Planning Act 1990(2).
5. Duties relating to the making of determinations of planning applications.	Sections 69, 76 and 92 of the Town and Country Planning Act 1990 and Articles 8, 10 to 13, 15 to 22 and 25 and 26 of the Town and Country

(1) Section 73A was inserted by the Planning and Compensation Act 1991 (c.34), Schedule 7, paragraph 8.

(2) Section 70A was inserted by the Planning and Compensation Act 1991, section 17.

	Planning (General Development Procedure) Order 1995 (S.I. 1995/419) and directions made there under.
6. Power to determine applications for planning permission made by a local authority, alone or jointly with another person.	Section 316 of the Town and Country Planning Act 1990 and the Town and Country Planning General Regulations 1992 (S.I. 1992/1492) (1)
7. Power to make determinations, give approvals and agree certain other matters relating to the exercise of permitted development rights.	Parts 6, 7, 11, 17, 19, 20, 21 to 24, 30 and 31 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 (S.I. 1995/418).
8. Power to enter into planning obligation, regulating development or use of land.	Section 106 of the Town and Country Planning Act 1990.(2)
9. Power to issue a certificate of existing or proposed lawful use or development.	Sections 191(4) and 192(2) of the Town and Country Planning Act 1990(3).
10. Power to serve a completion notice.	Section 94(2) of the Town and Country Planning Act 1990.
11. Power to grant consent for the display of advertisements.	Section 220 of the Town and Country Planning Act 1990 and the Town and Country Planning (Control of Advertisements) Regulations 1992(4).

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- (1) Section 316 was substituted by section 20 of the Planning and Compensation Act 1991 (C.34). Relevant amending instruments are S.I 1992 / 1982 and 1998 / 2800.
- (2) Section 106 was substituted by section 12(1) of the Planning and Compensation Act 1991.
- (3) Sections 191 and 192 were substituted by section 10 of the Planning and Compensation Act 1991.
- (4) S.I. 1992/666, to which there are amendments not relevant to these Regulations.

12. Power to authorise entry onto land.	Section 196A of the Town and Country Planning Act 1990(1).
13. Power to require the discontinuance of a use of land.	Section 102 of the Town and Country Planning Act 1990.
14. Power to serve a planning contravention notice, breach of condition notice or stop notice.	Sections 171C, 187A and 183(1) of the Town and Country Planning Act 1990(2).
15. Power to issue an enforcement notice.	Section 172 of the Town and Country Planning Act 1990(3).
16. Power to apply for an injunction restraining a breach of planning control.	Section 187B of the Town and Country Planning Act 1990(4).
17. Power to determine applications for hazardous substances consent, and related powers.	Sections 9(1) and 10 of the Planning (Hazardous Substances) Act 1990 (c. 10).
18. Duty to determine conditions to which old mining permissions, relevant planning permissions relating to dormant sites or active Phase I or II sites, or mineral permissions relating to mining sites, as the case may be, are to be subject.	Paragraph 2(6)(a) of Schedule 2 to the Planning and Compensation Act 1991, paragraph 9(6) of Schedule 13 to the Environment Act 1995 (c. 25) and paragraph 6(5) of Schedule 14 to that Act.
19. Power to require proper maintenance of land.	Section 215(1) of the Town and Country Planning Act 1990.

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- (1) Section 196A was inserted by section 11 of the Planning and Compensation Act 1991. For the circumstances in which the right may be exercised, *see* sections 196A to 196C of the Town and Country Planning Act 1990.
 - (2) Sections 171C and 187A were inserted by sections 1 and 2 of the Planning and Compensation Act 1991. Subsections (1) to (5A) of section 183 were substituted by section 9 of the Planning and Compensation Act 1991.
 - (3) Section 172 was substituted by section 5 of the Planning and Compensation Act 1991.
 - (4) Section 187B was inserted by section 3 of the Planning and Compensation Act 1991.

20. Power to determine applications for listed building consent, and related powers.	Sections 16(1) and (2), 17 and 33(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (c.9).
21. Power to determine applications for conservation area consent.	Section 16(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, as applied by section 74(3) of that Act(1).
22. Duties relating to applications for listed building consent and conservation area consent.	Section 13(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and regulations 3 to 13 of the Planning (Listed Buildings and Conservation Areas) Regulations 1990 and paragraph 127 of the Welsh Office circular 61/96: Planning and the Historic Environment: Historic Buildings and Conservation Areas.
23. Power to serve a building preservation notice, and related powers.	Sections 3(1) and 4(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.
24. Power to issue a listed building enforcement notice.	Section 38 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
25. Powers to acquire a listed building in need of repair and to serve a repairs notice.	Sections 47 and 48 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
26. Power to apply for an injunction in relation to a listed building.	Section 44A of the Planning (Listed Buildings and Conservation Areas) Act 1990(2).
27. Power to execute	Section 54 of the Planning

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- (1) See also the Planning (Listed Buildings and Conservation Areas) Regulations 1990 (S.I. 1990/1519), to which there are amendments not relevant to these Regulations.
- (2) Section 44A was inserted by the Planning and Compensation Act 1991 (c.34), section 25, Schedule 3, paragraph 7.

urgent works.	(Listed Buildings and Buildings in Conservation Areas) Act 1990.
28. Power related to mineral working.	Schedule 9 of the Town and Country Planning Act 1990.
29. Power related to footpaths and bridleways.	Section 257 of the Town and Country Planning Act 1990.
30. Power as to certification of appropriate alternative development.	Section 17 of the Land Compensation Act 1961 (c.33).
31. Duties in relation to purchase notices.	Sections 137-144 of the Town and Country Planning Act 1990.
32. Powers related to blight notices.	Sections 149-171 of the Town and Country Planning Act 1990.
B. Licensing and registration functions (in so far as not covered by any other paragraph of this Schedule)	
1. Power to issue licences authorising the use of land as a caravan site (“site licences”).	Section 3(3) of the Caravan Sites and Control of Development Act 1960 (c. 62).
2. Power to license the use of moveable dwellings and camping sites.	Section 269(1) of the Public Health Act 1936 (c.49).
3. Power to license hackney carriages and private hire vehicles.	(a) as to hackney carriages, the Town Police Clauses Act 1847 (10 & 11 Vict. c. 89), as extended by section 171 of the Public Health Act 1875 (38 & 39 Vict. c. 55), and section 15 of the Transport Act 1985 (c. 67); and sections 47, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976 (c. 57);

	(b) as to private hire vehicles, sections 48, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976.
4. Power to license drivers of hackney carriages and private hire vehicles.	Sections 51, 53, 54, 59, 61 and 79 of the Local Government (Miscellaneous Provisions) Act 1976.
5. Power to license operators of hackney carriages and private hire vehicles.	Sections 55 to 58, 62 and 79 of the Local Government (Miscellaneous Provisions) Act 1976.
6. Power to register pool promoters.	Schedule 2 to the Betting, Gaming and Lotteries Act 1963 (c. 2)(1).
7. Power to grant track betting licences.	Schedule 3 to the Betting, Gaming and Lotteries Act 1963(2).
8. Power to license inter-track betting schemes.	Schedule 5ZA to the Betting, Gaming and Lotteries Act 1963(3).

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- (1) Schedule 2 to the Betting, Gaming and Lotteries Act 1963 was repealed by section 356(3)(f) and (4) of and Schedule 17 to the Gambling Act 2005. Section 358(1) of the 2005 Act provides for that repeal to be brought into force on a date to be appointed. The repeal has not been brought into force.
- (2) Schedule 3 to the Betting, Gaming and Lotteries 1963 was repealed by section 356(3)(f) and (4) of and Schedule 17 to the Gambling Act 2005. For transitional provisions in relation to a track betting licence which is due to expire in the period beginning on 1 September 2006 and ending on 30 August 2007 *see* S.I. 2006/1758, article 2. Section 358(1) of the 2005 Act provides for that repeal to be brought into force on a date to be appointed. The repeal has not been brought into force.
- (3) Schedule 5ZA was inserted by S.I. 1995/3231, article 5(6). Schedule 5ZA to the Betting, Gaming and Lotteries Act 1963 was repealed by section 356(3)(f) and Schedule 17 to the Gambling Act 2005. The repeal is to be brought into force on a date to be appointed under section 358(1) of the 2005 Act. The repeal has not been brought into force.

9. Power to grant permits in respect of premises with amusement machines.	Schedule 9 to the Gaming Act 1968 (c. 65)(1).
10. Power to register societies wishing to promote lotteries.	Schedule 1 to the Lotteries and Amusements Act 1976 (c. 32)(2).
11. Power to grant permits in respect of premises where amusements with prizes are provided.	Schedule 3 to the Lotteries and Amusements Act 1976(3).
12. Power to issue entertainments licences.	Section 12 of the Children and Young Persons Act 1933 (c.12)
13. Power to license sex shops and sex cinemas.	The Local Government (Miscellaneous Provisions) Act 1982, section 2 and Schedule 3.
14. Power to license performances of hypnotism.	The Hypnotism Act 1952 (c. 46).
15. Power to license premises for acupuncture, tattooing, ear-piercing and electrolysis.	Sections 13 to 17 of the Local Government (Miscellaneous Provisions) Act 1982.
16. Power to license pleasure boats and pleasure vessels.	Section 94 of the Public Health Acts Amendment Act 1907 (c. 53)(4).

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- (1) Schedule 9 to the Gaming Act 1968 was repealed by section 356(g) and (4) of and Schedule 17 to the Gambling Act 2005. For transitional provisions in relation to the renewal or grant of permits see S.I. 2006/1758, articles 5 and 6. Section 358(1) of the 2005 Act provides for the repeal to be brought into force on a date to be appointed. The repeal has not been brought into force.
- (2) Schedule 1 to the Lotteries and Amusements Act 1976 was repealed by section 356(3)(i) and (4) of and Schedule 17 of the Gambling Act 2005. The repeal of Schedule 1 is to be brought into force on a date to be appointed under section 358(1) of the 2005 Act. The repeal has not been brought into force.
- (3) Repealed by the Gambling Act 2005, section 356(3)(i),(4), schedule 17, for transitional provisions in relation to any permit under section 16 which is due to expire in the period beginning on 1st September 2006 and ending on 30 August 2007 see S.I 2006 / 1758, article 7. The repeal of schedule 3 is to be brought into force on a date to be appointed under section 358(1) of the 2005 Act. The repeal has not been brought into force.
- (4) Amended by the Local Government Act 1974 (c.7), Schedule 6, paragraph 1, section 18 of the Local Government (Miscellaneous Provisions) Act 1976 (c.57) and section 186 of the Local Government, Planning and Land Act 1980 (c.65). Section 94(8) was substituted by the Deregulation (Public Health Acts Amendment Act) Order 1997 (S.I. 1997/1187).

17. Power to license market and street trading.	Part III of, and Schedule 4 to, the Local Government (Miscellaneous Provisions) Act 1982.
18. Duty to keep list of persons entitled to sell non-medicinal poisons.	Sections 3(1)(b)(ii), 5, 6 and 11 of the Poisons Act 1972 (c. 66)(1).
19. Power to license dealers in game and the killing and selling of game.	Sections 5, 6, 17, 18 and 21 to 23 of the Game Act 1831 (c. 32); sections 2 to 16 of the Game Licences Act 1860 (c. 90), section 4 of the Customs and Inland Revenue Act 1883 (c. 10), section 27 of the Local Government Act 1894 (c. 73), and section 213 of the Local Government Act 1972 (c. 70).
20. Power of register and license premises for the preparation of food.	Section 19 of the Food Safety Act 1990 (c. 16).
21. Power to license scrap yards.	Section 1 of the Scrap Metal Dealers Act 1964 (c. 69).
22. Power to issue, amend or replace safety certificates (whether general or special) for sports grounds.	The Safety of Sports Grounds Act 1975 (c. 52)(2).
23. Power to issue, cancel, amend or replace safety certificates for regulated stands at sports grounds.	Part III of the Fire Safety and Safety of Places of Sport Act 1987 (c.27).
24. Duty to promote Fire Safety	Section 6 of the Fire and Rescue Services Act 2004 (c.21)
25. Power to license premises for the breeding of dogs.	Section 1 of the Breeding of Dogs Act 1973 (c. 60) and section 1 of the Breeding and Sale of Dogs

- (1) Section 5 was amended by the Local Government, Planning and Land Act 1980, Schedule 6, paragraph 13(1). See S.I 1973 / 1851 S.I 1977 / 2128
- (2) Amended by the Fire Safety and Safety of Places of Sport Act 1987 (c.27). See, in particular, Part II of, and Schedule 2 to, that Act.

	(Welfare) Act 1999 (c. 11).
26. Power to license pet shops and other establishments where animals are bred or kept for the purposes of carrying on a business.	Section 1 of the Pet Animals Act 1951 (c. 35)(1); section 1 of the Animal Boarding Establishments Act 1963 (c. 43)(2); the Riding Establishments Acts 1964 and 1970 (1964 c. 70 and 1970 c. 70)(3); section 1 of the Breeding of Dogs Act 1973 (c. 60)(4), and sections 1 and 8 of the Breeding and Sale of Dogs (Welfare) Act 1999.
27. Power to register animal trainers and exhibitors.	Section 1 of the Performing Animals (Regulation) Act 1925 (c. 38)(5).
28. Power to license zoos.	Section 1 of the Zoo Licensing Act 1981 (c. 37)
29. Power to license dangerous wild animals.	Section 1 of the Dangerous Wild Animals Act 1976 (c. 38).
30. Power to enforce regulations in relation to animal by-products	Regulation 49 of the Animal By-products (Wales) Regulations 2006 (S.I 1292 (W.127))
31. Power to license the employment of children.	Part II of the Children and Young Persons Act 1933 (c.12), byelaws made under that Part, and Part II of the Children and Young Persons Act 1963 (c. 37).
32. Power to approve	Section 46A of the

- (1) Amended by the Local Government Act 1974, Schedule 6, paragraph 17 and by the Protection of Animals (Amendment) Act 1988 (c.29), section 3(2) and (3) and the Schedule.
- (2) Amended by the Local Government Act 1974, section 35(1) and (2) and Schedule 6, paragraph 18 and by the Protection of Animals (Amendment) Act 1988, section 3(2) and (3) of the Schedule.
- (3) Section 1 was amended by the Local Government, Planning and Land Act 1980, section 1(6), Schedule 6, Schedule 34, paragraph 15 and by the Protection of Animals (Amendment) Act 1988, section 3(2) and (3) and the Schedule.
- (4) Amended by the Local Government Act 1974 sections 35(1) and (2) and 42, Schedule 6, paragraph 2(1) and Schedule 8.
- (5) Amended by the Local Government, Planning and Land Act 1980, Schedule 6, paragraph 6, and by section 3 of the Protection of Animals (Amendment) Act 1988.

premises for the solemnisation of marriages and the registration of civil partnerships.	Marriage Act 1949 (c. 76), section 6A of the Civil Partnership Act 2004 (c.33) and the Marriages and Civil Partnerships (Approved Premises) Regulations 2005 (S. I. 2005/3168)(1).
33. Power to register common land or town or village greens, except where the power is exercisable solely for the purpose of giving effect to— (a) an exchange of lands effected by an order under section 19(3) of, or paragraph 6(4) of Schedule 3 to, the Acquisition of Land Act 1981 (c. 67) or (b) an order under section 147 of the Inclosure Act 1845 (c. 8 & 9 Vict. c. 118).	Regulation 6 of the Commons Registration (New Land) Regulations 1969 (S.I. 1969/1843).
34. Power to register variation of rights of common.	Regulation 29 of the Commons Registration (General) Regulations 1966 (S.I. 1966/1471)(2).
35. Power to issue a permit to conduct charitable collections.	Section 68 of the Charities Act 1992.
36. Power to grant consent for the operation of a loudspeaker.	Schedule 2 to the Noise and Statutory Nuisance Act 1993 (c. 40).
37. Power to grant a street works licence.	Section 50 of the New Roads and Street Works Act 1991 (c. 22).
38. Duty to register the movement of pigs.	Regulations 21(3) and (4) of the Pigs (Records Identification and Movement) (Wales) Order

(1) Section 46A was inserted by section 1 of the Marriage Act 1994 (c.34).

(2) Amended by section 22 of the Local Government (Miscellaneous Provisions) Act 1982 (c.30).

	2004 (S.I 2004/996 (W.104).
39. Power to enforce regulations in relation to the movement of pigs.	Regulation 27(1) of the Pigs (Records, identification and Movement (Wales) Order 2004/996 (W.104).
40. Power to issue a licence to move cattle from a market.	Article 5(2) of the Cattle Identification Regulations 1998 (S.I. 1998/871).
41. Power to sanction use of parts of buildings for storage of celluloid.	Section 1 of the Celluloid and Cinematograph Film Act 1922 (c. 35).
42. Duty to enforce and execute Regulations (EC) No. 852/2004 and 853/2004 in relation to food business operators as further specified in regulation 5 of the Food (Hygiene) (Wales) Regulations 2006.	Regulation 5 of the Food (Hygiene) (Wales) Regulations 2006(1).
43. Functions in respect of establishing a Licensing Committee.	Section 6 of the Licensing Act 2003 (c.17).
C. Functions relating to health and safety at work	
Functions under any of the “relevant statutory provisions” within the meaning of Part I (health, safety and welfare in connection with work, and control of dangerous substances) of the Health and Safety at Work etc. Act 1974, to the extent that those functions are discharged otherwise than in the authority’s capacity as an employer.	Part I of the Health and Safety at Work etc. Act 1974 (c. 37).
D. Functions relating to elections	
1. Duty to appoint an electoral registration officer.	Section 8(2A) of the Representation of the People Act 1983 (c. 2).

(1) S.I 2006 / 31 (W.5) as amended by the Food (Hygiene) (Wales) (Amendment) Regulations 2006 (S.I 2006 / 1534 (W.151)).

2. Power to assign officers in relation to requisitions of the registration officer.	Section 52(4) of the Representation of the People Act 1983 ⁽¹⁾ .
3. Power to dissolve community councils.	Section 28 of the Local Government Act 1972.
4. Power to make orders for grouping communities.	Section 29 of the Local Government Act 1972.
5. Power to make orders for dissolving groups and separating community councils from groups.	Section 29A of the Local Government Act 1972.
6. Duty to appoint returning officer for local government elections.	Section 35 of the Representation of the People Act 1983.
7. Duty to provide assistance at European Parliamentary elections.	Section 6(7) and (8) of the European Parliamentary Elections Act 2002.
8. Duty to divide constituency into polling districts.	Section 18 of the Representation of the People Act 1983.
9. Power to divide electoral divisions into polling districts at local government elections.	Section 31 of the Representation of the People Act 1983.
10. Powers in respect of holding of elections.	Section 39(4) of the Representation of the People Act 1983.
11. Power to pay expenses properly incurred by electoral registration officers.	Section 54 of the Representation of the People Act 1983.
12. Power to fill vacancies in the event of insufficient nominations.	Section 21 of the Representation of the People Act 1985.
13. Duty to declare vacancy in office in certain cases.	Section 86 of the Local Government Act 1972.
14. Duty to give public notice of a casual vacancy.	Section 87 of the Local Government Act 1972.
15. Power to make temporary appointments to	Section 91 of the Local Government Act 1972.

(1) Subsection (4) of section 52 was substituted by the Representation of the People Act 1985 (c.50).

community councils.	
16. Power to determine fees and conditions for supply of copies of, or extracts from, elections documents.	Rule 48(3) of the Local Elections (Principal Areas) Rules 1986 (S.I. 1986/2214) and rule 48(3) of the Local Elections (Parishes and Communities) Rules 1986 (S.I. 1986/2215).
17. Power to submit proposals to the Secretary of State for an order under section 10 (pilot schemes for local elections in England and Wales) of the Representation of the People Act 2000.	Section 10 of the Representation of the People Act 2000 (c. 2).
18. Miscellaneous electoral functions under Part II, S.I. 2003/284.	The National Assembly for Wales (Representation of the People) Order 2003, S.I. (2003/284)(1).
E. Functions relating to name and status of areas and individuals	
1. Power to change the name of a county, or county borough.	Section 74 of the Local Government Act 1972.
2. Power to change the name of a community.	Section 76 of the Local Government Act 1972.
3. Power to confer title of honorary alderman or to admit to be an honorary freeman.	Section 249 of the Local Government Act 1972.
4. Power to petition for a charter to confer county borough status.	Section 245A of the Local Government Act 1972.

(1) S.I. 2003/284 revoked the National Assembly for Wales (Representation of the People) Order 1999. (S.I. 1999/450 and the National Assembly for Wales (Representation of the People) (Amendment) Order 2002 (S.I. 2002/ 834). S.I. 2003/284 reproduces 1999/450 as amended by S.I. 2002/834 making additional provisions.

F. Power to make, amend, revoke or re-enact byelaws	Any provision of any enactment (including a local Act), whenever passed, and section 14 of the Interpretation Act 1978 (c. 300)(1).
G. Power to promote or oppose local or personal Bills.	Section 239 of the Local Government Act 1972.
H. Functions relating to pensions etc.	
1. Functions relating to local government pensions, etc.	Regulations under section 7, 12 or 24 of the Superannuation Act 1972 (c. 11) (2).
2. Functions relating to pensions, allowances and gratuities.	Regulations under section 18 (3A) of the Local Government and Housing Act 1989 (c.42).
3. Functions under existing pension schemes as respects persons employed by the fire and rescue authorities pursuant to section 1 of the Fire and Rescue Services Act 2004.	Sections 34 and 36 of the Fire and Rescue Services Act 2004.
I. Miscellaneous functions	
1. Duty to approve authority's statement of accounts, income and expenditure and balance sheet or record of receipts and payments (as the case may be).	The Accounts and Audit (Wales) Regulations 2005 (3).
2. Functions relating to sea fisheries.	Sections 1, 2, 10 and 19 of the Sea Fisheries Regulation Act 1966 (c. 38).
3. Powers relating to the preservation of trees.	Sections 197 to 214D of the Town and Country Planning Act 1990 and the Town and Country

- (1) Section 14 of the Interpretation Act 1978 is applied to byelaws made under section 235 of the Local Government Act 1972 by section 22(1) of and paragraph 3 of Part 1 of Schedule 2 to, the Interpretation Act 1978.
- (2) As to section 7 *see* also section 99 of the Local Government Act 2000 (c.22). Section 12 of the Superannuation Act 1972 is amended by section 10 of the Pensions (Miscellaneous Provisions) Act 1990 (c.7).
- (3) S.I 2005/368 (W.34).

	Planning (Trees) Regulations 1999 (S.I. 1999/1892).
4. Powers relating to the protection of important hedgerows.	The Hedgerows Regulations 1997 (S.I. 1997/1160).
5. Power to make standing orders.	Section 106 of, and paragraph 42 of Schedule 12 to, the Local Government Act 1972
6. Appointment and dismissal of staff	Section 112 of the Local Government Act 1972 and sections 7 and 8 of the Local Government and Housing Act 1989.
7. Power to make standing orders as to contracts.	Section 135 of the Local Government Act 1972.
8. Power to consider reports from the Public Services Ombudsman for Wales.	Section 19 of the Public Services Ombudsman (Wales) Act 2005 (c.10).
9. Power to make an order identifying a place as a designated public place for the purposes of police powers in relation to alcohol consumption.	Section 13(2) of the Criminal Justice and Police Act 2001 (c.16).
10. Powers in respect of registration of motor salvage operators.	Part 1 of the Vehicles (Crime) Act 2001 (c.3).
11. Power to appoint officers for particular purposes (appointment of “proper officers”).	Section 270(3) of the Local Government Act 1972 (c.42).
12. Duty to designate an officer as the head of the authority’s paid service, and to provide staff, etc.	Section 4(1) of the Local Government and Housing Act 1989 (c.42).
13. Duty to designate an officer as the monitoring officer and to provide staff, etc.	Section 5(1) of the Local Government and Housing Act 1989.
14. Duty to determine affordable borrowing limit.	Section 3 of the Local Government Act 2003 (c.22).

15. Approval of annual investment strategy in accordance with guidance.	Section 15 of the Local Government Act 2003.
16. Duty to make arrangements for proper administration of financial affairs	Section 151 of the Local Government Act 1972 (c.11).

SCHEDULE 2

Regulation 4

FUNCTIONS WHICH MAY BE (BUT NEED NOT BE) THE RESPONSIBILITY OF AN AUTHORITY'S EXECUTIVE

1. Any function under a local Act other than a function specified or referred to in Schedule 1.

2. The determination of an appeal against any decision made by or on behalf of the authority.

3. Functions in relation to the revision of decisions made in connection with claims for housing benefit or council tax benefit and for appeals against such decisions under section 68 of and Schedule 7 to the Child Support, Pensions and Social Security Act 2000⁽¹⁾.

4. The making of arrangements in relation to appeals against the exclusion of pupils in maintained schools under section 52 of the Education Act 2002.

5. The making of arrangements pursuant to section 94(1), (1A) and (4) of, and Schedule 24 to, the School Standards and Framework Act 1998 (admission appeals).

6. The making of arrangements pursuant to section 95(2) of the School Standards and Framework Act 1998 (children to whom section 87 applies: appeals by governing bodies).

7. The making of arrangements under section 20 (questions on police matters at council meetings) of the Police Act 1996 for enabling questions to be put on the discharge of the functions of a police authority.

8. The making of appointments under paragraphs 2 to 4 (appointment of members by relevant councils) of Schedule 2 (police authorities established under section 3) to the Police Act 1996.

9. The conducting of best value reviews in accordance with the provisions of any order for the time being having effect under section 5 (best value reviews) of the Local Government Act 1999⁽²⁾.

10. Any function relating to contaminated land⁽³⁾.

⁽¹⁾ 2000 c.19.

⁽²⁾ 1999 c.27.

⁽³⁾ Part IIA of the Environmental Protection Act 1990 (c.43) and subordinate legislation under that part.

11. The discharge of any function relating to the control of pollution or the management of air quality(**1**).

12. The service of an abatement notice in respect of a statutory nuisance(**2**).

13. The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the authority's area(**3**).

14. The inspection of the authority's area to detect any statutory nuisance(**4**).

15. The investigation of any complaint as to the existence of a statutory nuisance.

16. The obtaining of information under section 330 of the Town and Country Planning Act 1990(**5**) as to interests in land.

17. The obtaining of particulars of persons interested in land under section 16 of the Local Government (Miscellaneous Provisions) Act 1976(**6**).

18. The making of agreements for the execution of highways works(**7**).

19. The appointment of any individual —

- (a) to any office other than an office in which he is employed by the authority;
- (b) to any body other than —
 - (i) the authority;
 - (ii) a joint committee of two or more authorities; or
- (c) to any committee or sub-committee of such a body,

and the revocation of any such appointment.

20. Power to make payments or provide other benefits in cases of maladministration etc.(**8**).

21. The discharge of any function by an authority acting as a harbour authority.

22. Functions in respect of the calculation of council tax base in accordance with any of the following-

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- (**1**) See the Pollution Prevention and Control Act 1999 (c.24), Part IV of the Environment Act 1995 (c.25), Part I of the Environmental Act 1990 (c.43) and the Clean Air Act 1993 (c.11).
 - (**2**) Section 8 of the Noise and Statutory Nuisance Act 1993 (c.40).
 - (**3**) Section 80(1) of the Environmental Protection Act 1990.
 - (**4**) Section 79 of the Environmental Protection Act 1990.
 - (**5**) 1990 c.8.
 - (**6**) 1976 c.57.
 - (**7**) Section 278 of the Highways Act 1980 (c.66), substituted by the New Roads and Street Works Act 1991 (c.22), section 23.
 - (**8**) Section 92 of the Local Government Act 2000

- (a) the determination of an item for T in section 33(1) and 44(1) of the Local Government Finance Act 1992;
- (b) the determination of an amount for item TP in sections 34(3), 45(3) 48(3) and 48(4) of the Local Government Finance Act 1992;
- (c) the determination of an amount required for determining an amount for the item mentioned in paragraph (a) or (b) above.

23. Licensing functions in accordance with Part 2 of the Licensing Act 2003 except section 6.

24. Functions in respect of gambling in accordance with any of the following-

- (a) a resolution not to issue casino licenses in accordance with section 166 of the Gambling Act 2005 (c.19);
- (b) prescribing of fees in accordance with section 212 of the Gambling Act 2005;
- (c) making an order disapplying section 279 or section 282(1) of the Gambling Act 2005 in accordance with section 284 of the Gambling Act 2005;
- (d) authorised persons in accordance with section 304 of the Gambling Act 2005;
- (e) prosecutions by a licensing authority in accordance with section 346 of the Gambling Act 2005;
- (f) three-year licensing policy in accordance with section 349 of the Gambling Act 2005;

SCHEDULE 3

Regulation 5

FUNCTIONS NOT TO BE THE SOLE RESPONSIBILITY OF AN AUTHORITY'S EXECUTIVE

(1)	(2)
Plans, schemes and strategies	Reference
Single Education Plan	The Single Education Plan (Wales) Regulations 2006 (S.I 2006 / 877 (W.82)).
Best Value Performance Plan	Section 6(1) of the Local Government Act 1999 (c.27).
Community Strategy	Section 4 of the Local Government Act 2000 (c.22).
Crime and Disorder Reduction Strategy	Sections 5 and 6 of the Crime and Disorder Act 1998 (c.37).
Health and Well Being Strategy	Section 24 of the National Health Service Reform and Health Care Professions Act 2002 (c.17).
Local Transport Plan	Section 108 of the Transport Act 2000 (c.38).
Plans and alterations which together comprise the Development Plan	Section 10A of the Town and Country Planning Act 1990 (c.8).
Welsh Language Scheme	Section 5 of the Welsh Language Act 1993 (c.38).
Youth Justice Plan	Section 40 of the Crime and Disorder Act 1998 (c.37).

Powers to approve a Young Peoples Partnership Strategic Plan and a Children and Young Peoples Framework Partnership	Section 123, 124 and 125 of the Learning and Skills Act 2000 (c.21).
Housing Strategy	Section 87 of the Local Government Act 2003 (c.26).

SCHEDULE 4

Regulation 6

CIRCUMSTANCES IN WHICH FUNCTIONS ARE NOT TO BE THE RESPONSIBILITY OF AN AUTHORITY'S EXECUTIVE

(1)	(2)
Function	Circumstances
<p>1. The adoption or approval of a plan or strategy (whether statutory or non-statutory), other than a plan or strategy for the control of the authority's borrowing or capital expenditure or referred to in Schedule 3.</p>	<p>The authority determines that the decision whether the plan or strategy should be adopted or approved should be taken by them.</p>
<p>2. The determination of any matter in the discharge of a function which —</p> <ul style="list-style-type: none"> (a) is the responsibility of the executive; and (b) is concerned with the authority's budget, or their borrowing or capital expenditure. 	<p>The individual or body by whom, by virtue of any of sections 14 to 17 of the Local Government Act 2000 or provision made under section 18 or 20 of that Act, the determination is to be made —</p> <ul style="list-style-type: none"> (g) is minded to determine the matter contrary to, or not wholly in accordance with — <ul style="list-style-type: none"> (i) the authority's budget; or (ii) the plan or strategy for the time being approved or adopted by the authority in relation to their borrowing or capital expenditure;

	<p style="text-align: center;">and</p> <p>(b) is not authorised by the authority's executive arrangements, financial regulations, standing orders or other rules or procedures to make a determination in those terms.</p>
<p>3. The determination of any matter in the discharge of a function —</p> <p>(a) which is the responsibility of the executive; and</p> <p>(b) in relation to which a plan or strategy (whether statutory or non-statutory) has been adopted or approved by the authority.</p>	<p>The individual or body by whom, by virtue of any of sections 14 to 17 of the Local Government Act 2000 or provision made under section 18 or 20 of that Act, the determination is to be made, is minded to determine the matter in terms contrary to the plan or, as the case may be, the strategy adopted or approved by the authority.</p>