



STATUTORY INSTRUMENTS.

S.I. No. 231 of 2014

LOCAL GOVERNMENT (PERFORMANCE OF RESERVED
FUNCTIONS IN RESPECT OF MUNICIPAL DISTRICT MEMBERS)
REGULATIONS 2014

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I, PHIL HOGAN, Minister for the Environment, Community and Local Government, in exercise of the powers conferred on me by sections 4 and 131A(5) (inserted by section 21(3) of the Local Government Reform Act 2014 (No. 1 of 2014)) of the Local Government Act 2001 (No. 37 of 2001) (as adapted by the Environment, Heritage and Local Government (Alteration of Name of Department and Title of Minister) Order 2011 (S.I. No. 193 of 2011)), hereby make the following regulations:

Citation

1. These Regulations may be cited as the Local Government (Performance of Reserved Functions in Respect of Municipal District Members) Regulations 2014.

Commencement

2. These Regulations come into operation on 1 June 2014.

Interpretation

3. (1) In these Regulations—

“Act of 2001” means the Local Government Act 2001 (No. 37 of 2001);

“guidelines” means guidelines issued by the Minister under section 131A(6) of the Act of 2001;

(2) In these Regulations a reference to Cathaoirleach or Leas-Chathaoirleach shall be read as the Cathaoirleach or Leas-Chathaoirleach of the municipal district.

(3) In these Regulations a reference to elected council of the local authority shall be read in accordance with section 131A(1) of the Act of 2001.

Consistency and avoidance of duplication

4. (1) The municipal district members shall not exercise and perform any reserved function in respect of a municipal district in any instance where the exercise and performance of the function would give rise to—

- (a) inconsistency with any policy, strategy, programme or plan of the local authority, or
- (b) unnecessary duplication in the performance of functions between the municipal district members in different municipal districts in the

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 30th May, 2014.*

administrative area of the local authority or between the municipal district members in a municipal district and the elected council of the local authority, as appropriate.

(2) Where the municipal district members propose to exercise and perform a reserved function and the chief executive, following consultation with the Cathaoirleach or Leas-Chathaoirleach, forms an opinion that the exercise and performance of the function, in that instance, would give rise to inconsistency or unnecessary duplication in relation to any of the matters referred to in paragraph (1), then he or she shall advise the members accordingly and the provisions of paragraphs (3) and (4) shall apply.

(3) Where the municipal district members have been advised by the chief executive in accordance with paragraph (2), the members—

- (a) may, by resolution, decide to refer the matter to the corporate policy group for consideration with regard to the issue of inconsistency or unnecessary duplication in relation to any of the matters referred to in paragraph (1), and
- (b) shall not proceed with the exercise and performance of the function unless the corporate policy group indicates that, in its view, the exercise and performance of the function as proposed in that instance, would not involve any such inconsistency or unnecessary duplication.

(4) Where the municipal district members exercise and perform a reserved function they shall, subject to the provisions of the Act of 2001, these Regulations and any guidelines, do so definitively and without reference to the elected council of the local authority for the purpose of any ratification or acceptance.

Exercise and performance of certain reserved functions by the elected council of the local authority in particular circumstances

5. (1) In the case of any reserved function specified in paragraph 5, 6 or 7 of Schedule 14 and Part 2 of Schedule 14A to the Act of 2001 which, in a particular instance, is to be exercised and performed in respect of every municipal district in the administrative area of a local authority, such function shall, in that instance, be performed only by the elected council of the local authority.

(2) The reserved functions specified in the Schedule (and identified from Part 2 of Schedule 14A to the Act of 2001) shall be exercised and performed only by the elected council of the local authority where the exercise and performance of the function in a particular instance in respect of a municipal district could have significant implications for the administrative area of the local authority, or a municipal district other than the district in respect of which the function is to be exercised and performed.

Certain reserved functions not to be delegated

6. The elected council of the local authority shall not delegate to municipal district members under section 131A(2) of the Act of 2001 any reserved function specified in Part 3 of Schedule 14A of the Act of 2001 where—

- (a) the function is to be exercised and performed in respect of the administrative area of the local authority,
- (b) the exercise and performance of the function by municipal district members could have significant implications for the administrative area of the local authority,
- (c) the function relates specifically to the elected council of the local authority, or
- (d) the nature of the function is such that it could not reasonably be performed other than by the elected council of the local authority.

Exercise and performance of delegated reserved functions by the elected council of the local authority instead of the municipal district members in a particular case or occasion

7. Where the elected council of the local authority considers that the exercise and performance of a reserved function which has been delegated to the municipal district members in accordance with section 131A(2) of the Act of 2001 in a particular case or occasion could have significant implications for-

- (a) the administrative area of the local authority, or
- (b) a municipal district other than the district in respect of which the function is to be exercised and performed,

then the elected council may, by resolution, decide that such a function in respect of a municipal district shall be exercised and performed only by the elected council of the local authority in that particular case or occasion.

Resolution of difference or disagreement regarding exercise and performance of reserved functions by the elected council of the local authority or the municipal district members

8. (1) Where the municipal district members propose to exercise and perform a reserved function and the chief executive, following consultation with the Cathaoirleach or Leas-Chathaoirleach, forms an opinion that, in accordance with the provisions of the Act of 2001, these Regulations and any guidelines, the function should be exercised and performed, or should in that instance be exercised and performed, by the elected council of the local authority rather than the municipal district members, then he or she shall advise the municipal district members accordingly and the provisions of paragraphs (2) and (3) shall apply.

(2) Where the municipal district members have been advised by the chief executive in relation to the exercise and performance of a function in accordance with paragraph (1), the members may, by resolution, decide to refer the matter to the corporate policy group for consideration as to whether, in its view, the function should be exercised and performed, or should in that instance be exercised and performed, by the elected council of the local authority or by the municipal district members.

(3) Where a matter has been referred to the corporate policy group for consideration in accordance with paragraph (2), the municipal district members shall not proceed with the exercise and performance of the function in that instance unless the corporate policy group indicates that, in its view, the function should be exercised and performed, or should in that instance be exercised and performed, by the municipal district members.

Prohibition on the exercise and performance of reserved functions

9. (1) The municipal district members shall not exercise and perform a reserved function which by virtue of the Act of 2001, these Regulations or any guidelines is a function to be exercised and performed by the elected council of the local authority only or should be exercised and performed only by the elected council of the local authority in a particular instance.

(2) The elected council of the local authority shall not exercise and perform a reserved function which by virtue of the Act of 2001, these Regulations or any guidelines is a function to be exercised and performed only by the municipal district members.

Exercise and performance of reserved functions generally

10. (1) The elected council of the local authority and the municipal district members shall execute and perform reserved functions in accordance with the Act of 2001, these Regulations and any guidelines.

(2) Any resolution purporting to be adopted for the purpose of the exercise and performance of a reserved function which is not in compliance with paragraph (1) shall be deemed to be invalid and to have no effect.

SCHEDULE*Regulation 5(2)*

Reference No. (as set out in column (1) in Part 2 of Schedule 14A to the Act of 2001) (1)	Description of reserved function (as set out in column (2) in Part 2 of Schedule 14A to the Act of 2001) (2)
11	Approving a proposal of the chief executive to grant permission for the development of land which would contravene materially the development plan or local area plan.
12	A decision in relation to the making, amendment or revocation of a local area plan within the meaning of the Act of 2000.
13	The making of an addition to, or a deletion from, a record of protected structures to which Part IV of the Act of 2000 relates.
14	Approving, amending or revoking a special planning control scheme.
15	Deciding to vary or modify a proposed local authority own development, or deciding not to proceed with the development.
16	Making, or refusing to make an order creating a public right of way over any land.
17	Deciding to vary or modify, or not to proceed with, an event proposed to be carried out by a local authority.
18	The preparation, making, adoption or variation of a housing services plan, or draft plan.
20	A decision by a local authority to provide assistance in money or in kind under section 66 for promotion of the interests of the local community.



GIVEN under my Official Seal,
29 May 2014.

PHIL HOGAN,
Minister for the Environment, Community and Local
Government.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation).

These Regulations set out conditions, restrictions and other procedure to apply to the performance of reserved functions in respect of municipal district members forming part of the elected council of a county council (other than the councils of Dun Laoghaire, Fingal and South Dublin) or city and county council. They should be read in conjunction with section 131A of and Schedule 14A to the Local Government Act 2001 (as inserted by section 21(3) and 21(4) of the Local Government Reform Act 2014).

The Regulations provide for matters such as the need for consistency with policy, strategy, programmes or plans of the local authority; avoidance of unnecessary duplication; requirements on the elected council of the local authority to perform a function where it is to be performed in every municipal district; a right of “call in” by the elected council of the local authority in circumstances where the exercise and performance of certain municipal district functions could have significant implications for the administrative area of a local authority or another municipal district; certain functions not to be delegated to municipal district members; performance of certain delegated functions in particular instances by the elected council of the local authority; resolution of differences and disagreements; and a prohibition on the exercise by either the elected council of the local authority or municipal district members where the function should be properly exercised by the other group of elected members.

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