

2015 No. 183

LOCAL GOVERNMENT

The Local Government (Constituting a Joint Committee a Body Corporate) Order (Northern Ireland) 2015

Made - - - - *25th March 2015*

Coming into operation - *1st April 2015*

The Department of the Environment makes the following Order in exercise of the powers conferred by section 19(9) of the Local Government Act (Northern Ireland) 1972^(a) and sections 14(2) and 122(2) of the Local Government Act (Northern Ireland) 2014^(b). In accordance with section 127(1) of the Local Government Act (Northern Ireland) 2014, the Department has consulted district councils and such associations or bodies representative of councils; such associations or bodies representative of officers of councils; and such other persons or bodies as appear to be appropriate.

Citation and commencement

1. This Order may be cited as The Local Government (Constituting a Joint Committee a Body Corporate) Order (Northern Ireland) 2015 and shall come into operation on 1st April 2015.

Interpretation

2. In this Order—

“the Act” means the Local Government Act (Northern Ireland) 2014;

“the 2012 Order” means the Local Government (Constituting Joint Committees as Bodies Corporate) Order (Northern Ireland) 2012^(c);

“existing arc21” means the arc21 constituted under Article 3(1) of the 2012 Order;

“arc21” means the arc21 constituted under Article 3 of this Order;

“SWaMP2008” means the body corporate constituted under Article 3(2) of the 2012 Order;

“the joint committee” means the committee appointed under section 11(1) of the Act by participant councils for the purpose of discharging any functions in pursuance of the arrangements made under Part 4 of that Act;

“the arrangements” means the arrangements made by the participant councils to form a joint committee to implement the waste management plan;

“the former councils” means Antrim Borough Council, Ards Borough Council, Ballymena Borough Council, Belfast City Council, Carrickfergus Borough Council, Castlereagh Borough

(a) 1972 c.9 (N.I.)
(b) 2014 c.8(N.I.)
(c) S.R. 2012 No. 10

Council, Down District Council, Larne Borough Council, Lisburn City Council, Newtownabbey Borough Council, and North Down Borough Council;

“the participant councils” means the councils for the districts of Antrim and Newtownabbey, North Down and Ards, Mid and East Antrim, Belfast, Lisburn and Castlereagh, and Newry, Mourne and Down;

“the waste management plan” means the sub-regional waste management plan jointly determined by the former councils, pursuant to Article 23 of the Waste and Contaminated Land (Northern Ireland) Order 1997(a) and references to the waste management plan shall be construed as references to the plan as revised or replaced from time to time.

Constitution of a joint committee as a body corporate

3.—(1) The joint committee, which is made up of the participant councils, shall be constituted as a body corporate and shall be known as arc21 and section 19 of the Interpretation Act (Northern Ireland) 1954(b) shall apply to it.

(2) arc21 shall be constituted for the purposes of undertaking any functions in pursuance of the arrangements made under Part 4 of the Act.

Financial administration and subscriptions

4. Part 1 (financial administration) and section 41 (subscriptions to certain local government associations and other bodies) of the Local Government Finance Act (Northern Ireland) 2011(c) shall apply to arc21 as they apply to a council as if—

- (a) reference to a council included a reference to arc21;
- (b) reference to members and officers of councils included a reference to members and officers of arc21;
- (c) reference to the chief financial officer included a reference to the chief executive;
- (d) reference to the general fund included a reference to general reserves;
- (e) reference to standing orders included a reference to the arrangements; and
- (f) reference to the clerk included a reference to the chief executive.

Power of acquiring, holding or disposing of land or entering into contracts

5. Sections 95 to 99 of the Local Government Act (Northern Ireland) 1972(d) (land and contracts) shall apply to arc21 as they apply to a council as if—

- (a) reference to a council included a reference to arc21;
- (b) reference to standing orders included a reference to the arrangements.

Miscellaneous functions

6. Sections 104 to 106, 109 and 112 to 113A of the Local Government Act (Northern Ireland) 1972 shall apply to arc21 as they apply to a council as if reference to a council included a reference to arc21.

Improvement: general duty

7. Section 84 of the Act (improvement: general duty) applies to arc21 as it applies to a council as if reference to a council included a reference to arc21.

(a) S.I. 1997/2778 (N.I. 19)
(b) 1954 c.33 (N.I.)
(c) 2011 c.10 (N.I.)
(d) 1972 c.9 (N.I.)

Indemnification of members and officers

8. Section 33 of the Local Government (Northern Ireland) Order 2005(a) (indemnification of members and officers of councils) shall apply to arc21 as if—

- (a) reference to a council included a reference to arc21;
- (b) reference to members and officers of councils included a reference to members and officers of arc21.

Application of certain provisions of the Local Government (Miscellaneous Provisions) Act (Northern Ireland) 2010

9. Part1 (contracts of councils), section 21 and section 22(1) and (2) (miscellaneous and supplementary) of the Local Government (Miscellaneous Provisions) Act (Northern Ireland) 2010(b) shall apply to arc21 as they apply to a council as if reference to a council included a reference to arc21.

Transfer of assets and liabilities and continuity

10.—(1) All assets to which the existing arc21 is entitled and liabilities to which it is subject on 1st April 2015 are hereby transferred to and shall vest in arc21 on 1st April 2015 including liabilities of existing arc21 in relation to the Local Government Pension Scheme (Northern Ireland) which are not otherwise transferred to arc21 under an apportionment agreement made under regulation 71(1) of the Local Government Pension Scheme Regulations (Northern Ireland) 2014(c).

(2) All assets to which SWaMP2008 is entitled and liabilities to which it is subject on 31st March 2015 are hereby transferred to and shall vest in the council for the district of Armagh, Banbridge and Craigavon.

(3) Any legal proceedings which, but for this order, could have been commenced or continued by or in relation to the existing arc21 or SWaMP2008 may be commenced or continued by or in relation to arc21 or the council for the district of Armagh, Banbridge and Craigavon as the case may be.

(4) Every contract, agreement, licence and authority, whether written or not, and every deed, bond, instrument and document made before 1st April 2015 and still in effect at that time which relates to assets or liabilities of the existing arc21 and SWaMP2008 shall continue in effect but subject to the following modifications so far as they are applicable—

- (a) if the existing arc21 or SWaMP2008 is a party thereto arc21 or the council for the district of Armagh, Banbridge and Craigavon (as the case may be) shall be substituted as that party;
- (b) for a reference (however worded and whether express or implied) to the existing arc21 or SWaMP2008 there shall, as respects anything falling to be done or occurring after that time, be substituted a reference to arc21 or the council for the district of Armagh, Banbridge and Craigavon (as the case may be);
- (c) for a reference (however worded and whether express or implied) to the members or any member or to any officer or officers of the existing arc21 or SWaMP2008 there shall be substituted, as respects anything done after 31st March 2015, a reference to such members or officers as arc21 or the council for the district of Armagh, Banbridge and Craigavon (as the case may be) shall appoint for the purpose; and
- (d) for a reference to the office or place of business of the existing arc21 or SWaMP2008 there shall be substituted the office of arc21 or the council for the district of Armagh, Banbridge and Craigavon (as the case may be).

(a) S.I. 2005/1968 (N.I. 18)

(b) 2010 c.7 (N.I.)

(c) S.R. 2014 No. 188

11. Where rights and liabilities under a contract of employment are transferred by virtue of this order, the Transfer of Undertakings (Protection of Employment) Regulations 2006^(a) applies to the transfer whether or not the transfer would, apart from this provision, be a relevant transfer for the purposes of the regulations.

Dissolution

12. The existing arc21 and SWaMP2008 are dissolved upon revocation of the Local Government (Constituting Joint Committees as Bodies Corporate) Order (Northern Ireland) 2012.

Revocations

13. The Local Government (Constituting Joint Committees as Bodies Corporate) Order (Northern Ireland) 2012 is revoked.

Sealed with the Official Seal of the Department of the Environment on 25th March 2015



Wesley Shannon
A senior officer of the
Department of the Environment

(a) S.I. 2006/246

EXPLANATORY NOTE

(This note is not part of the Order)

Following the reorganisation of local government in Northern Ireland, this Order provides for the joint committee which is made up of the participant councils to be constituted as a body corporate and to be known as arc21, and fixes its' functions.

This Order also dissolves the existing arc21 and SWaMP2008 bodies corporate.

Article 10 of this Order provides for the transfer of all assets and liabilities from the existing arc21 and SWaMP2008 bodies corporate to the successor bodies, including the pension liabilities of the existing arc21 body corporate.

Article 11 of this Order provides for the protection of the employment rights and conditions of existing arc21 staff upon transfer to the successor body.

This Order also provides for the revocation of existing legislation constituting joint committees as bodies corporate.

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