



Local Government and Rating Act 1997

1997 CHAPTER 29

PART II

PARISHES AND PARISH COUNCILS

Establishment and review

9 Reviews of parishes by local authorities.

- (1) A district council, or a unitary county council, may conduct a review of the whole or any part of their area for the purpose of considering whether or not to make any recommendations within subsection (2) to the Secretary of State and (if they decide to do so) what recommendations.
- (2) The recommendations which the council may make following the review are recommendations for—
 - (a) the constitution of a new parish by—
 - (i) the establishment as a parish of any area which is not, and is not part of, a parish,
 - (ii) the aggregation of any such area with one or more parishes or parts of parishes,
 - (iii) the aggregation of parts of parishes,
 - (iv) the amalgamation of two or more parishes, or
 - (v) the separation of part of any parish,
 - (b) the abolition of a parish, with or without the distribution of its area among other parishes, or
 - (c) the alteration of the area of a parish.
- (3) Subject to subsection (4), if the council make any recommendation for the constitution of a new parish, they must include recommendations for—
 - (a) the establishment of a new parish council for the parish, and
 - (b) the electoral arrangements for the council.

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- (4) If the population of a new parish recommended by the council would include fewer than 200 local government electors, the council may include the recommendations mentioned in subsection (3), but are not under a duty to do so.
- (5) If the council make a recommendation for the alteration of the area of a parish which has a parish council, they may include recommendations for changes to the electoral arrangements for the council.
- (6) If the council make any recommendation within subsection (2), they may include a recommendation for the related alteration of the boundaries of any electoral division of a county, or ward of a district, within their area and any consequential alteration in the number of councillors to be elected for the ward.

10 Procedure on a review.

- (1) If a district council or unitary county council decide to conduct a review under section 9, they must as soon as reasonably practicable take the steps they consider sufficient to secure that persons who may be interested in the review are informed of—
 - (a) the decision to conduct the review,
 - (b) the subject-matter of the review, and
 - (c) the period within which representations about the subject-matter of the review may be made.
- (2) In conducting the review, the council must take into consideration any representations made to them within the period mentioned in subsection (1)(c).
- (3) After conducting the review, unless they decide not to make any recommendations to the Secretary of State, the council must —
 - (a) prepare draft recommendations and take the steps they consider sufficient to secure that persons who may be interested in them are informed of them and of the period within which representations about them may be made,
 - (b) deposit copies of the draft recommendations at their principal office and keep the copies available for inspection at that office throughout the period within which representations about them may be made, and
 - (c) take into consideration any such representations made to them within that period.
- (4) If the council then decide to make any recommendations, they must send them to the Secretary of State and, as soon as they do so—
 - (a) deposit copies of the recommendations at their principal office, and
 - (b) take the steps they consider sufficient to secure that persons who may be interested in the recommendations are informed of them and of the period within which the copies may be inspected.
- (5) Further, the council must keep the copies available for inspection at their principal office throughout the period within which they may be inspected.

11 Petitions for new parishes.

- (1) If a district council or unitary county council receive a petition which complies with subsection (2) for—

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- (a) the constitution as a parish of an area (within their area) which is not wholly or partly within a parish, and
 - (b) the establishment of a parish council for any such area,
- they must send the petition to the Secretary of State.
- (2) The petition must—
- (a) be signed by not less than—
 - (i) 250 local government electors for the area to which it relates, or
 - (ii) 10 per cent. of the local government electors for that area, whichever is the greater number of local government electors, and
 - (b) define the area to which it relates, whether on a map or otherwise.
- (3) But if—
- (a) an earlier petition has been made to the council within the period of two years ending with the day when they received the petition,
 - (b) in the opinion of the council the area to which the later petition relates covers the whole or a significant part of the area to which the earlier petition related, and
 - (c) the council have sent the earlier petition to the Secretary of State under this section,
- the council may send the later petition to the Secretary of State, but are not under a duty to do so.
- (4) Where a council are under a duty, or decide, to send a petition to the Secretary of State under this section, they must send the petition, together with their views about it, to him before the end of the period of three months beginning with the day when they received it.
- (5) For the purposes of this section and sections 12, 13 and 14—
- (a) a petition proposing the constitution of any area as a parish is to be treated as if it also proposed the establishment of a parish council for the parish, and
 - (b) a petition proposing the establishment of a parish council for any area is to be treated as if it also proposed the constitution of the area as a parish.
- (6) If a district council receive a petition falling within subsection (1), they must as soon as reasonably practicable notify any county council within whose area the district of the district council is situated of the proposals contained in the petition.
- (7) The county council may send their views about the proposals contained in the petition to the district council or the Secretary of State.

12 Views of local authority about the petition.

- (1) The views which a district council or unitary county council send to the Secretary of State (together with a petition) under section 11 must—
- (a) show whether or not they agree with the proposals contained in the petition, and
 - (b) summarise any information the council have about the opinions held by local government electors in their area about the proposals,
- and may contain any other information or observations they think fit.

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- (2) Where a district council or unitary county council receive a petition which they propose to send to the Secretary of State under section 11 and decide to consider—
 - (a) the electoral arrangements for the proposed parish council, or
 - (b) the related alteration of the boundaries of any electoral division of a county, or ward of a district, within their area and any consequential alteration in the number of councillors for that ward,
 they must inform the Secretary of State of their decision when they send him the petition.
- (3) Further, if the council decide to consider either of those matters, they must—
 - (a) as soon as reasonably practicable take the steps they consider sufficient to secure that persons who may be interested in any of those matters are informed of the period within which representations about them may be made, and
 - (b) take into consideration any representations about those matters made to them within the period.
- (4) If the council then decide to make any recommendations to the Secretary of State about those matters, they must send them to the Secretary of State and, as soon as they do so—
 - (a) deposit copies of the recommendations at their principal office, and
 - (b) take the steps they consider sufficient to secure that persons who may be interested in the recommendations are informed of them and of the period within which the copies may be inspected.
- (5) Further, the council must keep the copies available for inspection at their principal office throughout the period within which they may be inspected.
- (6) If the council decide not to make any recommendations to the Secretary of State about those matters, they must inform him of their decision as soon as reasonably practicable.
- (7) Any recommendations about those matters must be sent to the Secretary of State before the end of the period of six months beginning with the day when the council received the petition.

13 Consultation with Local Government Commission.

- (1) The Local Government Commission for England must consider any of the following matters which the Secretary of State directs it to consider—
 - (a) where any recommendations are made to the Secretary of State under section 9, the recommendations and any matter relating to the recommendations which might have been covered in them,
 - (b) where any petition is sent to him under section 11, the petition, any recommendations sent to him under section 12 relating to the petition, and any matter relating to the petition which might have been covered in such recommendations.
- (2) If the Commission is directed by the Secretary of State to consider any matters within subsection (1), the Commission must—
 - (a) take the steps it considers sufficient to secure that persons who may be interested in those matters are informed of them and of the period within which representations about them may be made, and
 - (b) take into consideration any such representations made to it within that period.

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- (3) If the Commission decides not to make any further or different proposals about the matters it is directed to consider, the Commission must inform the Secretary of State of its decision.
- (4) If the Commission decides to make any further or different proposals, the Commission must—
 - (a) send them to the Secretary of State, and
 - (b) take the steps it considers sufficient to secure that persons who may be interested in its proposals are informed of them.
- (5) The Commission must provide the Secretary of State with any additional information he directs it to provide.
- (6) The power of the Secretary of State under this section to direct the Commission to consider a petition sent to him under section 11 or recommendations sent to him under section 12 is not affected by the fact that the petition or recommendations were sent after the end of the periods mentioned in sections 11(4) and 12(7) respectively.

Modifications etc. (not altering text)

- C1** Ss. 13, 14, 17(4): power to transfer or modify functions conferred (30.11.2000 so far as the section confers power to make an order or regulations and otherwise 30.10.2001) by 2000 c. 41, s. 18(3)(b)(4) (with s. 156(6)); S.I. 2001/3526, art. 2(c)

14 Implementation by Secretary of State.

- (1) The Secretary of State may, if he thinks fit, by order give effect to—
 - (a) any recommendations made to him under section 9 (together with any proposals relating to them sent to him by the Local Government Commission for England),
 - (b) any petition sent to him under section 11 (together with any recommendations sent to him under section 12, and any proposals sent to him by the Commission, relating to the petition),and may do so with or without modifications.
- (2) An order under this section may also make a related alteration of the boundaries of any electoral division of a county, or ward of a district, within the area of the district council, or unitary county council, concerned and any consequential alteration in the number of councillors to be elected for the ward.
- (3) An order under this section establishing a parish council must include any provision which appears to the Secretary of State to be necessary for the election of the council in accordance with the ^{M1}Local Government Act 1972 and Part I of the ^{M2}Representation of the People Act 1983.
- (4) An order under this section may direct the district council, or unitary county council, concerned—
 - (a) to establish a parish council for a new parish constituted by any such order,
 - (b) to make specified electoral arrangements for the parish council, and
 - (c) to make specified provision for the election of the parish council in accordance with the ^{M3}Local Government Act 1972 and Part I of the ^{M4}Representation of the People Act 1983.

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- (5) The power of the Secretary of State under this section to give effect to a petition sent to him under section 11 or recommendations sent to him under section 12 is not affected by the fact that the petition or recommendations were sent after the end of the periods mentioned in sections 11(4) and 12(7) respectively.

Modifications etc. (not altering text)

- C2** Ss. 13, 14, 17(4): power to transfer or modify functions conferred (30.11.2000 so far as the section confers power to make an order or regulations and otherwise 30.10.2001) by 2000 c. 41, s. 18(3)(b)(4) (with s. 156(6)); S.I. 2001/3526, art. 2(c)

Marginal Citations

- M1** 1972 c. 70.
M2 1983 c. 2.
M3 1972 c. 70.
M4 1983 c. 2.

15 Regulations for supplementing orders under section 14.

- (1) The Secretary of State may by regulations of general application make any incidental, consequential, transitional or supplementary provision he thinks necessary or expedient for the purposes or in consequence of any orders made by him under section 14 or for giving full effect to such orders.
- (2) Regulations under subsection (1) are to have effect subject to any provision made by the orders to which they relate.

16 Establishment of new parish councils by local authorities.

- (1) This section applies where a parish has no separate parish council.
- (2) Subject to subsection (3), the district council or unitary county council within whose area the parish is situated must establish a separate parish council for the parish if—
- the population includes at least 200 local government electors, or
 - the population includes more than 150 but fewer than 200 local government electors and the parish meeting resolve that there should be a parish council.
- (3) Where the parish is within subsection (2)(a) or (b) and grouped under a common parish council, the district council or unitary county council concerned may establish a separate parish council for the parish, but are not under a duty to do so.
- (4) The district council or unitary county council concerned may establish a separate parish council for the parish if it is not within subsection (2)(a) or (b) but the parish meeting resolve that there should be a separate parish council.
- (5) The power of a district council or unitary county council under this section is exercisable by order.

17 Electoral arrangements.

- (1) Where a district council or unitary county council by order establish a separate parish council for a parish under section 16, they must by the order—

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- (a) make any electoral arrangements which appear to them to be necessary for the separate parish council, and
 - (b) make any other provision which appears to them to be necessary for the election of the parish council in accordance with the ^{M5}Local Government Act 1972 and Part I of the ^{M6}Representation of the People Act 1983.
- (2) A district council or unitary county council may conduct a review of the electoral arrangements for the council of a parish in their area for the purpose of considering whether or not to make any changes to the arrangements and, if so, what changes.
- (3) If following a review under this section the council decide that changes should be made to the electoral arrangements, they may by order give effect to all or any of the changes.
- (4) Subsection (3) does not apply if the electoral arrangements for the parish council have been made or altered by or in pursuance of an order under section 14, or by an order under Part IV of the ^{M7}Local Government Act 1972 or section 17 of the ^{M8}Local Government Act 1992, and—
 - (a) the period of five years beginning with the day on which the order was made has not expired, and
 - (b) the Secretary of State has not consented to the council making the changes.
- (5) The power of a council to make an order under this section includes power to vary or revoke any order previously made under section 16 or this section.

Modifications etc. (not altering text)

C3 Ss. 13, 14, 17(4): power to transfer or modify functions conferred (30.11.2000 so far as the section confers power to make an order or regulations and otherwise 30.10.2001) by 2000 c. 41, s. 18(3)(b)(4) (with s. 156(6)); S.I. 2001/3526, art. 2(c)

Marginal Citations

M5 1972 c. 70.
M6 1983 c. 2.
M7 1972 c. 70.
M8 1992 c. 19.

18 Considerations in deciding about electoral arrangements.

- (1) This section applies where the Secretary of State, the Local Government Commission for England, a district council or a unitary county council (“the authority”) are considering electoral arrangements under sections 9 to 17.
- (2) When considering whether a parish should be divided into parish wards, the authority must consider whether—
 - (a) the number or distribution of the local government electors of the parish is such as to make a single election of parish councillors impracticable or inconvenient, and
 - (b) it is desirable that any area or areas of the parish should be separately represented on the parish council.

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- (3) Where the authority decide that a parish should be divided into parish wards and are considering the size and boundaries of the wards and the number of parish councillors to be elected for each ward, the authority must have regard to—
- (a) any change in the number or distribution of local government electors for the parish that is likely to occur in the five years beginning with their consideration,
 - (b) the desirability of fixing boundaries which are and will remain easily identifiable, and
 - (c) any local ties which will be broken by the fixing of any particular boundaries.
- (4) Where the authority decide that a parish should not be divided into parish wards and are considering the number of councillors to be elected for the parish, the authority must have regard to—
- (a) the number of the local government electors for the parish, and
 - (b) any change in that number which is likely to occur in the period of five years beginning with their decision.

19 Reviews of parishes by Local Government Commission.

- (1) In section 13 of the ^{M9}Local Government Act 1992 (duty of Local Government Commission for England to conduct reviews and make recommendations) after subsection (1) there is inserted—

“(1A) If the Secretary of State so directs, the Local Government Commission shall, in accordance with this Part and any directions given under it—

- (a) conduct a review of such areas in England as are specified in the direction or are of a description so specified; and
- (b) recommend to the Secretary of State as respects each of those areas either—
 - (i) that he should make such parish boundary changes or parish electoral changes as are specified in the recommendations; or
 - (ii) that he should make no such changes.

(1B) Recommendations under subsection (1A) above for parish boundary changes may include recommendations for the related alteration of the boundaries of any electoral division of a county or ward of a district and any consequential alteration in the number of councillors to be elected for the ward.

(1C) For the purposes of subsections (1A) and (1B) above—

- (a) a parish boundary change means a boundary change which is the alteration of the area of a parish, the constitution of a new parish or the abolition of a parish; and
- (b) a parish electoral change means an electoral change which is a change of the electoral arrangements mentioned in section 14(4)(b) below”.

- (2) In section 14 of the Act of 1992 (changes that may be recommended by the Commission), in subsection (5), after paragraph (b) there is inserted—

“(ba) the establishment of a parish council for any new parish which would result from any recommended boundary change and the electoral arrangements (as defined in subsection (4)(b) above) for the council”.

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Changes to legislation: There are currently no known outstanding effects for the Local Government and Rating Act 1997, Cross Heading: Establishment and review. (See end of Document for details)

Marginal Citations

M9 1992 c. 19.

20 Election of parish councillors.

(1) In section 17(3) of the ^{M10}Local Government Act 1992 (provisions which may be included in orders implementing recommendations of Local Government Commission), after paragraph (e) there is inserted—

“(ea) in the case of an order containing provision for a structural change by which the functions of district councils in relation to any area are transferred to a council for a county consisting of that area, the ordinary year of election and the order of retirement of parish councillors for any parish situated in the area”.

(2) Where—

- (a) an order under section 17 of the ^{M11}Local Government Act 1992 has been made before the coming into force of this section, and
- (b) the order includes provision for any structural change by which the functions of district councils in relation to any area are transferred to a council for a county consisting of that area,

the Secretary of State may by order make provision with respect to the ordinary year of election and the order of retirement of parish councillors for any parish situated in that area.

(3) In subsection (2) “structural change” has the same meaning as in Part II of the Local Government Act 1992 (see section 14).

Marginal Citations

M10 1992 c. 19.

M11 1992 c. 19.

Status:

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Changes to legislation:

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