

# **REGIONAL ASSEMBLY (PREPARATIONS) ACT 2003**

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### **Part 2: Local government reviews**

##### ***Section 18: Application of the 1992 Act***

77. **Section 18** applies further provisions of the 1992 Act with certain modifications. The modifications substitute the Boundary Committee for the Electoral Commission. They also apply the provisions contained in section 26 of the 1992 Act (which relate to the order-making powers under Part 2 of that Act) to those provisions applied by section 18 for the purposes of the Act. This means that apart from section 17, which makes specific provision as described above, the provisions and powers to make orders or regulations relating to a local government review under this Act are substantially the same as for structural change reviews under the 1992 Act.
78. Section 18 of the 1992 Act states that, where the functions of a district council are to be transferred to a county council, the county council shall become the billing authority for the purposes of Part 1 of the Local Government Finance Act 1992 and shall not be a major precepting authority for those purposes. A district council which is to have the functions of a county council under the order will become the area of a fire authority for the purposes of the Fire Services Act 1947.
79. Section 19 of the 1992 Act enables the Secretary of State by regulations of general application to make such incidental, consequential, transitional or supplementary provision as he thinks necessary or expedient to support an order under section 17.
80. Section 20 of the 1992 Act enables any public bodies affected by an implementing order to make agreements in relation to any property, income, rights, liabilities and expenses (so far as affected by the order) of, and any financial relations between, the parties to the agreement.
81. Section 21 of the 1992 Act enables the Secretary of State to establish a joint authority to carry out any functions which are to be functions of any authority as a result of any structural or boundary change.
82. Section 22 of the 1992 Act enables the Secretary of State to establish one or more bodies ('residuary bodies') for the purposes of taking over any property, rights or liabilities, and any related functions, of local authorities which cease to exist as a result of an implementation order.
83. Section 23 of the 1992 Act enables the Secretary of State to establish one or more staff commissions to consider staffing issues relating to the authorities affected by the implementation order.

*These notes refer to the Regional Assembly (Preparations)  
Act 2003 (c.10) which received Royal Assent on 8 May 2003*

84. Section 26 of the 1992 Act concerns orders and regulations made by the Secretary of State under sections 19, 21, 22 and 23 of the 1992 Act as applied by section 18. Any such order shall be subject to the negative resolution procedure. This means that the statutory instrument by which the order or regulations are made must be laid before Parliament and either House has forty days within which it can move a resolution to annul it.
85. But an order under those provisions which effects a structural change or establishes a joint authority for two or more local government areas is subject to the affirmative resolution procedure.
86. With regard to any orders or regulations made under sections 19, 21, 22 or 23 of the 1992 Act, section 26 enables the Secretary of State:
- to make different provision for different cases;
  - to make incidental, consequential, transitional or supplementary provision with power for that purpose to amend, apply (with or without modifications), extend, exclude, repeal or revoke any enactment or any instrument made under any enactment or any charter;
  - to make provision relating to staffing matters and the legal status of bodies. He is able to do this where he has power under the above-mentioned sections of the 1992 Act to make provision for the transfer of any functions, property, rights or liabilities (or to make transitional provision in connection with such a transfer or with the establishment of any body);
  - by a subsequent direction to vary or revoke any direction he makes under the applied provisions of the 1992 Act; and
  - to rectify a mistake by order made under those provisions if a mistake has occurred in the preparation of an order and that mistake cannot be rectified by a subsequent order.
87. [Section 26\(4\)](#) contains a limited power to modify or amend enactments where an order giving effect to local government reorganisation may require incidental, consequential, transitional or supplementary provision. It is a common form of this type of power and is restricted to the practical purposes of adjusting enactments or instruments to fit the changing circumstances that arise from structural and boundary changes.