



Local Government Act 1958

1958 CHAPTER 55

PART II

REVIEWS OF LOCAL GOVERNMENT AREAS IN ENGLAND AND WALES

General provisions relating to Part II

34 Constitution of county boroughs: presumption as to size

In so far as the question of the constitution of a new county borough is affected by considerations of population, the Commission and the Minister shall presume that a population of one hundred thousand is sufficient to support the discharge of the functions of a county borough council.

35 Restriction on promotion of Bills for changes of local government areas or status

- (1) No local authority shall have power to promote a Bill for forming any new area of local government, or for altering, or altering the status of, any area of local government, before the expiration of fifteen years from the commencement of this Act.
- (2) Without prejudice to the foregoing subsection the council of a borough shall not promote a Bill for the purpose of constituting the borough a county borough unless the population of the borough is one hundred thousand or more.
- (3) In subsection (1) of this section " area of local government " means a county, a borough, an urban or rural district, or a parish.
- (4) Subsection (1) of this section shall not apply to the administrative county of London, and Her Majesty may by Order in Council provide for excluding the operation of that subsection in relation to any other part of the metropolitan area specified in the Order.

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36 Regulations as to Commission

- (1) The Minister may make regulations for the guidance of the Commission in the exercise of any of their functions under this Part of this Act, and it shall be the duty of the Commission to comply with any provision or direction contained in or having effect under the regulations.
- (2) Nothing in the provisions of this Part of this Act empowering the Minister to give directions to the Commission shall be construed as limiting the generality of the power to make regulations conferred by this section.

37 Dissolution of Commissions

When it appears to Her Majesty in Council that the functions under section seventeen of this Act of either of the Commissions have been fully performed, Her Majesty may by Order in Council provide for the dissolution of that Commission.

38 Consequential and transitional arrangements relating to Part II

- (1) An order under this Part of this Act may contain such incidental, consequential, transitional or supplementary provisions as may be necessary or proper for the purposes or in consequence of the order and for giving full effect thereto ; and nothing in any other provision of this Act shall be construed as prejudicing the generality of this subsection.
- (2) Such provisions as are mentioned in the foregoing subsection may be made with respect to administrative and judicial arrangements and with respect to the transfer and management or custody of property (whether real or personal), may provide for applying, amending or repealing any Act, and may provide for any of the matters specified in paragraphs (a) to (i) of subsection (1) of section one hundred and forty-eight of the Act of 1933; and subsections (2) and (3) of that section (which respectively empower the making of provision as to electoral divisions and wards and numbers of councillors and aldermen in the case of a change of area, and the making of provision for regulating matters incidental to the grant of a commission of the peace and a court of quarter sessions in the case of a union of boroughs) shall apply to such orders as are mentioned in the foregoing subsection.
- (3) An order under this Part of this Act constituting a new borough by the amalgamation of county boroughs, the division of a county borough, or the amalgamation of a non-county borough with other county districts may make provision for the charter of the new borough, by applying thereto, with any necessary exceptions or modifications, the charter of any amalgamated borough, or of the divided borough, as the case may be, or, in the case of an amalgamation including two or more boroughs, by applying as aforesaid to the new borough provisions of charters of two or more amalgamated boroughs or the charter of one and provisions of the charter of one or more of the others.
- (4) An order under this Part of this Act converting an urban district into a county borough may make any provision which, if the borough had been constituted in pursuance of Part VI of the Act of 1933, could have been made by the charter creating it or by a scheme confirmed under that Part; and the provisions of the Municipal Corporations Act, 1882, and the provisions of the Act of 1933 relating to boroughs, shall apply to any county borough created by such an order.

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- (5) In submitting their proposals under this Part of this Act the Commission or a county council may include recommendations as to the provision to be made in any order of the Minister in pursuance of subsections (1) to (4) of this section.
- (6) Any order under this Part of this Act whereby any power to run public service vehicles (within the meaning of the Road Traffic Act, 1930) would otherwise become exercisable as respects any road as respects which it would not be exercisable apart from the order shall contain provision whereby the power shall be exercisable as respects that road only with the consent of the traffic commissioners or traffic commissioner for the traffic area in which the road is situated, and the order shall provide for applying section one hundred and two of the Road Traffic Act, 1930 (which provides for the procedure on applications for the consent of traffic commissioners and for appeals from their decisions) to applications for such consent under the order.

39 Financial provisions

- (1) Sections one hundred and fifty-one and one hundred and fifty-two of the Act of 1933 (which provide for financial adjustments in consequence of the alteration of areas or authorities under that Act) shall apply to orders under this Part of this Act.
- (2) The following provisions shall have effect for enabling financial adjustments to be made where county functions become under this Part of this Act exercisable by county district councils or, as respects part only of a county, by a joint board, or where district functions become exercisable under this Part of this Act by a county council:—
 - (a) an order giving effect to proposals for the exercise of county functions by the councils of county districts or, as respects a district comprising part only of a county (whether or not it includes any other area), by a joint board, may contain provision for the making of contributions by the county council to expenditure of the county district councils or, as the case may be, of the councils of county districts in the county which are wholly or partly comprised within the district of the joint board, in respect of the functions;
 - (b) an order giving effect, as respects part only of a county, to proposals for the exercise of county functions by county district councils or a joint board may contain provisions as to what expenditure or receipts of the county council are to be treated as being for special county purposes;
 - (c) an order giving effect, as respects part only of a county, to proposals for the exercise of district functions by the county council may provide for expenditure or receipts of the county council in respect of those functions to be treated as being for special county purposes.

40 Orders etc. under Part II subject to affirmative or negative resolution

- (1) Subject to the provisions of this section,—
 - (a) no order giving effect to proposals made on a review held in pursuance of section seventeen of this Act, other than proposals made by virtue of section twenty-six of this Act,
 - (b) no order approving or affirming proposals made by virtue of the said section twenty-six,
 - (c) no order under subsection (2) of the said section seventeen, and
 - (d) no regulations under section thirty-six of this Act,shall have effect until approved by a resolution of each House of Parliament.

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- (2) No Order in Council under section thirty-seven of this Act shall be submitted to Her Majesty unless a draft of the Order has been approved by a resolution of each House of Parliament.
- (3) Subsection (1) of this section shall not apply to any order giving effect only to proposals, made on the review of an area outside the special review areas, for altering the area of an administrative county or county borough (including proposals for abolishing a county district in the course of the extension of a county borough); but—
- (a) any such order,
 - (b) any order giving effect to proposals made on a review held in pursuance of section twenty-eight, thirty or thirty-one of this Act,
 - (c) any order under subsection (1) of section twenty-five, subsection (4) of section twenty-six, section twenty-seven or section thirty-two of this Act, and
 - (d) any Order in Council under subsection (6) of section twenty-eight or subsection (4) of section thirty-five of this Act,
- shall be subject to annulment in pursuance of a resolution of either House of Parliament.

41 Revocation of orders

- (1) Any order of the Minister made on a review under this Part of this Act may be varied or revoked by order of the Minister made in accordance with the following provisions of this section.
- (2) The Minister shall prepare a draft of the varying or revoking order, shall send copies of the draft to such local or public authorities as appear to him to be concerned, and shall give public notice, in such manner as appears to him sufficient for informing persons likely to be concerned, that the draft has been prepared, that a copy thereof is available for inspection at a place specified in the notice and that representations with respect thereto may be made to the Minister within two months of the publication of the notice.
- (3) The Minister shall consider any representations duly made with respect to the draft and may then if he thinks fit make an order either in the form of the draft or subject to modifications, so however that if any objection to the draft is duly made by any authority appearing to the Minister to be affected thereby, and is not withdrawn, the Minister shall not make the order without first holding a local inquiry into the objection.
- (4) The foregoing section shall apply to an order under this section as it applies to the order varied or revoked.

42 Supplementary provisions as to statutory water undertakers

The powers conferred by the provisions of this Part of this Act relating to joint boards and the Sixth Schedule to this Act shall not be exercisable so as to affect the constitution, functions, area or undertaking of any statutory water undertakers not being either a local authority or a joint board of which the constituent members are all local authorities.

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43 Boundaries between English and Welsh areas not to be affected

Nothing in this Part of this Act shall be construed as enabling any alteration of areas to be made so as to alter the boundary between an area in England and one in Wales.

44 Provisions as to Cinque Ports

- (1) No change of area or status effected under this Part of this Act or under section one hundred and forty-one of the Act of 1933 shall affect the continuance of the Confederation of the Cinque Ports.
- (2) An order under this Part of this Act or the said section one hundred and forty-one affecting any port or ancient town of the Confederation may make provision for securing the continued discharge of functions in relation to the Confederation (including, but without prejudice to the generality of the foregoing, provision for the preservation so far as necessary for the purposes of this section, and with or without modifications, of any existing corporation), for appropriating property or providing funds for the discharge of functions as aforesaid, and otherwise for securing that anything required or authorised to be done by, to, or in relation to the Confederation or any Court thereof may continue to be done.
- (3) Subsection (5) of section thirty-eight of this Act shall apply in relation to the foregoing provisions of this section as it applies in relation to subsections (1) to (4) of that section.

45 Saving for Prerogative

The enabling provisions of this Part of this Act shall be deemed to be in addition to, and not in derogation of, the powers exercisable by Her Majesty by virtue of Her royal prerogative.