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STATUTORY INSTRUMENTS

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**1996 No. 1865**

**The Devon (City of Plymouth and Borough of Torbay) (Structural Change) Order 1996**

**PART II**

**LOCAL GOVERNMENT REORGANISATION IN PLYMOUTH AND TORBAY**

**Structural change**

**3.** Subject to the following provisions of this Part and to any other relevant provision, the functions of the Devon Council in relation to Plymouth and Torbay shall be transferred to the Plymouth Council and the Torbay Council respectively.

**Fire services**

**4.—(1)** In this article—

“the 1947 Act” means the Fire Services Act 1947(1); and

“the relevant area” means the area comprising Devon (as constituted on and after the reorganisation date), Plymouth and Torbay.

(2) Plymouth and Torbay shall, subject to any combination scheme under the 1947 Act, each become the area of a fire authority for the purposes of that Act.

(3) For the purposes of the making of a combination scheme with respect to the relevant area before the reorganisation date in accordance with section 10 of the 1947 Act (power to make schemes in advance of alterations to local government areas), section 5(2) of that Act shall have effect, in relation to that area, as if—

(a) in paragraphs (a) and (d) of that subsection, for “the constituent authorities”, wherever those words occur, there were substituted “the council of the county of Devon”; and

(b) in paragraphs (e) and (f) of that subsection, for “any of the constituent authorities” there were substituted “the council of the county of Devon”.

(4) Section 10 of the 1947 Act shall have effect, in relation to the relevant area, as if after the word “but” there were inserted the words “, except so far as it relates to the constitution of an authority as the fire authority for the combined area constituted by the scheme and the performance by that authority of any functions necessary for bringing the scheme into full operation on that date,”.

**Planning functions**

**5.—(1)** The structure plan applying immediately before the reorganisation date to Devon, and any proposals prepared before that date for the alteration or replacement of that plan, shall be treated as if they had been prepared jointly by the Devon Council, the Plymouth Council and the Torbay

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(1) 1947 c. 41; section 10 of this Act is amended by paragraph 2 of Schedule 3 to the Local Government Act 1992.

Council; and section 50 of the Town and Country Planning Act 1990(2) (“the 1990 Act”) shall apply accordingly.

- (2) In relation to the Plymouth Council or the Torbay Council—
- (a) section 36(5) of the 1990 Act (which provides that a local plan shall not contain policies in respect of minerals or waste) shall not apply;
  - (b) subsection (1) of section 37 of that Act (minerals local plans) shall have effect as if, after the words “local plan”, there were added the words “or include in their local plan their detailed policies in respect of development consisting of the winning and working of minerals or involving the deposit of mineral waste”; and
  - (c) subsection (2) of section 38 of that Act (waste policies) shall have effect as if, after paragraph (b), there were added the following—
    - “or
    - (b) include their waste policies in their local plan.”

#### **Constitution of new counties of Plymouth and Torbay**

- 6.**—(1) Plymouth and Torbay shall cease to form part of Devon.
- (2) A new county shall be constituted comprising the area of Plymouth and shall be named the county of Plymouth.
- (3) A new county shall be constituted comprising the area of Torbay and shall be named the county of Torbay.
- (4) Section 2(1) of the 1972 Act (which provides that every county shall have a council) shall not apply in relation to the counties of Plymouth and Torbay.

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(2) 1990 c. 8. In this Act, sections 36 to 38 were substituted by paragraph 17 of Schedule 4 to the Planning and Compensation Act 1991 (c. 34) and section 50 was amended by paragraph 24 of that Schedule.