
STATUTORY INSTRUMENTS

1996 No. 88

LOCAL GOVERNMENT, ENGLAND AND WALES
WALES

**The Local Government Reorganisation
(Wales)(Finance) Order 1996**

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| <i>Made</i> | - - - - | <i>16th January 1996</i> |
| <i>Laid before Parliament</i> | | <i>19th January 1996</i> |
| <i>Coming into force</i> | - - | <i>9th February 1996</i> |

The Secretary of State for Wales, in exercise of the powers conferred upon him by section 54(1) and (2)(e) of the Local Government (Wales) Act 1994⁽¹⁾, hereby makes the following Order:

Citation and commencement

1. This Order may be cited as the Local Government Reorganisation (Wales) (Finance) Order 1996 and shall come into force on 9th February 1996.

Interpretation

2. In this Order—

“the 1972 Act” means the Local Government Act 1972⁽²⁾;

“the 1982 Act” means the Local Government Finance Act 1982⁽³⁾;

“the 1988 Act” means the Local Government Finance Act 1988⁽⁴⁾;

“the 1989 Act” means the Local Government and Housing Act 1989⁽⁵⁾;

“the 1994 Act” means the Local Government (Wales) Act 1994;

“designated authority”, in relation to an old authority, means the council designated for the purposes of paragraph 12 of Schedule 17 to the 1994 Act⁽⁶⁾;

(1) 1994 c. 19.

(2) 1972 c. 70.

(3) 1982 c. 32.

(4) 1988 c. 41.

(5) 1989 c. 42.

(6) A council has been designated in relation to each old authority see the Local Authorities (Closure of Accounts) (Wales) Order 1995 (S.I. 1995/1043).

“divided authority” means an old authority in relation to which there is more than one successor authority;

“new authority” means a county or county borough council established under the 1994 Act;

“old authority” means a county or district council which will cease to exist as a result of the 1994 Act;

“preceding year” means any financial year ending before 1st April 1996;

“successor authority”, in relation to an old authority, has the meaning given by section 53(2) of the 1994 Act; and

“the initial year” means the period of 12 months commencing on 1st April 1996.

General Rate Act 1967

Rates: valuation list

3.—(1) The valuation list for the rating area of an old authority shall, on 29th March 1996, be deposited by that authority at the offices of the designated authority.

(2) A designated authority shall from 1st April 1996 provide to any successor authority to that old authority, such assistance as the successor authority may reasonably require to enable it to discharge its functions under the General Rate Act 1967(7) (“the 1967 Act”), including providing information about the valuation list, giving access to it and giving effect to any directions which may be given by a valuation officer to cause or direct alterations to be made in that list.

(3) In this article, “valuation list” and “valuation officer” have the meanings given by section 115(1) of the 1967 Act.

Local Government Act 1972

Power to incur expenditure for purposes not otherwise authorised

4.—(1) In relation to expenditure incurred under section 137 of the 1972 Act (power of local authorities to incur expenditure for certain purposes not otherwise authorised) by an old authority—

(a) the reference in paragraph (d) of subsection (4B) of that section to any grant received by the authority, shall on and after 1st April 1996 be construed as including any grant received by a new authority in respect of an old authority, and

(b) the reference in paragraph (f)(iii) of that subsection to any grant or other payment to the authority shall on and after 1st April 1996 be construed as including any grant or payment to a new authority in respect of the old authority.

(2) The reference in section 137(7) of the 1972 Act to any statement of accounts prepared by a local authority pursuant to regulations under section 23 of the 1982 Act shall on and after 1st April 1996 be construed, in relation to the accounts of an old authority, as including any statement of accounts prepared by the designated authority.

Financial assistance conditional on provision of information

5. For the purposes of section 137A of the 1972 Act (financial assistance to be conditional on provision of information)(8), anything done by or to a divided authority at any time shall on and after 1st April 1996 be treated as having been done by or to the designated authority at that time.

(7) 1967 c. 9.

(8) Section 137A was inserted by section 37 of the 1989 Act.

Local financial returns

6.—(1) Where a divided authority has not made a return as required under section 168 of the 1972 Act (local financial returns)(9) for any preceding year, the designated authority shall as soon as is reasonably practicable after 1st April 1996 make such a return.

(2) Any return made pursuant to paragraph (1) shall be made separately from any other return made by the designated authority under section 168 of the 1972 Act.

Reports and returns

7. For the purposes of section 230 of the 1972 Act (reports and returns), the designated authority shall on or after 1st April 1996 send to the Secretary of State such reports and returns in relation to a divided authority and give him such information with respect to the functions of the divided authority, as have been required but not supplied before 1st April 1996 or as the Secretary of State may require or as may be required by either House of Parliament subsequently.

Local Government, Planning and Land Act 1980

Annual reports on construction or maintenance work

8. On and after 1st April 1996, section 18 of the Local Government, Planning and Land Act 1980 (annual reports on construction or maintenance work)(10) shall, as regards any report prepared or to be prepared by a divided authority, apply to the designated authority as it would have applied to the divided authority if the divided authority had not been abolished.

Local Government Finance Act 1982

Prohibition orders

9.—(1) Where on 29th March 1996 a prohibition order under section 25A of the 1982 Act (power of auditor to issue prohibition order)(11) has effect in relation to the accounts of an old authority—

- (a) the auditor in relation to the accounts of that authority shall, on that date, serve a copy of the order on the successor authority; and
- (b) the prohibition order shall have effect on and after 1st April 1996 for the purposes of Part III of the 1982 Act as if it had been issued in relation to the accounts of the successor authority.

(2) An auditor in relation to the accounts of a successor authority may on or after 1st April 1996 issue a prohibition order under that section if he has reason to believe that, before 1st April 1996, the old authority or any officer of the old authority—

- (a) has made a decision which involves or would involve the successor authority incurring expenditure which is unlawful, or
- (b) was about to take or has taken a course of action which, if pursued by the successor authority to its conclusion, would be unlawful and likely to cause a loss or deficiency.

(9) Section 168 was amended by paragraphs 17 and 18 of Schedule 3 to the Local Government Finance (Repeals, Savings and Consequential Amendments) Order 1990 (S.I. 1990/776) and paragraph 34 of Schedule 13 to the Local Government Finance Act 1992 (c. 14).

(10) 1980 c. 65.

(11) Section 25A was inserted by Schedule 4 to the Local Government Act 1988 c. 9.

Local government electors

10. Any reference in Part III of the 1982 Act to a local government elector shall, on and after 1st April 1996, in relation to the accounts of an old authority for a preceding year, be treated as a reference to a local government elector for that part of any successor authority's area which was included in the area of the old authority.

Local Government Act 1988

Competition: report for financial year

11. On and after 1st April 1996, section 11 of the Local Government Act 1988 (report for financial year)(12) shall, as regards any report prepared or to be prepared by a divided authority, apply to the designated authority as it would have applied to the divided authority if the divided authority had not been abolished.

Education Reform Act 1988

Local education authorities: financial statements

12.—(1) On and after 1st April 1996, section 42(6) to (8) of the Education Reform Act 1988 (publication of schemes and financial statements, etc)(13) shall, as regards any report to be prepared by a divided authority for a preceding year, apply to the designated authority as if it were the local education authority for that year for the area of the divided authority.

(2) Where a statement under section 42(6) of that Act has been prepared by a designated authority in relation to a divided authority for a preceding year, section 42A of that Act (certification of statements by Audit Commission) shall, on and after 1st April 1996, apply to the designated authority as if it were the local education authority for that year for the area of the divided authority.

Local Government Finance Act 1988

Charging authorities

13. For the purposes of the exercise of its functions under Part I of the 1988 Act a new authority shall, on and after 1st April 1996, be deemed to be a charging authority.

Community charges register

14.—(1) The community charges register or the relevant part of such a register, compiled and maintained in accordance with Part I of the 1988 Act for an old authority, shall on and after 1st April 1996 be the community charges register or part of the register of the successor authority.

(2) The community charges register of a successor authority shall be deemed to be the community charges register of a charging authority.

(3) For the purposes of paragraph (1), the relevant part of a register compiled for an old authority is that which contains items in respect of residences, properties and dwellings situated in the area of the successor authority.

(12) 1988 c. 9.

(13) 1988 c. 40. Subsection (6) was amended and subsection (8) was substituted by the Education Act 1993, section 275.

Community charges registration officer

15.—(1) On and after 1st April 1996 there shall be a community charges registration officer for each new authority.

(2) The officer having responsibility for the administration of a new authority's affairs under section 151 of the 1972 Act (financial administration) shall be the community charges registration officer for the new authority.

(3) The community charges registration officers for the new authorities shall have the same functions in relation to the community charge as the registration officers for the Welsh charging authorities would have had if the old authorities had not been abolished.

(4) A community charges registration officer for a new authority shall be deemed to be the community charges registration officer of a charging authority.

(5) Any action or proceeding pending or existing immediately before 1st April 1996 by, or against, the community charges registration officer of an old authority may, so far as is required for continuing its effect on and after that date, be continued, prosecuted and enforced by, or against, the community charges registration officer of the relevant new authority.

(6) In paragraph (5), "relevant new authority" is the new authority for that part of the area of the old authority in which is situated the residence, property or dwelling by virtue of which a community charge is payable to the old authority, and in relation to which the action or proceeding is pending or existing.

Non-domestic rating: contribution and distribution

16.—(1) Any functions under Parts II and III of Schedule 8 to the 1988 Act (contribution and distribution)⁽¹⁴⁾ exercisable by or in relation to a divided authority shall be exercisable as regards a preceding year on or after 1st April 1996 by or in relation to the designated authority.

(2) For the purposes of paragraph (1), anything done by or in relation to a divided authority before 1st April 1996 in the exercise of any function under Parts II and III of Schedule 8 to the 1988 Act shall on and after 1st April 1996 be treated as if it had been done by or in relation to the designated authority.

(3) Paragraph 6(2) of Part II of Schedule 8 to the 1988 Act shall have effect on and after 1st April 1996 as if any calculation made under paragraph 5 of that Part of that Schedule by the designated authority of the amount of a divided authority's non-domestic rating contribution for a preceding year were required to be made on the basis of the information before the divided authority on 31st March 1996.

Grants

17.—(1) Any functions of the Secretary of State or a local authority exercisable under Part V of the 1988 Act (grants)⁽¹⁵⁾ by or in relation to a divided authority in respect of a preceding year shall on and after 1st April 1996 be exercisable by or in relation to the designated authority.

(2) For the purposes of paragraph (1), anything done by or in relation to a divided authority in the exercise of any function under Part V of the 1988 Act shall be treated as if it had been done by or in relation to the designated authority.

⁽¹⁴⁾ Part II was amended and Part III was substituted by, respectively, paragraphs 6 and 7 of Schedule 10 to the Local Government Finance Act 1992.

⁽¹⁵⁾ Part V was amended by Schedule 5 to the 1989 Act and Schedule 10 to the Local Government Finance Act 1992.

Transport grants

18. For the purposes of section 87(5)(a) of the 1988 Act any relevant transport expenditure of an old authority in relation to an area shall on and after 1st April 1996 be treated as if it had been the expenditure of the successor authority in relation to that area.

Financial administration: reports of the chief finance officer of an old authority

19.—(1) Where prior to 11th March 1996—

- (a) the chief finance officer of an old authority has made a report under section 114 of the 1988 Act (functions of responsible officer as regards reports)(16); and
- (b) a meeting in respect of that report has not been held under section 115 of that Act (authority's duties as regards reports),

the chief finance officer of the old authority shall on 11th March 1996 send a copy of the report to the chief finance officer of each successor authority.

(2) Where the chief finance officer of the old authority makes a report under section 114 of the 1988 Act on or after 11th March 1996 he shall, as soon as is reasonably practicable, send a copy of the report to the chief finance officer of each successor authority.

(3) The chief finance officer of a successor authority shall, as soon as is reasonably practicable after receiving a copy of a report under paragraph (1) or (2), send a copy of it to the person who has the duty to audit the successor authority's accounts and each person who is a member of the successor authority.

(4) The copy of the report sent under paragraph (3) shall be accompanied by a notice stating that if the old authority has not held a meeting in respect of the report under section 115 of the 1988 Act before 1st April 1996 the successor authority shall hold such a meeting not later than 22nd April 1996.

(5) If a meeting in respect of a report such as is mentioned in paragraph (1) or (2) is held by the old authority before 1st April 1996 its chief finance officer shall, as soon as is reasonably practicable after the meeting, notify the chief finance officer of each successor authority of any decision made at the meeting.

(6) If the old authority has not held a meeting in respect of a report such as is mentioned in paragraph (1) or (2) before 1st April 1996, each successor authority shall hold such a meeting not later than 22nd April 1996 and, subject to paragraph (7), sections 115 and 116 of that Act (information about meetings) shall apply accordingly.

(7) The prohibition period referred to in section 115 of that Act shall mean the period—

- (a) beginning with the day on which copies of the report are sent under paragraph (3), and
- (b) ending with the first working day to fall after the day (if any) on which the successor authority's consideration of the report under section 115(2) is concluded.

Financial administration: reports of the chief finance officer of a designated authority

20.—(1) The duties under section 114 of the 1988 Act of the chief finance officer of a designated authority shall apply to him on and after 1st April 1996, as regards any preceding year, as if references in subsection (3) of that section to expenditure incurred and resources available to an authority included references to expenditure incurred and resources available to the old authority, and, subject to paragraphs (2) and (3), sections 114 to 116 of that Act shall apply accordingly.

(2) Where the chief finance officer of the designated authority has made a report under section 114 of that Act concerning the old authority he shall send a copy of it to—

(16) Section 114 was amended by paragraph 66 of Schedule 5 to the 1989 Act.

- (a) the person who at the time the report is made has the duty to audit the accounts of the old authority, and
 - (b) each person who at that time is a member of the designated authority.
- (3) Where the designated authority proposes to hold a meeting under section 115 of the 1988 Act in respect of a report concerning the old authority the chief finance officer of the designated authority shall—
- (a) as soon as is reasonably practicable, notify the person referred to in paragraph (2)(a) of the date, time and place of the proposed meeting; and
 - (b) as soon as is reasonably practicable after the meeting is held, notify that person of any decision made at the meeting.

Financial administration: reports of the chief finance officer of a successor authority

21.—(1) Subject to paragraph (2), the duties under section 114 of the 1988 Act of the chief finance officer of a successor authority shall apply to him on and after 1st April 1996 as if references in subsection (2) of that section to decisions made or courses of action taken by an authority included references to decisions made or courses of action taken respectively by the old authority and sections 114 to 116 of that Act shall apply accordingly.

(2) Paragraph (1) shall only apply where the chief finance officer of the successor authority considers that a decision made or course of action taken respectively by the old authority affects the successor authority.

Local Government and Housing Act 1989

Emergency financial assistance to local authorities

22.—(1) Where before 1st April 1996 the Secretary of State has established a scheme under section 155 of the 1989 Act (emergency financial assistance to local authorities) for the giving of financial assistance to a divided authority, any rights and duties of the authority in relation to the scheme shall on and after 1st April 1996 be treated as the rights and duties of the designated authority.

(2) For the purposes of any scheme under section 155 of the 1989 Act which may be established on or after 1st April 1996, any expenditure incurred by the divided authority before that date shall be treated as having been incurred by the designated authority.

Local Government Act 1992

Duty to consider auditor's report or recommendation

23.—(1) This regulation applies where, before 1st April 1996, an auditor's report or a written recommendation by an auditor as described in section 5(1)(a) or (b) of the Local Government Act 1992(17) has been sent to an old authority in connection with the audit of that authority's accounts.

(2) Anything done by or in relation to a divided authority in respect of such a report or recommendation shall be treated on and after 1st April 1996 as if it had been done by or in relation to the designated authority.

(3) Where the old authority has not before 29th March 1996 considered the report or recommendation in accordance with sections 5 and 6 of the Local Government Act 1992, the old authority shall send the report or recommendation to the designated authority on 29th March 1996, and the designated authority shall consider the report or recommendation in accordance with sections

(17) 1992 c. 19.

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5 and 6 of that Act, save that if any time limit for such consideration has expired prior to 1st April 1996 the designated authority shall consider the report or recommendation as soon as is reasonably practicable after that date and in any event before 1st August 1996.

General provision

Assistance to the chief finance officer of a successor authority

24. During the period commencing on the day this Order comes into force and ending on 31st March 1996, the chief finance officer of an old authority (“the officer”) shall provide such assistance to the chief finance officer of any successor authority as he may reasonably require to enable him to discharge any functions referred to in articles 19, 20 and 21 and shall provide the same assistance during any part of the initial year in which the officer is an officer of a new authority.

Signed by authority of the Secretary of State for Wales

Gwilym Jones
Parliamentary Under Secretary of State, Welsh
Office

16th January 1996

EXPLANATORY NOTE

(This note is not part of the Order)

On 1st April 1996 by virtue of the Local Government (Wales) Act 1994 the county and county borough councils created as a result of the 1994 Act will take over responsibility for the discharge of functions relating to local government in Wales from the county and district councils created as a result of the Local Government Act 1972. The new councils came into existence following their election on 4th May 1995 and, until the abolition of the existing councils on 1st April 1996, are preparing to take on their full functions.

This Order makes transitional provision of general application in relation to finance matters for the purposes of and in consequence of the 1994 Act.

The Order contains transitional provision in relation to general rates, community charge, non-domestic rates and council tax. It also contains transitional provisions concerning accounts, grants, and general provision concerning assistance for the purposes of other provisions in the Order.