
STATUTORY INSTRUMENTS

2008 No. 2867

**The Local Government (Structural Changes)
(Transitional Arrangements) (No.2) Regulations 2008**

PART 2

CONTINUITY AND RESPONSIBILITY FOR FUNCTIONS

Continuity: references in enactments, etc

3.—(1) In relation to an area for which, as a result of a section 7 order, there is a district council but no county council, any reference in an enactment to a county council or a county shall, so far as is required for giving effect to the enactment, be construed as including a reference to a district council or, as the case may be, a district.

(2) In relation to an area for which, as a result of a section 7 order, there is a county council but no district councils, any reference in an enactment to a district council or a district shall, so far as is required for giving effect to the enactment, be construed as including a reference to a county council or, as the case may be, a county.

(3) A provision of an enactment in which a predecessor council or its area is mentioned by name shall have effect on and after the reorganisation date, as if, for the name of that council or its area, there were substituted the name of its related single tier council or of the area of that council or, as the case may be, the names of its related single tier councils or of the areas of those councils.

(4) A provision of an enactment which, immediately before the reorganisation date, applies to an area (however defined) that is affected by a section 7 order, shall on and after that date continue to apply to, but only to, the area to which it applied immediately before that date.

(5) Where a provision referred to in paragraph (4) applies as regards the whole or part of the area of a predecessor council by reason only of a resolution passed or order made by that council, the resolution or order shall have effect on and after the reorganisation date as if—

- (a) it had been passed or made by the related single tier council as regards the whole or, as the case may be, the relevant part of its area; or
- (b) where there are two or more related single tier councils, and the area comprises the whole or part of the area of any of those councils, it had been passed or made by that council as regards the whole or the relevant part of its area.

(6) In paragraphs (1) to (4) “enactment” includes a local and personal Act, a private Act, any statutory instrument to which the Statutory Instruments Act 1946(1) applies (whenever the Act or instrument is passed or made) and any charter or other grant under the royal prerogative (whenever granted) but does not include—

- (a) an Act of the Scottish Parliament or Northern Ireland legislation;
- (b) an order under section 7 or 10 of the 2007 Act or regulations under section 14 of that Act;
- (c) as regards paragraph (2)—

(1) 1946 c.36. See section 1(1) and (2) and S.I. 1948/1.

- (i) section 245 of the 1972 Act (status of certain districts, parishes and communities);
- (ii) an Order in Council under section 247 of the 1972 Act (transfer of armorial bearings from old to new authorities).

Continuity: other matters

4.—(1) The following provisions of this regulation have effect subject to regulation 5.

(2) Anything which, immediately before the reorganisation date, is in the process of being done by, or in relation to, a predecessor council or a successor council in the exercise of, or in connection with, a function that is to be exercised on and after that date by the related single tier council may be continued by, or in relation to, that council.

(3) Anything done by, or in relation to, a predecessor council or a successor council in the exercise of, or in connection with, a function that is to be exercised on and after the reorganisation date by the related single tier council shall have effect as if done by, or in relation to, that council.

(4) Paragraph (3) applies in particular to—

- (a) any agreement, decision, declaration, designation, determination or instrument made by a predecessor council or a successor council;
- (b) any byelaws, orders or regulations made by such a council;
- (c) any approval, authorisation, consent, dispensation, exemption, licence, permission, permit or relaxation granted by or to such a council;
- (d) any certificate, direction or notice given by or to such a council;
- (e) any application, objection, proposal or request made by or to such a council;
- (f) any condition imposed by or on such a council;
- (g) any fee paid by or to such a council;
- (h) any appeal allowed by or in favour of such a council; or
- (i) any proceedings instituted by or against such a council.

(5) A reference in paragraph (2) or (3) to anything done by or in relation to a predecessor council or a successor council includes a reference to anything which, by virtue of any enactment, is treated as having been done by or in relation to that council.

(6) So far as is required for giving effect to paragraphs (2) and (3), a reference in any document to a predecessor council or a successor council shall be construed on and after the reorganisation date—

- (a) where the document refers to an area that falls within the area of more than one related single tier council, as a reference to each of them;
- (b) in any other case, as a reference to the related single tier council.

(7) A person appointed by a predecessor council to represent that council on any body (whether the body is public or private and whether or not the person has voting rights) (“the appointee”) shall, unless the appointee resigns or the appointment is otherwise terminated, continue to hold that appointment on and after the reorganisation date as if the appointee had been appointed by, and as a representative of, the related single tier council.

Continuity: limitations and supplementary provision

5.—(1) Regulation 4—

- (a) shall have effect only to the extent that other regulations under section 14 of the 2007 Act (including any provision of these Regulations) do not make different provision; and

(b) shall not be construed as continuing in force any contract of employment made by a predecessor council.

(2) Where anything done or in the process of being done by a predecessor council or successor council was limited to part of its area, paragraphs (2) and (3) of regulation 4 shall have effect only as regards that part; but this does not preclude the related single tier council (if it has the power to do so), from taking steps to secure that the thing has effect in relation to the whole of its area.

(3) Subject to paragraph (4) of this regulation, where a predecessor council is succeeded by more than one related single tier council, paragraphs (2) and (3) of regulation 4 shall have effect as if references to the related single tier council were references to each of the related single tier councils.

(4) Paragraph (3) of this regulation does not apply where—

- (a) anything done or in the process of being done by a predecessor council or successor council was limited to part of its area, and
- (b) on the reorganisation date that part falls within the area of only one of the related single tier councils.

Responsibility for functions exercised by a shadow council

6.—(1) This regulation applies to a shadow council whose shadow executive is appointed by, or nominated in accordance with, a section 7 order.

(2) Any function which is to be exercised by the shadow council by virtue of these Regulations shall be the responsibility of its shadow executive notwithstanding any other enactment by virtue of which the function—

- (a) would not be the responsibility of its executive; or
- (b) may, but need not, be the responsibility of its executive.

Responsibility for functions exercised by a preparing council

7.—(1) This regulation applies to a preparing council for which there is an Implementation Executive.

(2) Any function which is to be exercised by the preparing council by virtue of these Regulations shall be a transitional function for the purposes of the section 7 order which establishes that council's executive (and accordingly the responsibility of the Implementation Executive) notwithstanding any other enactment by virtue of which the function—

- (a) would not be the responsibility of its executive; or
- (b) may, but need not, be the responsibility of its executive.