
EXPLANATORY NOTE

(This note is not part of the Order)

This Order provides for the establishment, on 1st April 2009, of a single tier of local government in the county of Cornwall (article 3). The area of the county remains unchanged. A new district is created, with the same area as the county.

The county will be administered by a county council, referred to in this Order as “the Cornwall council”.

Article 4 of the Order provides for the winding up and dissolution on 1st April 2009 of the district councils in Cornwall:

- Caradon District Council
- Carrick District Council
- Kerrier District Council
- North Cornwall District Council
- Penwith District Council and
- Restormel Borough Council.

Those councils are referred to in this Note and the Order as “the district councils”.

The districts administered by the district councils are also abolished.

The term of office of all district councillors expires on 1st April 2009 (article 5).

In Part 3 of the Order, article 6(1) confers on the Cornwall council the function of preparing for the transfer on 1st April 2009 of the district councils’ functions, property, rights and liabilities (its “main transitional function”).

Article 6(3) requires the Cornwall council to arrange for the discharge of its main transitional function by a committee of its executive, to be known as its “Implementation Executive”. The membership of that Executive is to be drawn from both the Cornwall council and the district councils.

Article 7 enables the Secretary of State, by the making of an order or regulations, to make other functions (including functions of the Cornwall council or any of the district councils) the responsibility of the Implementation Executive during the transitional period ending on the fourth day after the ordinary day of election of councillors in 2009 (“article 7 functions”).

Article 8(1) makes the discharge of the main transitional function and the article 7 functions a responsibility of the Implementation Executive. Article 8(2) and (3) modifies section 15(7) and (9) of the Local Government Act 2000 (“the 2000 Act”) so as to extend the range of arrangements available to the Executive for the discharge of that responsibility. Article 8(4) disapplies, until 1st April 2009 and in relation to the Implementation Executive, section 21 of the 2000 Act, which deals with the overview and scrutiny of decisions of local authorities. Instead, paragraphs (5) and (6) of article 8 enable arrangements to be made by the Cornwall council and the district councils under section 101(5) of the Local Government Act 1972 for the review or scrutiny by a joint committee of decisions or other action taken by the Implementation Executive, and for recommendations or reports to be made to the Executive. Where a joint committee is established, article 8(7) provides for that committee to make quarterly reports to the Cornwall council and the district councils. Article 8(8) provides for the dissolution of the Implementation Executive and any sub-committee of that Executive on the fourth day after the 2009 election day. Article 8(9) provides for the dissolution of any joint committee established by virtue of article 8(6) on 1st April 2009.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Article 9 requires the Implementation Executive to prepare an Implementation Plan which must include budgets, plans and timetables relevant to the process of transition to single tier local government. In discharging the main transitional function and the article 7 functions, the Implementation Executive is required to have regard to the Cornwall council's response to the Secretary of State in support of its proposal for single tier local government in Cornwall.

Article 10 provides for the establishment of a team of officers drawn from the Cornwall council and the district councils to assist the Implementation Executive.

Part 4 of the Order relates to the functions of the Cornwall council and the district councils in the period before 1st April 2009. Article 11 requires the Cornwall council and the district councils to prepare for the transition to single tier local government, to consult and co-operate, to disclose relevant information and, generally, to further the purposes of the Order.

In Part 5 of the Order, article 12 cancels the district council elections that would otherwise have taken place in 2008. The term of office of those district councillors who would have retired after the 2008 election is extended to 1st April 2009. The term of office of district councillors elected in 2004, 2006 or 2007 is varied so as to expire on that date. Any casual vacancies arising after 30th September 2008 and before 1st April 2009 are not to be filled.

Article 13(1) cancels the parish council elections that would otherwise have taken place in 2008 for councillors of the parishes of Ludgvan and Towednack, and provides for those elections to be held in 2009 and every fourth year thereafter. The term of office of the councillors of those parishes (whether elected in 2003 or at subsequent by-elections) is extended to the fourth day after the ordinary day of election of councillors in 2009. Article 13(2) cancels the parish council elections that would otherwise have taken place in 2011. The term of office of parish councillors elected in 2007 or at subsequent by-elections is extended to the fourth day after the ordinary day of election of councillors in 2013, when all parishes will hold elections.

Article 14 makes a consequential amendment to the District of Penwith (Electoral Changes) Order 2002 (S.I. 2002/2593) relevant to elections of parish councillors.

A full impact assessment has been produced for this and other orders that provide for a change to single tier local government. A copy of the assessment has been deposited in the Library of both Houses of Parliament and may be accessed at www.communities.gov.uk