
STATUTORY INSTRUMENTS

2008 No. 2867

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

PART 6

FUNCTIONS RELATING TO TOWN AND COUNTRY PLANNING

Interpretation of Part 6

18. In this Part—

“the 2004 Act” means the Planning and Compulsory Purchase Act 2004(1);

“the 2004 Regulations” means the Town and Country Planning (Local Development) (England) Regulations 2004(2);

“the Regional Regulations” means the Town and Country Planning (Regional Planning) (England) Regulations 2004(3);

“joint committee” means a committee established by an order under section 29(2) of the 2004 Act; and

“related planning successor”, in relation to a predecessor council whose area is to become part of the area of only one single tier council on the reorganisation date, means that single tier council.

Local development documents

19.—(1) A local development document adopted by a predecessor council under section 23 of the 2004 Act (adoption of local development documents) before the reorganisation date shall have effect on and after that date as if it had been adopted by that council’s related planning successor for such part of its area as corresponds to the area to which the document relates.

(2) In paragraph (1) “local development document” must be construed in accordance with section 17 (local development documents) of the 2004 Act.

(3) Nothing in paragraph (1) affects any power of the Secretary of State to revoke , or the related planning successor to revise a document to which paragraph (1) relates(4).

Modifications relevant to regional functions

20.—(1) Part 1 of the 2004 Act (regional functions) shall have effect until the reorganisation date as if—

(1) 2004 c.5.

(2) S.I. 2004/2204, amended by S.I. 2008/1371.

(3) S.I. 2004/2203.

(4) See sections 25 and 26 of the 2004 Act.

- (a) a shadow council, and a preparing council which is a district council, were authorities falling within section 4(4) (assistance from certain local authorities); and
 - (b) in section 4(4)(a), after “county council”, there were inserted “other than a county council which is a predecessor council within the meaning of the Local Government (Structural Changes) (Transitional Arrangements) (No.2) Regulations 2008”.
- (2) The Regional Regulations shall have effect until the reorganisation date as if—
- (a) a shadow council were a local planning authority; and
 - (b) a county council which is a predecessor council within the meaning of these Regulations were not a local planning authority.

Modifications relevant to local development functions

21.—(1) Part 2 of the 2004 Act (local development), except as mentioned in regulations 22 and 23, and the 2004 Regulations shall have effect until the reorganisation date—

- (a) in relation to a successor council, as if it were both a district council and a county council;
- (b) in relation to a predecessor council which is a district council, as if it were not a local planning authority;
- (c) in relation to a predecessor council which is a county council, as if it did not have functions under section 14 (survey of areas: county councils) or 16 (minerals and waste development scheme) of the 2004 Act.

(2) A predecessor council shall continue to be a relevant authority for the purposes of the 2004 Regulations.

Modifications relevant to local development schemes

22.—(1) Subject to paragraph (2), section 15 of the 2004 Act (local development scheme) shall have effect in relation to a shadow council or a preparing council which is a county council as if—

- (a) the geographical area required by subsection (2) to be specified in the scheme did not include such part of the council’s area as relates the area of a predecessor council whose functions under Part 2 of the 2004 Act have been delegated to a joint committee; and
- (b) in paragraph (b) of subsection (3), for the words from “at such time” to the end of that paragraph, there were substituted “not later than three months before the reorganisation date” (and, accordingly, regulation 10(1) of the 2004 Regulations does not apply).

(2) The modification made by paragraph (1) does not have effect as regards any minerals and waste development scheme under section 16 of the 2004 Act.

(3) A scheme submitted by a shadow council or a preparing council which is a county council in accordance with section 15 of the 2004 Act as modified by paragraph (1) must specify the documents (if any)—

- (a) to which paragraph (4) applies; and
- (b) that were specified by a predecessor council or a joint committee in its local development scheme as documents that were to be local development documents.

(4) This paragraph applies to any document adopted by the predecessor council or the joint committee which the shadow council or a preparing council which is a county council has adopted or intends to adopt without revision, to revise, or to invite the Secretary of State to revoke⁽⁵⁾.

(5) As to the power to revise a local development document, *see* section 26 of the 2004 Act.

Statement of community involvement

23.—(1) A scheme prepared by a successor council under section 15 of the 2004 Act (as modified as mentioned in regulation 22), may specify that, until the reorganisation date, local development documents are to be prepared and adopted in accordance with Part 6 of the 2004 Regulations.

(2) Until the reorganisation date, Part 2 of the 2004 Act shall have effect, in relation to a scheme referred to in paragraph (1) that includes such a specification as is mentioned in that paragraph—

- (a) as if section 18 and subsections (2) to (4) of section 23 were omitted; and
- (b) as if it required local development documents to be prepared and adopted in accordance with Part 6 of the 2004 Regulations.

(3) Section 20 of the 2004 Act (independent examination) shall not apply as regards a statement of community involvement prepared by a successor council before the reorganisation date where that statement is to have effect as a local development document relating to the whole of the area of the relevant single tier council.

(4) In paragraph (3), “relevant single tier council”, in relation to a successor council, means the single tier council which succeeds the successor council on the reorganisation date.

Continuity relevant to section 29 joint committees

24.—(1) An order under section 29 of the 2004 Act establishing a joint committee of which a predecessor council is a constituent member shall continue to have effect on and after the reorganisation date as if—

- (a) references to a predecessor council which is a district council were references to the single tier council whose area includes that of the district council;
- (b) references to the area of a predecessor council which is a district council were references to such part of the area of the single tier council as is coterminous with the area of the district council;
- (c) references to a predecessor council which is a county council were references to the single tier council referred to in sub-paragraph (a); and
- (d) references to the area of a predecessor council which is a county council were references to such part of the area of the single tier council as is referred to in sub-paragraph (b).

(2) A single tier council to which paragraph (1) applies shall be treated for the purposes of section 29 of the 2004 Act as a county council and, for the purposes of subsection (9) of that section, as a constituent authority of the joint committee.

(3) Anything which is in the process of being done by or in relation to a joint committee before the reorganisation date may be continued on and after the reorganisation date—

- (a) to the extent that it relates to a predecessor council or its area, by or in relation to the single tier council referred to in paragraph (1)(a) or the part of its area referred to in paragraph (1)(b);
- (b) to any other extent, by or in relation to any other authority (other than a predecessor council) whose functions under Part 2 of the 2004 Act have been delegated to the joint committee.

(4) Anything done by or in relation to a joint committee before the reorganisation date shall, so far as is necessary for continuing its effect on or after the reorganisation date, have effect as if done—

- (a) to the extent that it relates to a predecessor council or its area, by or in relation to the single tier council referred to in paragraph (1)(a) or the part of its area referred to in paragraph (1)(b);

- (b) to any other extent, by or in relation to any other authority (other than a predecessor council) whose functions under Part 2 of the 2004 Act have been delegated to the joint committee.

(5) Paragraphs (1) to (3) shall cease to have effect as regards an area on whichever is the earlier of—

- (a) the date on which the last of such of the documents mentioned or referred to in the agreement under section 29(1) of the 2004 Act to which the order under that section gives effect (being documents required under any provision of Part 2 of the 2004 Act to be adopted) is adopted; and
- (b) the third anniversary of the reorganisation date,

and the date so ascertained is referred to in the following paragraph as the relevant date.

(6) On the date that is the relevant date as regards an area, the order under section 29 relevant to that area shall be treated as revoked; and section 29 of the 2004 Act shall have effect as if—

- (a) the reference in subsection (5) to annulment in pursuance of a resolution of either House of Parliament were a reference to this paragraph; and
- (b) the reference in subsection (5)(a) to the date of the resolution were a reference to the relevant date.