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DRAFT STATUTORY INSTRUMENTS

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**2022 No.**

**LOCAL GOVERNMENT, ENGLAND**

**The Somerset (Structural Changes) Order 2022**

*Made* - - - - - \*\*\*

*Coming into force* \*\*\*

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The Secretary of State for Levelling Up, Housing and Communities makes this Order in exercise of the powers conferred by sections 7, 11, 12, 13 and 15(2) of the Local Government and Public Involvement in Health Act 2007(a) (“the 2007 Act”).

This Order implements a proposal, submitted to the Secretary of State in response to an invitation under section 2 of the 2007 Act, that there should be a single tier of local government for Somerset.

In accordance with section 7(3) of that Act, the Secretary of State has consulted every authority affected by the proposal, except the authority which made it, and such other persons as the Secretary of State considers appropriate.

The proposal was made by Somerset County Council.

A draft of this Order was laid before and approved by a resolution of each House of Parliament in accordance with section 240(6) of the 2007 Act.

**PART 1  
GENERAL**

**Citation, commencement, extent and application**

**1.**—(1) This Order may be cited as the Somerset (Structural Changes) Order 2022 and comes into force on the day after the day on which the Order is made.

(2) This Order extends to England and Wales and applies in England only.

**Interpretation**

**2.** In this Order—

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

“the 2000 Act” means the Local Government Act 2000(c);

“the 2007 Act” means the Local Government and Public Involvement in Health Act 2007;

“Somerset”, except in the definition of “the Somerset Council” and the second mention of those words in article 3(2) means the County of Somerset;

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(a) 2007 c. 28.

(b) 1972 c. 70.

(c) 2000 c. 22. Parts 2 and 3 of that Act were amended by Part 3 of the Local Government and Public Involvement in Health Act 2007 (c. 28). Part 1A and Schedule A1 were inserted by Schedule 2 to the Localism Act 2011 (c. 20).

“the 2022 election” means the election required by article 13(1) to be held in 2022;  
“the 2022 election day” means the ordinary day of election of councillors in 2022(a);  
“the article 7 functions” has the meaning given by article 6(2)(b);  
“the district councils” means Mendip District Council, Sedgemoor District Council, Somerset West and Taunton Council and South Somerset Council;  
“the Somerset Council” means the council of the county of Somerset;  
“the first transitional period” means the period beginning on the date on which this Order comes into force and ending on the fourth day after the 2022 election day;  
“the Implementation Executive” means the committee established (whether before or after the coming into force of this Order) for the purposes of article 6(3);  
“the main transitional function” has the meaning given by article 6(1);  
“the second transitional period” means the period beginning on the fourth day after the 2022 election day and ending on 1st April 2023.

## PART 2

### ESTABLISHMENT OF SINGLE TIER OF LOCAL GOVERNMENT IN THE COUNTY OF SOMERSET

#### **Single tier of local government in Somerset**

3.—(1) On or after 1st April 2023 the Somerset Council is the sole principal authority for Somerset.

(2) For the purposes of enactments relating to local government, there shall be a new district, whose area shall be co-terminous with Somerset; and the name of that new district is Somerset.

(3) If the Somerset County Council passes a resolution that the word “county” should be omitted from its name, its name shall be “the Somerset Council” and subsection (3) of section 2 of the 1972 Act (constitution of principal counties in England) shall cease to apply so far as it prescribes the name of that council.

#### **Abolition of districts and dissolution of district councils**

4. On 1st April 2023—

- (a) the following local government areas are abolished—
  - (i) the district of Mendip;
  - (ii) the district of Sedgemoor
  - (iii) the district of Somerset West and Taunton; and
  - (iv) the district of South Somerset; and
- (b) the district councils are wound up and dissolved.

#### **Cessation of term of office of district councillors**

5. Every person who holds office as a councillor of one of the district councils immediately before 1st April 2023 ceases to hold office on that date.

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(a) See section 37 of the Representation of the People Act 1983 (c. 2).

## PART 3

### TRANSITIONAL FUNCTIONS AND THEIR DISCHARGE

#### **Main transitional function and Implementation Executive**

6.—(1) On the coming into force of this Order there is to be added to the functions of the Somerset Council the function, which is to be exercisable only during the first and second transitional periods, of preparing for and facilitating the economic, effective, efficient and timely transfer of the district councils' functions, property, rights and liabilities ("the main transitional function").

(2) Throughout the first transitional period, section 9E of the 2000 Act<sup>(a)</sup> (discharge of functions: general) has effect in relation to the Somerset Council and—

(a) the main transitional function, and

(b) the other transitional functions referred to in article 7 ("the article 7 functions"),

as if, in subsection (1), after the words "section 9EA or 9EB" there were inserted "or under the Somerset (Structural Changes) Order 2022".

(3) The Somerset Council's executive arrangements shall provide for the discharge of the main transitional function and the article 7 functions to be the responsibility, throughout the first transitional period, of a committee of the council's executive, to be known as the Implementation Executive.

(4) Such statutory provisions as apply to, or in relation to, committees of a local authority's executive shall apply throughout the first transitional period to, or in relation to, the Implementation Executive subject only to paragraphs (5) to (7) and (9) to (11) of this article and article 8(2) to (4); and for this purpose "statutory provisions" includes —

(a) any enactment contained in an Act passed after the making of this Order; and

(b) any instrument made at any time under an enactment.

(5) The Implementation Executive shall consist of—

(a) the person who is for the time being the leader of the Somerset Council's executive;

(b) four other persons nominated by the Somerset Council who are for the time being members of that Council, and

(c) the persons who are for the time being the leaders of the district council's executives.

(6) The Somerset Council must nominate five persons, each of whom is for the time being a member of that council, to act as members of the Implementation Executive in the absence of the leader of the Somerset Council and the persons nominated in accordance with paragraph (5)(b).

(7) Each of the district councils must nominate one person, each of whom is for the time being a member of that council, to act as members of the Implementation Executive in the absence of those members appointed in accordance with paragraph (5)(c).

(8) It is the duty of the Somerset Council and each of the district councils to cooperate in the establishment of the Implementation Executive.

(9) The leader of the Implementation Executive is the person who is for the time being the leader of the Somerset Council's executive; and that person shall preside at all meetings of the Implementation Executive at which they are present.

(10) The Implementation Executive shall regulate its own proceedings, but a question to be decided by the Executive shall, in the first instance, be decided by the majority of those present and voting at the meeting at which the question is put, each member (including the leader of the Executive) having one vote.

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<sup>(a)</sup> Part 1A was inserted by the Localism Act 2011 (c. 20), section 21 and Schedule 2.

(11) In the case of an equality of votes, the person presiding at the meeting (whether or not the leader of the Executive) shall have a casting vote, in addition to any other vote the person may have.

### **Other transitional functions**

7.—(1) The other transitional functions referred to in article 6(2)(b), which are to be exercisable only during the first and second transitional periods, are—

- (a) such executive and non-executive functions of the Somerset Council as exist on the date on which this Order is made; and
- (b) such other functions (including functions exercisable by all or any of the district councils, and functions conferred on or after that date on local authorities generally or on particular classes of local authority),

as by any of the means mentioned in paragraph (2), the Secretary of State may specify.

(2) The means referred to in paragraph (1) are—

- (a) this Order;
- (b) a subsequent order made under section 7 of the 2007 Act by virtue of section 14 of the Interpretation Act 1978 (power to amend)(a);
- (c) an order under section 20 of the 2007 Act (correction of orders); and
- (d) regulations under section 14 of the 2007 Act (regulations for supplementing orders).

### **Discharge of functions by Implementation Executive**

8.—(1) The discharge of the main transitional function and the article 7 functions shall be a responsibility, throughout the first transitional period, of the Implementation Executive, and shall not, during that period, be a responsibility of the executive of the Somerset Council.

(2) Section 9DA(b) of the 2000 Act (functions of an executive: further provision) has effect as if, at the end of subsection (3)(c), there were added “or as mentioned in article 8(6) of the Somerset (Structural Changes) Order 2022”.

(3) Section 9E(5)(c) of the 2000 Act (which enables a committee of a local authority executive to arrange for the discharge of its functions by an area committee or officer of the authority) has effect during the first transitional period in relation to the Implementation Executive as if—

- (a) references to functions included references to responsibilities, and
- (b) the reference to an officer of the authority included a reference to—
  - (i) a sub-committee of the Implementation Executive; and
  - (ii) an officer of any of the district councils.

(4) Section 9E(7)(d) of the 2000 Act (arrangements made for the discharge of functions do not prevent the exercise of those functions by those making the arrangements) has effect during the first transitional period in relation to arrangements made under subsection (2) of that section (as modified by paragraph (2) above) as if —

- (a) references to functions included references to responsibilities, and
- (b) the reference to an officer of the authority included a reference to—
  - (i) a sub-committee of the Implementation Executive; and
  - (ii) an officer of any of the district councils.

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(a) 1978 c. 30.

(b) Added by paragraph 1 of Part 1 of Schedule 2 to the Localism Act 2011 c. 20.

(c) Added by paragraph 1 of Part 1 of Schedule 2 to the Localism Act 2011 c. 20.

(d) Added by paragraph 1 of Part 1 of Schedule 2 to the Localism Act 2011 c. 20.

(5) Section 9F(a) of the 2000 Act (overview and scrutiny committees: functions) does not apply during the first transitional period in relation to any matter that is—

- (a) a responsibility of the Implementation Executive by virtue of paragraph (1), or
- (b) the responsibility of that Executive under arrangements made by the Somerset Council under the 2000 Act.

(6) At any time during the first transitional period, the Somerset Council and the district councils may discharge jointly under arrangements under section 101(5) of the 1972 Act the functions of—

- (a) reviewing or scrutinising decisions made, or other action taken, by the Implementation Executive in connection with any matter of a description mentioned in paragraph (4); or
- (b) preparing reports for, or making recommendations to, the Implementation Executive in connection with any function or responsibility of that Executive.

(7) Where such arrangements as are mentioned in paragraph (6) are made, the joint committee must inform the Somerset Council and the district councils before the end of the first transitional period—

- (a) of the matters that it has considered, and
- (b) of the conclusions (if any) that it has reached concerning those matters.

### **Implementation Plan and further provisions relevant to discharge of functions by Implementation Executive**

**9.**—(1) During the first transitional period, the Implementation Executive must prepare, keep under review, and revise as necessary, an Implementation Plan which must include—

- (a) such plans and timetables as the Implementation Executive considers necessary to secure the effective, efficient and timely discharge of the main transitional function and the article 7 functions; and
- (b) such budgets and plans as it considers necessary or desirable to facilitate the economic, effective, efficient and timely discharge of the Somerset Council’s functions on or after 1st April 2023.

(2) For the purposes of —

- (a) preparing, reviewing and revising the Implementation Plan;
- (b) discharging the main transitional function and the article 7 functions; and
- (c) discharging such other functions as may be conferred on it,

the Implementation Executive must have regard to the information supplied by Somerset County Council to the Secretary of State in support of its proposal for single tier local government in Somerset**(b)**.

(3) The Implementation Executive may, by written notice to—

- (a) the proper officer of the Somerset Council, or
- (b) the proper officer of any of the district councils,

require the council referred to in the notice to take such action relevant to the main transitional function or any of the article 7 functions as may be specified in the notice.

(4) In paragraph (3), “the proper officer” means the officer appointed by the Somerset Council or the district council concerned (as the case may be) for the purpose of receiving such notices.

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(a) Added by paragraph 1 of Part 1 of Schedule 2 to the Localism Act 2011 c. 20.

(b) Copies of the information supplied are available at <https://newsomersetcouncil.org.uk/wp-content/uploads/2021/11/Business-Case-Final-Submission.pdf> or upon request from the Department for Levelling Up, Housing and Communities, 2 Marsham Street.

## **Implementation Team**

**10.**—(1) Not later than 21 days after the coming into force of this Order the Implementation Executive must form a team of officers (“the Implementation Team”) for the purposes of—

- (a) during the first transitional period, assisting the Implementation Executive in the discharge of the main transitional function and the article 7 functions; and
- (b) during the second transitional period, assisting the executive of the Somerset Council in the discharge of those functions.

(2) The Implementation Team shall consist of—

- (a) the person who for the time being is the head of paid service of the Somerset Council;
- (b) the persons who are for the time being the head of paid service of each of the district councils;
- (c) the Somerset Council’s monitoring officer;
- (d) the Somerset Council’s chief finance officer; and
- (e) the Somerset Council’s programme director.

(3) The leader of the Implementation Team is the person who is for the time being the Head of Paid Service of the Somerset Council.

(4) It is the duty of the Somerset Council and each of the district councils to cooperate in the formation of the Implementation Team and to release the officers concerned from their normal duties at such times or for such periods as the Implementation Executive or the executive of the Somerset Council may reasonably require.

## **Dissolution of Implementation Executive, etc and further provisions relevant to transition**

**11.**—(1) The Implementation Executive, any sub-committee of that Executive and any joint committee established as mentioned in article 8(6) shall be dissolved on the fourth day after the 2022 election day.

(2) The discharge of the main transitional function and the article 7 functions in the second transitional period shall be an executive function of the Somerset Council (falling to be discharged by that council’s executive in accordance with executive arrangements under the 2000 Act).

(3) Section 9E(5) of the 2000 Act has effect in relation to the discharge of that executive function as if the reference to an officer of the authority included a reference to an officer of any of the district councils.

(4) Article 9 has effect in relation to the second transitional period as if—

- (a) the reference to the first transitional period were a reference to the second transitional period;
- (b) references to the Implementation Executive were references to the Somerset Council’s executive; and
- (c) paragraph (3)(a) were omitted.

## **PART 4**

### **DUTIES OF THE SOMERSET COUNCIL AND DISTRICT COUNCILS RELEVANT TO TRANSITION**

#### **General transitional duties of the Somerset Council and district councils**

**12.**—(1) It is the duty of the Somerset Council and the district councils—

- (a) to take, whether alone or in any combination, such steps as may be necessary to prepare for the transfer of the functions, property, rights and liabilities of the district councils;

- (b) to consult and co-operate with each other in order to secure the economic, effective, efficient and timely transfer of those functions, property, rights and liabilities; and
  - (c) generally, to exercise their functions so as to further the purposes of this Order.
- (2) A relevant authority must provide such information relating to its functions as any other relevant authority may reasonably request for the purpose of giving effect to this Order.
- (3) A relevant authority must, on request by a person authorised by another relevant authority in that behalf, at all reasonable times allow that person—
- (a) to inspect any record belonging to or under the control of the authority providing the information and relating to the authority or its functions; and
  - (b) to take, or be supplied with, a copy of any such record or part of it.
- (4) A relevant authority to whom a request is made under paragraph (3) may, before complying with the request, require the person making the request to produce evidence of the authorisation given by the other relevant authority.
- (5) The rights conferred by paragraph (3) include the right to require any record which is not in legible form to be made available in legible form so that the authorised person may inspect or copy it or be supplied with copies.
- (6) In this article “relevant authority” means—
- (a) the Somerset Council; and
  - (b) any of the district councils.

## PART 5

### ELECTORAL MATTERS

#### **The Somerset Council election in 2022 and subsequent years**

- 13.—**(1) A whole council election of councillors of the Somerset Council is to be held—
- (a) on the 2022 election day<sup>(a)</sup>;
  - (b) on the ordinary day of election of councillors<sup>(b)</sup> in 2027;
  - (c) every fourth year thereafter.
- (2) For the purposes of the elections of councillors of the Somerset Council—
- (a) Somerset is to be divided into electoral divisions;
  - (b) the names of the electoral divisions are those indicated in column 1 of the Table set out in the Schedule to this Order;
  - (c) the area of each new electoral division is to be the same as that of the county council electoral division or district council wards, as that electoral division or wards existed on 31st March 2022, and as indicated in column 2 of that Table;
  - (d) each new electoral division is to return the number of councillors indicated in column 3 of that Table.
- (3) The person who is for the time being the returning officer for Somerset<sup>(c)</sup> must take such steps as are necessary or appropriate to prepare for the 2022 election, including the making of all necessary alterations to the electoral register.

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(a) The Somerset (Change to Year of Elections) Order 2021 S.I. 2021/176 changed the year of election of Somerset County Council from 2021 to 2022.

(b) See section 37 of the Representation of the People Act 1983 (c. 2).

(c) See section 35 of the Representation of the People Act 1983 (c. 2).

(4) All councillors elected in 2022 or any later year are to retire on the fourth day after the ordinary day of election of councillors in the year of retirement and the newly-elected councillors are to come into office on the day on which their predecessors retire.

(5) In this article “the year of retirement” —

- (a) in relation to councillors elected in 2022 means 2027;
- (b) in relation to councillors elected in 2027 or in any later year means the fourth year after the year of election of those councillors.

### **District council by-elections**

**14.**—(1) Subject to paragraph (2), nothing in section 89 of the 1972 Act (filling of casual vacancies in case of councillors) authorises the holding of an election to fill a casual vacancy in the office of councillor of any of the district councils where that vacancy arises after 30th September 2022 and before 1st April 2023.

(2) Where, on the occurrence of a vacancy mentioned in paragraph (1) or in the case of a number of simultaneous vacancies, the total number of unfilled vacancies in the membership of one of the district councils exceeds one third of the whole number of members of that council an election to fill the vacancy shall be held in accordance with section 89 of the 1972 Act.

(3) Where, in the circumstances mentioned in paragraph (2), the declaration mentioned in section 89(1)(a) of the 1972 Act has been made or the notice in writing mentioned in section 89(1)(b) of the 1972 Act has been given within thirty-five days of 1st April 2023 (computed in accordance with section 243(4) of the 1972 Act) an election shall not be held and any proceedings required by the Local Elections (Principal Areas) (England and Wales) Rules 2006(a) shall not be commenced.

### **Cancellation of parish council elections, etc**

**15.**—(1) Notwithstanding section 16(3) of the 1972 Act (election of parish councillors)—

- (a) ordinary elections are not to be held in 2023 for the return of councillors to the council of any parish in Somerset;
- (b) elections of parish councillors for those parishes in which, but for paragraph (a), elections would have been held in 2023 are to be held on the ordinary day of elections in 2022 and 2027 and every four years thereafter; and
- (c) the term of office of those parish councillors elected in 2022 or at any subsequent by-election held before the ordinary day of election of councillors in 2027 ends on the fourth day after the ordinary day of election of councillors in 2027(b).

(2) In this article “council of any parish in Somerset” means a council which was in existence on 31st March 2022.

Signed by authority of the Secretary of State for Levelling Up, Housing and Communities

*Name*  
Parliamentary Under Secretary of State  
Department for Levelling Up, Housing and Communities

Date

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(a) S.I. 2006/3304.

(b) Under section 16(3) of the Local Government Act 1972, the term of office of parish councillors is four years.

## SCHEDULE

Article 13

### Electoral Divisions of Somerset

<i>New Electoral Division Column 1</i>	<i>Existing County Division or District Wards Column 2</i>	<i>No of Councillors Column 3</i>
Bishop's Hull & Taunton West	County division Bishop' Hull & Taunton West	2
Blackdown & Neroche	County division Blackdown & Neroche	2
Blackmoor Vale	County division Blackmoor Vale	2
Brent	County division Brent	2
Bridgwater East & Bawdrip	County division Bridgwater East & Bawdrip	2
Bridgwater North & Central	County division Bridgwater North & Central	2
Bridgwater South	County division Bridgwater South	2
Bridgwater West	County division Bridgwater West	2
Brympton	County division Brympton	2
Burnham on Sea North	County division Burnham on Sea North	2
Cannington	County division Cannington	2
Castle Cary	County division Castle Cary	2
Chard North	County division Chard North	2
Chard South	County division Chard South	2
Cheddar	County division Cheddar	2
Coker	County division Coker	2
Comeytrove & Trull	County division Comeytrove & Trull	2
Crewkerne	County division Crewkerne	2
Curry Rivel & Langport	County division Curry Rivel & Langport	2
Dulverton & Exmoor	County division Dulverton & Exmoor	2
Dunster	County division Dunster	2
Frome East	County division Frome East	2
Frome North	County division Frome North	2
Frome West	County division Frome West	2
Glastonbury	Part of county division Glastonbury and Street encompassing: District ward Glastonbury St Benedict's District ward Glastonbury St Edmund's District ward Glastonbury St John's District ward Glastonbury St Mary's	2
Highbridge & Burnham South	County division Highbridge & Burnham South	2

Huntspill	County division Huntspill	2
Ilminster	County division Ilminster	2
King Alfred	County division King Alfred	2
Lydeard	County division Lydeard	2
Martock	County division Martock	2
Mendip Central and East	County division Mendip Central and East	2
Mendip Hills	County division Mendip Hills	2
Mendip South	County division Mendip South	2
Mendip West	County division Mendip West	2
Minehead	County division Minehead	2
Monkton & North Curry	County division Monkton & North Curry	2
North Petherton	County division North Petherton	2
Rowbarton & Staplegrove	County division Rowbarton & Staplegrove	2
Shepton Mallet	County division Shepton Mallet	2
Somerton	County division Somerton	2
South Petherton & Islemoor	County division South Petherton & Islemoor	2
Street	Part of county division Glastonbury and Street encompassing: District ward Street North District ward Street South District ward Street West	2
Taunton East	County division Taunton East	2
Taunton North	County division Taunton North	2
Taunton South	County division Taunton South	2
Upper Tone	County division Upper Tone	2
Watchet & Stogursey	County division Watchet & Stogursey	2
Wellington	County division Wellington	2
Wells	County division Wells	2
Wincanton & Bruton	County division Wincanton & Bruton	2
Yeovil Central	County division Yeovil Central	2
Yeovil East	County division Yeovil East	2
Yeovil South	County division Yeovil South	2
Yeovil West	County division Yeovil West	2

#### **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order provides for the establishment, on 1st April 2023, of a single tier of local government in the county of Somerset. Somerset county will be administered by a county council, referred to in this Order as “the Somerset Council”.

The area of Somerset county remains unchanged. A new district is created, with the same area as the county. The existing local government districts are abolished and the district councils wound up.

There are two transitional periods leading up to 1st April 2023 enabling the existing councils to prepare for the transition to a single tier of local government.

The first transitional period begins when this Order comes into force and ends shortly after the Somerset Council election day in 2022.

During this first transitional period the Somerset Council will discharge the main transitional functions via a committee called “the Implementation Executive”. Part 3 of the Order sets out the membership, functions and arrangements relating to the Implementation Executive.

During the second transitional period (from the end of the first transitional period until 1st April 2023) the Somerset Council’s executive will be responsible for the main transitional functions.

Part 4 of the Order deals with further transitional duties including duties on the Somerset council and existing district councils to cooperate with each other.

Article 5 provides that the term of office of all district councillors expires on 1st April 2023.

Article 13 requires the holding of a whole council election to the Somerset Council in 2022, 2027 and every four years thereafter.

Article 14 makes provision in relation to district council by-elections.

Article 15 makes provision in relation to parish council elections.

The schedule sets out the new electoral divisions of the Somerset Council.

A full regulatory impact assessment has not been prepared as this instrument will have no impact on the costs of business and the voluntary sector. The impact of the public sector is a simplification to the system of local government in Somerset.

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£6.90

<http://www.legislation.gov.uk/id/ukdsi/2022/9780348231366>

ISBN 978-0-34-823136-6



9 780348 231366