



# Local Government Act 1992

## 1992 CHAPTER 19

### PART II

#### LOCAL GOVERNMENT CHANGES FOR ENGLAND

##### *The Local Government Commission*

#### **12 The Local Government Commission for England.**

- (1) There shall be a body corporate to be known as the Local Government Commission for England (in this Part referred to as “the Local Government Commission”) for the purpose of carrying out the functions assigned to it by section 13 below.
- (2) Schedule 2 to this Act shall have effect with respect to the Local Government Commission.

##### *Functions of the Local Government Commission*

#### **13 Duty to conduct reviews and make recommendations.**

- (1) If the Secretary of State so directs, the Local Government Commission shall, in accordance with this Part and any directions given under it—
  - (a) conduct a review of such areas in England as are specified in the direction or are of a description so specified; and
  - (b) recommend to the Secretary of State as respects each of those areas either—
    - (i) that he should make such structural, boundary or electoral changes as are specified in the recommendations; or
    - (ii) that he should make no such changes.

- [<sup>F1</sup>(1A) If the Secretary of State so directs, the Local Government Commission shall, in accordance with this Part and any directions given under it—
- (a) conduct a review of such areas in England as are specified in the direction or are of a description so specified; and

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- (b) recommend to the Secretary of State as respects each of those areas either—
  - (i) that he should make such parish boundary changes or parish electoral changes as are specified in the recommendations; or
  - (ii) that he should make no such changes.
- (1B) Recommendations under subsection (1A) above for parish boundary changes may include recommendations for the related alteration of the boundaries of any electoral division of a county or ward of a district and any consequential alteration in the number of councillors to be elected for the ward.
- (1C) For the purposes of subsections (1A) and (1B) above—
  - (a) a parish boundary change means a boundary change which is the alteration of the area of a parish, the constitution of a new parish or the abolition of a parish; and
  - (b) a parish electoral change means an electoral change which is a change of the electoral arrangements mentioned in section 14(4)(b) below]
- (2) It shall also be the duty of the Local Government Commission—
  - (a) independently of any reviews under subsection (1) above, to conduct periodic reviews of every principal area in England for the purpose of determining whether recommendations should be made for electoral changes in that area; and
  - (b) as respects any area reviewed, to recommend to the Secretary of State either—
    - (i) that he should make such electoral changes as are specified in the recommendations; or
    - (ii) that he should make no such changes.
- (3) So far as reasonably practicable, the first periodic review of any area under subsection (2) above shall be conducted not less than ten or more than fifteen years after the report of the Local Government Boundary Commission for England on a review under Schedule 9 to the 1972 Act (initial review of counties) was submitted to the Secretary of State in relation to the county in which that area, or the greater part of it, was comprised.
- (4) So far as reasonably practicable, subsequent reviews under subsection (2) above shall be conducted within the period of not less than ten or more than fifteen years from the submission to the Secretary of State of the last report on a review under that subsection of any area comprising the whole or a substantial part of that area.
- (5) Any structural, boundary or electoral changes recommended to the Secretary of State under this section shall be such as appear to the Local Government Commission desirable having regard to the need—
  - (a) to reflect the identities and interests of local communities; and
  - (b) to secure effective and convenient local government.
- (6) The Secretary of State may give directions as to the exercise by the Local Government Commission of any functions under this section; and such directions may require that Commission to have regard to any guidance given by the Secretary of State as respects matters to be taken into account.

#### **Textual Amendments**

**F1** S. 13(1A)-(1C) inserted (19.5.1997) by 1997 c. 29, ss. 19(1), 34(2) (with s. 25)

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**Modifications etc. (not altering text)**

- C1** S. 13: power to transfer or modify functions conferred (30.11.2000) by 2000 c. 41, ss. 18(3)(a), 163(3)(d) (with s. 156(6))

**14 Changes that may be recommended.**

(1) For the purposes of this Part—

- (a) a structural change is the replacement, in any non-metropolitan area, of the two principal tiers of local government with a single tier;
- (b) a boundary change is any of the changes specified in subsection (3) below, whether made for the purpose of facilitating a structural change or independently of any such change; and
- (c) an electoral change is a change of electoral arrangements for any local government area, whether made in consequence of any structural or boundary change or independently of any such change;

and recommendations by the Local Government Commission for any structural or boundary changes shall include such recommendations as to the matters mentioned in subsection (5) below as the Commission thinks appropriate in connection with the recommended changes.

(2) In subsection (1)(a) above—

- (a) the reference to a non-metropolitan area is a reference to any area which is or, as a result of any recommended boundary change would be, a non-metropolitan county or a non-metropolitan district; and
- (b) the reference to the replacement, in any such area, of the two principal tiers of local government with a single tier is a reference to either—
  - (i) the transfer to a council for a county consisting of that area of the functions in relation to that area of district councils; or
  - (ii) the transfer to a district council for that area of the functions in relation to that area of a county council.

(3) The changes mentioned in subsection (1)(b) above are—

- (a) the alteration of a local government area, including the alteration of so much of the boundary of any such area as lies below the high-water mark of medium tides, but excluding the extension of any local government area into Wales;
- (b) the constitution of a new local government area of any description outside Greater London by the amalgamation of two or more such areas of the like description or by the aggregation of parts of such areas of the like description or by the separation of part of any local government area;
- (c) the abolition of a principal area of any description outside Greater London, or of a metropolitan county, and its distribution among other areas of the like description;
- (d) the constitution of a new London borough by the amalgamation of two or more London boroughs or by the aggregation of parts of London boroughs or by the separation of part of a London borough;
- (e) the abolition of a London borough and the distribution of its area among other London boroughs;
- (f) the constitution of a new parish by—
  - (i) the establishment as a parish of any area which is not a parish or part of one; or

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- (ii) the aggregation of the whole or any part of any such area with one or more parishes or parts of parishes; and
  - (g) the abolition of a parish, with or without the distribution of its area among other parishes.
- (4) In subsection (1)(c) above “electoral arrangements” means—
- (a) in relation to a principal area—
    - (i) the number of councillors of the council for that area;
    - (ii) the number and boundaries of the electoral areas into which that area is for the time being divided for the purposes of the election of councillors;
    - (iii) the number of councillors to be elected for any electoral area in that principal area and the years in which they are to be so elected; and
    - (iv) the name of any electoral area;
  - (b) in relation to a parish council—
    - (i) the number of councillors;
    - (ii) the question whether or not the parish or (in the case of a common parish council) any of the parishes should be divided into wards for the purposes of the election of councillors;
    - (iii) the number and boundaries of any such wards;
    - (iv) the number of councillors to be elected for any such ward or, in the case of a common parish, for each parish; and
    - (v) the name of any such ward.
- (5) The matters mentioned in subsection (1) above are—
- (a) the abolition of any local authority whose functions would all vest in another as a result of any recommended structural change or whose area would be abolished or otherwise substantially affected by any recommended boundary change;
  - (b) the establishment, as a county or district council, of a new authority for any area which would result from any recommended boundary change involving the amalgamation or aggregation of areas or parts of areas or involving other substantial alterations of areas;
  - [<sup>F2</sup>(ba) the establishment of a parish council for any new parish which would result from any recommended boundary change and the electoral arrangements (as defined in subsection (4)(b) above) for the council]
  - (c) the extent to which a structural or boundary change requires (whether because functions become vested in an authority for a smaller area or for any other reason connected with the change) that joint arrangements should be made in relation to functions affected by the change; <sup>F3</sup> . . .
  - (d) whether, in connection with any recommended structural change, any authority should, for the purpose of the vesting of functions under Part II of the <sup>M1</sup>Town and Country Planning Act 1990 (development plans) in that authority—
    - (i) be treated as an authority to whose area Chapter I of that Part (unitary plans) applies, instead of Chapter II (structure and local plans); or
    - (ii) be authorised to include any of the policies mentioned in section 37 or 38 of that Act (mineral and waste plans) in their local plan.

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- [<sup>F4</sup>(e) whether, in connection with any recommended structural or boundary change, there should be any change in police areas (including any change resulting in a reduction or increase in the number of police areas)]
- (6) For the purposes of this Part the establishment of a new authority as the county or district council for any area shall be taken to include provision, subject to any necessary electoral changes—
- (a) for an existing county council to become the district council for any area comprising a part of a county or for any two or more such areas; or
  - (b) for an existing district council to become the county council for an area comprising any one or more districts.
- (7) For the purposes of this section—
- (a) a metropolitan district and a non-metropolitan district shall be regarded as local government areas of a like description and so shall a metropolitan county and a non-metropolitan county; and
  - (b) any county or district resulting from the amalgamation or aggregation of the whole or any part of a metropolitan area with the whole or any part of a non-metropolitan area shall be regarded as a non-metropolitan county or, as the case may be, district.

#### Textual Amendments

**F2** S. 14(5)(ba) inserted (19.5.1997) by 1997 c. 29, ss. 19(2), 34(2) (with s. 25)

**F3** Word in s. 14(5)(c) repealed (1.4.1995) by 1994 c. 29, s. 93, Sch. 9 Pt. I; S.I. 1994/3262, art. 4, Sch.

**F4** S. 14(5)(e) added (1.4.1995) by 1994 c. 29, s. 39(2); S.I. 1994/3262, art. 4, Sch.

#### Marginal Citations

**M1** 1990 c. 8.

## 15 Procedure on a review.

- (1) As soon as reasonably practicable after being directed to conduct a review, the Local Government Commission shall take such steps as it considers sufficient to secure that persons who may be interested in the review are informed of—
- (a) the direction requiring that review to be conducted;
  - (b) any other directions under this Part which are relevant to the review; and
  - (c) the period within which representations with respect to the subject-matter of the review may be made.
- (2) As soon as reasonably practicable after deciding to conduct a periodic review of any area under section 13(2) above, the Local Government Commission shall take such steps as it considers sufficient to secure that persons who may be interested in the review are informed of—
- (a) the fact that the Commission is to conduct a periodic review of that area;
  - (b) any directions under this Part which are relevant to the review; and
  - (c) the period within which representations with respect to the subject-matter of the review may be made.
- (3) In conducting a review, the Local Government Commission shall—

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- (a) take into consideration any representations made to it within the period mentioned in subsection (1)(c) or (2)(c) above;
  - (b) prepare draft recommendations and take such steps as it considers sufficient to secure that persons who may be interested in the recommendations are informed of them and of the period within which representations with respect to them may be made;
  - (c) deposit copies of the draft recommendations at the principal office of any principal council [<sup>F5</sup>or police authority] appearing to that Commission to be likely to be affected by them; and
  - (d) take into consideration any representations made to that Commission within that period.
- (4) As soon as the Local Government Commission is in a position to submit to the Secretary of State a report on a review, it shall—
- (a) submit such a report to him together with its recommendations;
  - (b) take such steps as it considers sufficient to secure that persons who may be interested in the recommendations are informed of them and of the period within which they may be inspected; and
  - (c) deposit copies of the recommendations at the principal office of any principal council [<sup>F5</sup>or police authority] appearing to that Commission to be likely to be affected by them.
- (5) Copies of any draft recommendations deposited at the principal office of a principal council under subsection (3)(c) above, and of any recommendations deposited at any such office under subsection (4)(c) above, shall be kept available for inspection at that office throughout the period within which representations with respect to them may be made or, as the case may be, within which they may be inspected.
- (6) Where the report on a review is submitted to the Secretary of State under subsection (4) above, he may, if he thinks fit, direct the Local Government Commission to conduct a further review of any area to which the report relates and to make revised recommendations as respects that area; and this section shall apply in relation to the further review with such modifications as may be specified in the direction.
- (7) The Secretary of State may give directions as to the exercise by the Local Government Commission of any functions under this section; and such directions may require that Commission to have regard to any guidance given by the Secretary of State as respects matters to be taken into account.
- (8) This section shall have effect as if the Common Council of the City of London were a principal council and the City of London included the Inner Temple and the Middle Temple.

#### **Textual Amendments**

**F5** Words in s. 15(3)(c)(4)(c) substituted (1.4.1995) by 1994 c. 29, s. 39(3); S.I. 1994/3262, art. 4, Sch.

#### **Modifications etc. (not altering text)**

**C2** S. 15: power to transfer or modify functions conferred (30.11.2000) by 2000 c. 41, ss. 18(3)(a), 163(3)(d), (with s. 156(6))

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#### [<sup>F6</sup>15A Alternative procedure on a review

- (1) Where the Electoral Commission consider it appropriate they may direct the Boundary Committee for England not to follow the procedure on a review set out in section 15 above but—
  - (a) to take sufficient steps to secure that persons who may be interested in the matters which are the subject of review are informed of them and of the period within which representations about them may be made;
  - (b) to take into consideration any such representations made to them within that period; and
  - (c) to inform any person who has made representations of the recommendations which are made to the Electoral Commission.]

#### Textual Amendments

**F6** S. 15A inserted (1.4.2002) by S.I. 2001/3962, art. 8, Sch. 1 para. 4

## 16 Consultation with the Audit Commission.

- (1) The Audit Commission shall, if so required by the Local Government Commission, provide it with a written opinion as to the likely impact of any proposed structural changes on economy, efficiency and effectiveness in the provision of services provided by such bodies [<sup>F7</sup>subject to audit] as are likely to be affected by the changes.
- (2) The Audit Commission may require any body [<sup>F7</sup>subject to audit] to supply the Audit Commission with all such information as it may reasonably require for the provision of an opinion under this section.
- (3) The Audit Commission shall charge the Local Government Commission such fees for opinions provided under this section as will cover the full cost of providing them.
- [<sup>F8</sup>(4) Any reference in the Audit Commission Act 1998 to the Audit Commission's functions under that Act shall include a reference to its functions under this section.
- (5) In this section—

“the Audit Commission” means the Audit Commission for Local Authorities and the National Health Service in England and Wales, and

“body subject to audit” has the same meaning as in the Audit Commission Act 1998.]

#### Textual Amendments

**F7** Words in s. 16(1)(2) substituted (11.9.1998) by 1998 c. 18, ss. 54(1), 55(2), Sch. 3 para. 24(1)

**F8** S. 16(4)(5) inserted (11.9.1998) by 1998 c. 18, ss. 54(1), 55(2), Sch. 3 para. 24(2)

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### *Implementation of recommendations*

#### **17 Implementation of recommendations by order.**

- (1) Where the Local Government Commission submit to the Secretary of State a report on a review together with its recommendations, he may, if he thinks fit, by order give effect to all or any of the recommendations, with or without modifications.
- (2) No order under this section shall be made before the end of the period of six weeks beginning with the submission of the report; and before making such an order, the Secretary of State may by a direction require the Local Government Commission to supply him with such additional information as may be described in the direction.
- (3) An order under this section may, in particular, include provision which, for the purpose of giving effect (with or without modifications) to recommendations of the Local Government Commission, makes provision with respect to—
  - (a) the area of any authority and the name of any such area;
  - (b) the name of any authority;
  - (c) the establishment of any new authority for any county or district or the winding up and dissolution of any existing authority;
  - (d) the total number of councillors of any authority, the apportionment of councillors among electoral areas, the assignment of existing councillors to new or altered electoral areas, and the first election of councillors for any new or altered electoral area;
  - (e) without prejudice to paragraph (d) above, the holding of a fresh election of councillors for all electoral areas in a local government area where substantial changes have been made to some of those areas, or the order of retirement of councillors for any electoral areas in the local government area in question;
  - [<sup>F9</sup>(ea) in the case of an order containing provision for a structural change by which the functions of district councils in relation to any area are transferred to a council for a county consisting of that area, the ordinary year of election and the order of retirement of parish councillors for any parish situated in the area]
  - (f) in the case of an order relating to the system of election of district councillors, the ordinary year of election and the order of retirement of parish councillors for any parish situated in the district;
  - (g) the constitution [<sup>F10</sup>, election and membership] of public bodies in any area affected by the order;
  - (h) the abolition or establishment, or the restriction or extension, of the jurisdiction of any public body in or over any part of any area affected by the order.
- (4) The power to make an order under this section shall include power to make any such provision in relation to the other provisions of that order, or to the provisions of any previous order under this section, as is equivalent to that which may be contained in regulations under section 19 below or in an agreement under section 20 below.
- (5) Without prejudice to the preceding provisions of this section, where charter trustees have been constituted under section 246 of the 1972 Act for an area which is altered by an order under this section and subsection (8) of that section (incorporation of whole or part of trustees' area in parish) does not apply, the order may make such provision with respect to the charter trustees as appears to the Secretary of State to be appropriate.



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[<sup>F11</sup>(6) The Secretary of State shall exercise his power to make orders under this section in relation to police areas in such a way as to ensure that none of the following areas—

- (a) a county in which there are no district councils,
- (b) a district in any other county, and
- (c) a London borough,

is divided between two or more police areas; but this subsection shall not have effect so as to prevent the maintenance of any part of the boundary of the metropolitan police district as it exists [<sup>F12</sup>on 1st April 1995]].

#### Textual Amendments

**F9** S. 17(3)(ea) inserted (19.5.1997) by 1997 c. 29, ss. 20(1), 34(2) (with s. 25)

**F10** Words in s. 17(3)(g) substituted (1.10.1994) by 1994 c. 29, s. 39(4); S.I. 1994/2025, art. 5(1)(f)

**F11** S. 17(6) added (1.10.1994) by 1994 c. 29, s. 39(5); S.I. 1994/2025, art. 5(1)(f)

**F12** Words in s. 17(6) substituted (22.8.1996) by 1994 c. 16, ss. 103, 104(1), Sch. 7 Pt. II para. 44

## 18 Consequences of structural changes etc.

- (1) Where an order under section 17 above gives effect to any structural change by which the functions of district councils in relation to any area are transferred to a council for a county consisting of that area, then the county council—
- (a) shall, for any financial year beginning at the same time as or after the coming into force of the change, be a billing authority for the purposes of Part I of the <sup>M2</sup>Local Government Finance Act 1992 in relation to their area; and
  - (b) shall not, for any such year, be a major precepting authority for those purposes.

<sup>F13</sup>(2) .....

- (3) An order under section 17 above which contains provision for a structural change—
- (a) shall provide that, subject to any combination scheme under the <sup>M3</sup>Fire Services Act 1947, any district the council for which are, under the order, to have the functions of a county council in relation to that district is to become the area of a fire authority for the purposes of that Act; and
  - (b) may provide, for the purposes of the making of any combination scheme under that Act, that the area of any district in relation to which the council of any county affected by the order are to have any functions is to be treated as an area that would become the area of a fire authority by virtue of the order.

- (4) It shall be the duty of the Secretary of State to have regard to any recommendations made by the Local Government Commission by virtue of section 14(5)(c) above in determining whether and how to exercise—

<sup>F13</sup>(a) .....

- (b) his powers under the <sup>M4</sup>Fire Services Act 1947 to approve or make a combination scheme,

in relation to any areas which have been or are to be affected by any order under section 17 above, or in relation to any such area and other areas.

- (5) This section shall be without prejudice to the power to make any provision by order under this Part or to any power to make incidental, consequential, transitional or supplementary provision in connection with the provisions of any such order.

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#### Textual Amendments

**F13** S. 18(2)(4)(a) repealed (1.10.1994) by 1994 c. 29, s. 39(6); S.I. 1994/2025, art. 5(1)(f)

#### Marginal Citations

**M2** 1992 c. 14.

**M3** 1947 c. 41.

**M4** 1947 c. 41.

### 19 Regulations for supplementing orders.

- (1) The Secretary of State may by regulations of general application make such incidental, consequential, transitional or supplementary provision as he thinks necessary or expedient for the purposes or in consequence of any orders under section 17 above, or for giving full effect to orders under that section.
- (2) Regulations under this section may, in particular, include provision of general application with respect to—
  - (a) the transfer of functions, property, rights or liabilities from a local authority [F14 or police authority] for any area to another local authority [F14 or police authority] whose area consists of or includes the whole or any part of that area;
  - (b) the transfer of property, rights or liabilities, and of related functions, from an authority which ceases to exist to a residuary body established under section 22 below;
  - (c) the management or custody of transferred property (whether real or personal);
  - (d) the functions or areas of jurisdiction of any public body or of any of the following persons—
    - (i) any justice of the peace, stipendiary magistrate, coroner or keeper of the rolls for a commission area F15 . . . ;
    - (ii) any lord-lieutenant, lieutenant or high sheriff;
    - (iii) any other officers (including police officers) within the area of any local authority affected by any such order,
 and the costs and expenses of such public bodies and persons.
- (3) In their application in relation to any order under section 17 above, regulations under this section shall have effect subject to any provision made under that section.
- (4) Any regulations under section 67 of the 1972 Act (regulations in connection with implementation of proposals under Part IV of that Act) which are in force at the commencement of this section shall have effect, without prejudice to their operation in relation to any order made under that Part after the commencement of this section (whether by virtue of section 24(3) below or otherwise) and subject to any regulations under this section, as if orders under section 17 above were orders under that Part.

#### Textual Amendments

**F14** Words in s. 19(2)(a) inserted (1.10.1994) by 1994 c. 29, s. 39(7); S.I. 1994/2025, art. 5(1)(f)

**F15** Words in s. 19(2)(d)(i) repealed (27.9.1999) by 1999 c. 22, ss. 106, 108(3)(f), Sch. 15 Pt. V(1) (with s. 107, Sch. 14 paras. 7(2), 36(9)); S.I. 1999/2657, art. 2(d)(iii)

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## 20 Agreements as to incidental matters.

- (1) Any public bodies affected by an order under this Part may from time to time make agreements with respect to any property, income, rights, liabilities and expenses (so far as affected by the order) of, and any financial relations between, the parties to the agreement.
- (2) Such an agreement may provide—
  - (a) for the transfer or retention of any property, rights and liabilities, with or without conditions, and for the joint use of any property;
  - (b) for the making of payments by either party to the agreement in respect of property, rights and liabilities so transferred or retained, or of such joint use, and in respect of the remuneration or compensation payable to any person; and
  - (c) for the making of any such payment either by way of a capital sum or of a terminable annuity.
- (3) In default of agreement as to any disputed matter, the matter shall be referred to the arbitration of a single arbitrator—
  - (a) agreed on by the parties; or
  - (b) in default of agreement, appointed by the Secretary of State;and the award of the arbitrator may make any provision that might be contained in an agreement under this section.
- (4) In subsection (3) above “disputed matter” means any matter which—
  - (a) might be the subject of provision contained in an agreement under this section; and
  - (b) is the subject of such a dispute between two or more public bodies as is not resolved by or under provision contained in any order or regulations under this Part.

### Modifications etc. (not altering text)

C3 S. 20 extended (19.5.1997) by 1997 c. 29, ss. 23(9), 34(2) (with s. 25)

## 21 Joint authorities.

- (1) This section applies to any functions which are to be or have become functions of any authority as a result of any structural or boundary change if the Secretary of State considers, having regard to any recommendations to that effect made by the Local Government Commission by virtue of section 14(5)(c) above, that they should be carried out in accordance with joint arrangements.
- (2) Where it appears to the Secretary of State that joint arrangements, or satisfactory joint arrangements, with respect to any functions to which this section applies—
  - (a) have not been made by the authorities in whom those functions are to be or have been vested;
  - (b) will not be in force when the structural or boundary change in question comes into force; or
  - (c) have ceased or will cease to be in operation,

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he may, for the areas of those authorities, by order establish a joint authority, which may be a body corporate, to carry out those functions, from a date specified in the order until such joint arrangements as appear to him to be satisfactory are brought into force.

- (3) An order under this section may make provision for enabling the Secretary of State to require the joint authority to submit to him a scheme for the winding up of the joint authority and for the transfer—
- (a) to any of the authorities for whose areas the joint authority is established; or
  - (b) to any body established in pursuance of any joint arrangements made by or in relation to those authorities,
- of any of the joint authority's property, rights and liabilities or of any functions which it carries out.
- (4) The Secretary of State may by order provide—
- (a) for excluding any functions, or any functions in any area, from those falling to be carried out by a joint authority; and
  - (b) for giving effect (with or without modifications) to any scheme submitted to him under a provision made by virtue of subsection (3) above and for the dissolution of a joint authority.
- (5) The power to make an order under any of the preceding provisions of this section shall include power to make such incidental, consequential, transitional or supplementary provision as the Secretary of State thinks necessary or expedient, including provision for the transfer of property, rights and liabilities.

## **22 Residuary bodies.**

- (1) The Secretary of State may by order establish one or more bodies (“residuary bodies”), which shall be bodies corporate, for the purpose of taking over any property, rights or liabilities, and any related functions, of local authorities which cease to exist by virtue of orders under section 17 above.
- (2) An order under subsection (1) above may—
- (a) make provision with respect to the constitution and membership of a residuary body;
  - (b) make provision with respect to the powers of a residuary body to make levies and to borrow and lend money and the treatment and distribution of capital and other money by such a body;
  - (c) make provision with respect to the keeping and auditing of accounts of a residuary body;
  - (d) make provision with respect to directions which may be given by the Secretary of State in relation to the carrying out by a residuary body of any of its functions;
  - (e) make provision for enabling the Secretary of State to require a residuary body to submit to him a scheme for the winding up of the body and the disposal of its property, rights and liabilities and related functions; and
  - (f) without prejudice to the generality of paragraphs (a) to (e) above, make any such provision with respect to a residuary body as was made by Part VII of the <sup>M5</sup>Local Government Act 1985 with respect to the residuary bodies established by that Part.
- (3) The Secretary of State may by order provide—

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*Changes to legislation: There are currently no known outstanding effects for the Local Government Act 1992, Part II. (See end of Document for details)*

- (a) for the transfer to any other body or bodies (including any body or bodies corporate established under the order for the purpose) of any property, rights or liabilities, and any related functions, of a residuary body; and
  - (b) for giving effect (with or without modifications) to any scheme submitted to him under a provision made by virtue of subsection (2)(e) above and for the dissolution of a residuary body.
- (4) The power to make an order under any of the preceding provisions of this section shall include power to make such incidental, consequential, transitional or supplementary provision as the Secretary of State thinks necessary or expedient.

#### Marginal Citations

M5 1985 c. 51.

### 23 Staff commissions.

- (1) The Secretary of State may by order establish one or more staff commissions for the purpose of—
- (a) considering and keeping under review the arrangements for the recruitment of staff by relevant authorities affected by orders under this Part and for the transfer, in consequence of the provisions of any such order, of staff employed by such authorities;
  - (b) considering such staffing problems arising in consequence of such an order, and such other matters relating to staff employed by any such authority, as may be referred to the staff commission by the Secretary of State; and
  - (c) advising the Secretary of State on the steps necessary to safeguard the interests of such staff;
- and such a commission may be established either for the whole or for any part of England.
- (2) The Secretary of State may give directions to a staff commission as to their procedure and to any relevant authority affected by an order under this Part with respect to—
- (a) the supply of any information requested and the implementation of any advice given by a staff commission; and
  - (b) the payment by such an authority of any expenses incurred by a staff commission in doing anything requested by the authority.
- (3) Any expenses incurred by a staff commission under this section and not recovered from a relevant authority shall be paid by the Secretary of State out of money provided by Parliament.
- (4) The Secretary of State may by order provide for the winding up of any staff commission established under this section.
- (5) In this section “relevant authority” means a local authority or a joint authority or residuary body established under section 21 or 22 above.

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### *Supplemental provisions of Part II*

#### **24 Abolition of the Local Government Boundary Commission for England.**

- (1) The Local Government Boundary Commission for England (“the predecessor Commission”) shall cease to exist with the commencement of this section.
- (2) Any property, rights or liabilities to which the predecessor Commission was entitled or subject immediately before the commencement of this section shall become property, rights or liabilities of the Local Government Commission.
- (3) Without prejudice to sections 16 and 17 of the <sup>M6</sup>Interpretation Act 1978 (effect of repeals)—
  - (a) where any report or proposals were submitted by the predecessor Commission to the Secretary of State under Part IV of the 1972 Act before the commencement of this section, the provisions of that Part, and of any regulations made under that Part, that cease to have effect for other purposes by virtue of this Act shall continue to have effect for the purpose of enabling effect to be given (with or without modifications) to those proposals and otherwise in relation to that report and those proposals; and
  - (b) where the Local Government Commission undertakes a review under this Part of any area which was the subject of a review which was being conducted by the predecessor Commission at the commencement of this section, the Secretary of State may, by a direction to the Local Government Commission, dispense in relation to that review with such of the requirements of section 15 above as appear to him to be inappropriate in the light of any steps taken before the commencement of this section by the predecessor Commission.
- (4) If, in the case of any member of the predecessor Commission who ceases to hold office by virtue of subsection (1) above, the Secretary of State determines that there are special circumstances which make it right that that member should receive compensation, he shall pay to that member a sum by way of compensation of such amount as he may determine.
- (5) The approval of the Treasury is required for any determination of the Secretary of State under subsection (4) above; and the sums required by the Secretary of State for making any payment under that subsection shall be paid out of money provided by Parliament.

#### **Commencement Information**

**II** S. 24 wholly in force at 31.10.1992 see s. 30(3)(b) and S.I. 1992/2371, art. 2

#### **Marginal Citations**

**M6** 1978 c. 30.

#### **25 Application of Part II to the Isles of Scilly.**

The Secretary of State may by order provide that, in their application in relation to the Isles of Scilly, the provisions of this Part shall have effect subject to such modifications as he considers appropriate.

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## 26 Orders, regulations and directions under Part II.

- (1) The powers of the Secretary of State under this Part to make orders or regulations shall be exercisable by statutory instrument; and a statutory instrument containing any order or regulations under this Part shall be subject to annulment in pursuance of a resolution of either House of Parliament unless—
  - (a) it effects a structural change;
  - (b) it establishes a joint authority for two or more local government areas; or
  - (c) it effects only electoral changes or relates only to parishes.
- (2) No order under this Part effecting a structural change or establishing a joint authority for two or more local government areas shall be made unless a draft of the order has been laid before, and approved by resolution of, each House of Parliament; but an order effecting such a change or establishing a joint authority shall, if apart from this subsection it would be treated for the purposes of the standing orders of either House of Parliament as a hybrid instrument, proceed in that House as if it were not such an instrument.
- (3) Every power of the Secretary of State under this Part to make orders or regulations, or to give directions, shall include power to make different provision for different cases, including different provision for different localities and for different bodies.
- (4) Any power of the Secretary of State by order or regulations under this Part to make incidental, consequential, transitional or supplementary provision shall include power for any incidental, consequential, transitional or supplementary purposes—
  - (a) to apply with or without modifications;
  - (b) to extend, exclude or amend; or
  - (c) to repeal or revoke with or without savings,any enactment, any instrument made under any enactment or any charter, whenever granted.
- (5) Any power of the Secretary of State under this Part to make by order or regulations provision for the transfer of any functions, property, rights or liabilities or to make transitional provision in connection with any such transfer or with the establishment of any body shall include, in particular, power to provide—
  - (a) for legal proceedings commenced by or against any body to be continued by or against a body to whom functions, property, rights or liabilities are transferred;
  - (b) for the transfer of staff, compensation for loss of office, pensions and other staffing matters; and
  - (c) for treating any body to whom a transfer is made for some or all purposes as the same person in law as the body from whom the transfer is made.
- (6) A direction under any provision of this Part may be varied or revoked by any subsequent direction under that provision; and where the Secretary of State is satisfied that—
  - (a) a mistake has occurred in the preparation of an order under any provision of this Part; and
  - (b) the mistake is such that it cannot be rectified by a subsequent order made under that provision by virtue of section 14 of the <sup>M7</sup>Interpretation Act 1978 (implied power to amend),

he may by order under this subsection make such provision as he thinks necessary or expedient for rectifying the mistake.

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(7) In this section—

“enactment” includes an enactment contained in a provision of this Act (other than a provision of this Part) or in any enactment contained in an Act passed after this Act; and

“mistake”, in relation to an order, includes a provision contained in or omitted from the order in reliance on inaccurate or incomplete information supplied by any public body.

**Marginal Citations**

M7 1978 c. 30.

**27 Amendments relating to local government changes.**

- (1) Schedule 3 to this Act (which contains consequential amendments in connection with the provisions of this Part) shall have effect.
- (2) In considering the electoral arrangements for any local government area for the purposes of this Part the Secretary of State and the Local Government Commission shall comply, so far as is reasonably practicable, with the rules set out in Schedule 11 to the 1972 Act (rules to be observed in considering electoral arrangements); and accordingly, in that Schedule, references to “either of the Commissions” shall have effect—
  - (a) until the commencement of section 24 above, as including a reference to the Local Government Commission; and
  - (b) thereafter, as if they were references to the Local Government Commission or the Local Government Boundary Commission for Wales.
- (3) In subsection (2) above “electoral arrangements” has the meaning given by subsection (4) of section 14 above for the purposes of subsection (1)(c) of that section.



**Status:**

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**Changes to legislation:**

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