



Local Government and Public Involvement in Health Act 2007

2007 CHAPTER 28

PART 1

STRUCTURAL AND BOUNDARY CHANGE IN ENGLAND

CHAPTER 1

STRUCTURAL AND BOUNDARY CHANGE

Implementation of changes

11 Implementation orders: provision that may be included

- (1) An order under section 7 or 10 may in particular include provision, for the purpose of implementing a proposal or recommendation or in connection with the implementation of a proposal or recommendation, for or with respect to—
 - (a) any of the matters mentioned in subsection (3);
 - (b) any of the matters mentioned in subsection (4) (incidental, consequential etc matters).
- (2) In subsection (1) “implementing” includes implementing with modifications and “implementation” is to be read accordingly.
- (3) The matters referred to in subsection (1)(a) are—
 - (a) the constitution of a new local government area;
 - (b) the abolition of any existing local government area;
 - (c) the boundary of any local government area;
 - (d) whether a county or district is to be metropolitan or non-metropolitan;
 - (e) the establishment, as a county council, district council or London borough council, of an authority for any local government area;

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- (f) the winding up and dissolution of an existing local authority;
 - (g) the transfer to a county council of the functions, in relation to an area, of district councils;
 - (h) the transfer to a district council of the functions, in relation to an area, of a county council.
- (4) The matters referred to in subsection (1)(b) are—
- (a) the name of any local government area;
 - (b) the name of any local authority;
 - (c) the boundary of any parish;
 - (d) electoral matters within the meaning of section 12;
 - (e) the establishment or membership of public bodies in any area affected by the order and the election of members of such bodies;
 - (f) 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;
 - (g) the boundary of any police area in England.
- (5) For the purposes of subsection (3)(e)—
- (a) the “establishment” of an authority as a council for a county includes an existing district council’s becoming the county council for the county;
 - (b) the “establishment” of an authority as a council for a district includes an existing county council’s becoming the district council for the district.
- (6) The power of the Secretary of State under section 7(1)(a) to implement a proposal with modifications includes power to make provision whose effect is that there will be a single tier of local government for an area (“the area concerned”) that—
- (a) includes all or part of an area specified in the proposal as one for which there should be a single tier of local government; but
 - (b) is not an area that could itself have been so specified.
- (7) But subsection (6) does not authorise the area concerned to extend into any area that is currently outside all local government areas.

12 Provision relating to membership etc of authorities

- (1) In section 11(4) “electoral matters” means any of the following—
- (a) the total number of members of any local authority or parish council (“councillors”);
 - (b) the number and boundaries of electoral areas for the purposes of the election of councillors;
 - (c) the number of councillors to be returned by any electoral area;
 - (d) the name of any electoral area;
 - (e) the election of councillors for any electoral areas;
 - (f) the order of retirement of councillors;
 - (g) the election of a mayor of a local authority;
 - (h) the election of an executive of a local authority;
 - (i) the appointment by the Secretary of State of members of an existing local authority to be members of a new local authority for a transitional period;

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- (j) the appointment for a transitional period of an executive of a new local authority;
 - (k) the functions of a new local authority, and the discharge of those functions, during a transitional period.
- (2) In subsection (1)(i) to (k)—
- “a new local authority” means a local authority established by the order;
 - “a transitional period” means a period before the coming into office of members of the authority elected at the first election after the establishment of the authority.
- (3) In subsection (2) “established” and “establishment” are to be read in accordance with section 11(5).
- (4) An order under section 7 or 10 may provide for an electoral division of a non-metropolitan county to return more than one councillor, and in such a case section 6(2)(a) of the Local Government Act 1972 (c. 70) does not apply.
- (5) As soon as practicable after the making of an order under section 7 or 10, the Electoral Commission must consider whether to exercise their power under section 13(3) of the Local Government Act 1992 (c. 19) (power to direct the Boundary Committee to conduct a review of a specified area and recommend whether an electoral change should be made).
- (6) An order of the Electoral Commission under section 17 of the Local Government Act 1992 (c. 19) (electoral change) may, in consequence of any other provision of that order, revoke a provision of an order made under section 7 or 10 of this Act.

13 Implementation orders: further provision

- (1) The power to make an order under section 7 or 10 includes (as well as power to make any provision authorised by section 11(1)(b)) power to make any other incidental, consequential, transitional or supplementary provision.
- (2) Subsection (1) is to be read with section 15.
- (3) Any incidental, consequential, transitional or supplementary provision included in an order under section 7 or 10 may relate either to other provisions of the order or to a previous order under section 7 or 10 (and the reference in section 12(2) to “the order” accordingly includes a previous order under section 7 or 10).
- (4) The Secretary of State must exercise his powers under section 11(4)(g) in such a way as to ensure that none of the following is divided between two or more police areas—
- (a) a county in which there are no district councils;
 - (b) a district;
 - (c) a London borough.

14 Regulations for supplementing orders

- (1) The Secretary of State may by regulations of general application make incidental, consequential, transitional or supplementary provision—
- (a) for the purposes or in consequence of any orders under section 7 or 10; or
 - (b) for giving full effect to such orders.

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- (2) Subsection (1) is to be read with section 15.
- (3) Regulations under this section have effect subject to any provision included in an order under section 7 or 10.

15 Incidental etc provision in orders or regulations

- (1) In sections 13 and 14 references to incidental, consequential, transitional or supplementary provision include, in particular, provision—
 - (a) for the transfer of functions, property, rights or liabilities from a local authority or police authority for any area to another local authority or police authority whose area consists of or includes the whole or part of that area;
 - (b) for 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 17;
 - (c) 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;
 - (d) for the transfer of staff, compensation for loss of office, pensions and other staffing matters;
 - (e) 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;
 - (f) with respect to the management or custody of transferred property (real or personal);
 - (g) with respect to the functions, areas of jurisdiction and costs and expenses of any public body or of—
 - (i) any justice of the peace other than a District Judge (Magistrates' Courts);
 - (ii) any coroner or keeper of the rolls;
 - (iii) any lord-lieutenant, lieutenant or high sheriff; or
 - (iv) any other officers (including police officers) within the area of any local authority affected by an order under section 7 or 10;
 - (h) with respect to the functions of any District Judge (Magistrates' Courts);
 - (i) with respect to charter trustees;
 - (j) equivalent to any provision that could be contained in an agreement under section 16 (agreements about incidental matters).
- (2) Any order under section 7 or 10 or regulations under section 14 may for any incidental, consequential, transitional or supplementary purpose—
 - (a) modify, exclude or apply (with or without modifications) any enactment;
 - (b) repeal or revoke any enactment with or without savings.
- (3) In subsection (2)—
 - “enactment” includes—
 - (a) any enactment contained in this Act (other than a provision of this Part) or in an Act passed after this Act;
 - (b) any instrument made at any time under an enactment (including an enactment contained in this Act or in an Act passed after this Act);
 - (c) any charter, whenever granted;
 - “modify” includes amend.

16 Agreements about incidental matters

- (1) Any public bodies affected by an order under section 7 or 10 may from time to time make agreements with respect to—
 - (a) any property, income, rights, liabilities and expenses (so far as affected by the order) of the parties to the agreement;
 - (b) any financial relations between the parties to the agreement.
- (2) Such an agreement may in particular 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 any party to the agreement in respect of—
 - (i) property, rights and liabilities so transferred or retained;
 - (ii) such joint use; or
 - (iii) the remuneration or compensation payable to any person;
 - (c) for any such payment to be made by instalments or otherwise;
 - (d) for interest to be charged on any such instalments.
- (3) In default of agreement about any disputed matter, the matter is to 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.
- (4) The arbitrator’s award may make any provision that could be contained in an agreement under this section.
- (5) In subsection (3) “disputed matter” means any matter that—
 - (a) could be the subject of provision contained in an agreement under this section; and
 - (b) is the subject of a dispute between two or more public bodies that is not resolved by or under any order or regulations under this Chapter.
- (6) In this section “public body” includes a parish council.

17 Residuary bodies

- (1) The Secretary of State may by order establish one or more bodies corporate (“residuary bodies”) 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 7 or 10.
- (2) An order under subsection (1) 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;

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- (e) make provision 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.
- (3) The Secretary of State may by order provide—
- (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) and for the dissolution of a residuary body.
- (4) An order under this section may include incidental, consequential, transitional or supplementary provision, including in particular provision of a kind mentioned in paragraphs (c) to (f) of section 15(1).
- (5) Section 15(2) and (3) (power to apply etc enactments) apply to an order under this section as to an order under section 7.

18 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 Chapter and for the transfer in consequence 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.
- (2) Such a commission may be established for the whole or any part of England.
- (3) The Secretary of State may give directions to a staff commission with respect to their procedure.
- (4) The Secretary of State may give directions to any relevant authority affected by an order under this Chapter with respect to—
- (a) the provision of any information requested and the implementation of any advice given by a staff commission;
 - (b) the payment by such an authority of any expenses incurred by a staff commission in doing anything requested by the authority.
- (5) 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.
- (6) The Secretary of State may by order provide for the winding up of any staff commission established under this section.
- (7) A direction under this section may be varied or revoked by a subsequent direction.
- (8) In this section “relevant authority” means—

- (a) a local authority; or
- (b) a residuary body established under section 17.

19 Certain county councils to be billing authorities

- (1) Where an order under this Chapter transfers the functions of district councils in relation to any area to a council for a county consisting of that area, the county council—
 - (a) shall, for any financial year beginning at the same time as or after that transfer, be a billing authority for the purposes of Part 1 of the Local Government Finance Act 1992 (c. 14) in relation to the area;
 - (b) shall not, for any such year, be a major precepting authority for those purposes.
- (2) This section does not limit any power to make provision by order under this Chapter or any power to make incidental, consequential, transitional or supplementary provision in connection with the provisions of any such order.
- (3) In this section “financial year” means 12 months beginning with 1 April.