
STATUTORY INSTRUMENTS

1995 No. 1748

LOCAL GOVERNMENT, ENGLAND AND WALES

**The Local Government Changes for England
(Miscellaneous Provision) Regulations 1995**

<i>Made</i>	- - - -	<i>10th July 1995</i>
<i>Laid before Parliament</i>		
<i>Coming into force</i>		
<i>Except for regulations 8 and 9</i>		<i>1st August 1995</i>
<i>Regulations 8 and 9</i>		<i>1st April 1996</i>

The Secretary of State for the Environment, in exercise of the powers conferred on him by sections 19 and 26 of the Local Government Act 1992⁽¹⁾, and of all other powers enabling him in that behalf, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Local Government Changes for England (Miscellaneous Provision) Regulations 1995.

(2) All regulations except regulations 8 and 9 shall come into force on 1st August 1995 and regulations 8 and 9 shall come into force on 1st April 1996.

(3) In these Regulations—

“the 1994 Regulations” means the Local Government Changes for England Regulations 1994⁽²⁾;

“existing”, in relation to an area or authority affected by the order, means an area or authority in existence on the date the order is made or, where there is more than one order affecting that area or authority, the date the first of them is made; and

“new”, in relation to an area or authority, means an area or authority established pursuant to the order.

(4) Any expression used in these Regulations which is defined for the purposes of the 1994 Regulations shall have the same meaning as it has for those purposes.

(1) 1992 c. 19.

(2) S.I.1994/867; amended by S.I. 1995/590 and 1055.

Amendment of the 1994 Regulations

2.—(1) The 1994 Regulations shall be amended in accordance with the following paragraphs of this regulation.

(2) In regulation 2 (interpretation)—

(a) in paragraph (3), delete the definitions of “transferred area”, “transferee authority” and “transferor authority”;

(b) in paragraph (4)—

(i) in the definition of “enactment”—

(a) for “and a private Act” substitute “, a private Act and”; and

(b) delete the words after “1978”; and

(ii) after the definition of “head of paid service”(3), insert—

““relevant provision” means a provision in any enactment made for the purposes or in consequence of the Act or the order;”;

(c) after paragraph (4), add—

“(5) In these Regulations—

(a) any reference to a transferor authority is a reference to a local authority which, by or in consequence of a structural or boundary change (or both such changes) effected by the order, ceases to exercise functions in relation to an area (“transferred area”) on the reorganisation date; and

(b) any reference to a transferee authority is a reference to a local authority by which such functions are exercisable in relation to that area on and after that date.”.

(3) For regulation 4 (continuity of matters) substitute—

“4.—(1) Anything which, at the reorganisation date, is in process of being done by or in relation to a transferor authority in the exercise of or in connection with any of its functions in relation to a transferred area may be continued by or in relation to the transferee authority.

(2) Anything done by or in relation to a transferor authority in the exercise of or in connection with any functions in relation to a transferred area shall, so far as is required for continuing its effect on and after the reorganisation date, have effect as if done by or in relation to the transferee authority.

(3) Paragraph (2) applies in particular to—

(a) any decision, determination, declaration, designation, agreement or instrument made by a transferor authority;

(b) any regulations or byelaws made by such an authority;

(c) any licence, permission, consent, approval, authorisation, exemption, dispensation or relaxation granted by or to such an authority;

(d) any notice, direction or certificate given by or to such an authority;

(e) any application, request, proposal or objection made by or to such an authority;

(f) any condition or requirement imposed by or on such an authority;

(g) any fee paid by or to such an authority;

(h) any appeal allowed by or in favour of or against such an authority; or

(i) any proceedings instituted by or against such an authority.

(3) The definition was inserted by S.I. [1995/1055](#).

(4) Any reference in this regulation to anything done by or in relation to a transferor authority includes a reference to anything which by virtue of any enactment is treated as having been done by or in relation to that authority.

(5) So far as is required for giving effect to the provisions of this regulation, any reference in any document to a transferor authority shall be construed as a reference to the transferee authority.

(6) The foregoing provisions of this regulation are—

(a) without prejudice to any other relevant provision made in respect of any particular functions; and

(b) shall not be construed as continuing in force any contract of employment made by a transferor authority.”.

(4) In regulation 5 (references in enactments), in paragraph (1), delete the words from “and includes” to “enactment”.

(5) In regulation 9 (application of Part), after “(“the authority”)” insert “for an area comprising a transferred area or two or more such areas”.

(6) In regulation 11 (functions and powers of the shadow authority)—

(a) in paragraph (3), after the entry in the Table relating to section 113 of the 1972 Act, insert—

“118 Payment of salary etc. due to mentally disordered person

119 Payments due to deceased officers”;

(b) in paragraph (6), in the Table—

(i) at the beginning, insert—

“Section 70 Restriction on promotion of Bills for changing local government areas etc.”;

(ii) after the entry relating to section 106 of the 1972 Act, insert—

“Section 114 Security to be taken in relation to officers”;

(iii) after the entry relating to section 131 of that Act, insert—

“Section 141 Research and the collection of information”; and

(iv) after the entry relating to section 151 of that Act, add—

“Section 224 Arrangements for custody of documents

Section 225 Deposit of documents with proper officer of authority

Section 232 Public Notices

Section 245 Status of certain districts etc.”; and

(c) after paragraph (7), add—

“(8) Except where the shadow authority is established for an area consisting of a county in which, on and after the reorganisation date, there will be district councils, it shall be treated as a local housing authority for the purposes of section 87(2) and (3) of the Local Government and Housing Act 1989 (determinations and directions).”.

(7) Delete regulation 12 (duty of transferor authority to assist shadow authority).

(8) In regulation 25 (charter trustees), for paragraph (2) substitute—

“(2) Any reference in this regulation to “the parish council” is a reference to—

(a) in a case described in paragraph (1)(a) or (b) above, the parish council for the parish so described; and

- (b) in the case described in paragraph 1(c) above, the parish council specified in relation to this sub-paragraph in the order.”.

Amendment of Regulations: property transfer

3. In the Local Government Changes for England (Property Transfer and Transitional Payments) Regulations 1995⁽⁴⁾, in regulation 4 (information for facilitating implementation), in paragraph (6), after “a successor authority”, insert “in paragraph (2)(b) and (4) above.”.

Amendment of Regulations: capital finance

4.—(1) The Local Government Changes for England (Capital Finance) Regulations 1995⁽⁵⁾ shall be amended in accordance with the following paragraphs of this regulation.

(2) In regulation 7 (effect of certain capital grants on credit approvals), for “by virtue of regulation 3(1)” substitute “by virtue of regulation 3(2)”.

(3) In regulation 15 (PCL of designated authority), in paragraph (2), delete “(1) or (2)”.

(4) In regulation 16 (PCL of participant authority), delete “(1) Subject to paragraph (2)”.

Provision to facilitate implementation of orders

5.—(1) This regulation applies where the order gives effect to one or more structural changes as respects a non-metropolitan county by which the functions of the council of that county in relation to one or more existing districts are transferred, in each case, to the council of the district.

(2) During the period beginning with the first date on which any provision of the order comes into force and ending immediately before the reorganisation date—

(a) the county council and the district council or councils and their officers shall co-operate with each other, and generally exercise their functions, so as to facilitate the implementation of the order and any other relevant provision;

(b) the county council shall furnish each district council with all such information relating to the county council or its functions as the district council may reasonably request for the purpose of implementing the order or any other relevant provision; and

(c) subject to paragraph (3) below, each district council may take such steps as appear to it to be necessary for the purpose of preparing for the transfer and exercise of functions which will, on and after the reorganisation date, be exercisable by it by virtue of the order or any other relevant provision.

(3) During the period specified in the order as the preliminary period, each district council—

(a) shall, in relation to the functions mentioned in paragraph (2)(c) above, make such arrangements for organisation and management and such appointments of officers as are necessary to secure the proper performance of those functions on and after the reorganisation date;

(b) shall, at a meeting of the authority, consider a report by the head of its paid service as to whether any such functions could with advantage be discharged by, or jointly with, any other local authority in pursuance of arrangements made under section 101 of the 1972 Act or under any other enactment; and

(c) if of that opinion, shall promote the making of such arrangements.

(4) Nothing in section 101 of the 1972 Act shall apply to the duty imposed by virtue of paragraph (3)(b) above.

(4) S.I. 1995/402.

(5) S.I. 1995/798.

(5) Where, during the period specified in the order as the preliminary period, the county council is required by virtue of any enactment to prepare any budgets or plans, or to consult any person, for purposes preliminary to, or connected with, the exercise, on and after the reorganisation date, of any functions in relation to any part of the area of a district council which, on and after that date, are exercisable by that council, the requirement in question shall, subject to any relevant provision, cease to have effect during that period in relation to the county council; and any such requirement shall instead have effect, during that period and for those purposes, in relation to the district council.

Council tax and precepts for financial year beginning on the reorganisation date

6.—(1) Where an area which is part of an existing district and of a new district ceases, by virtue of the order, to be part of the existing district on the reorganisation date, the councillors for any ward of the existing district wholly comprised in that area shall not participate in the discharge of any of the functions of the council of that district under Chapter III of Part I of the Local Government Finance Act 1992⁽⁶⁾ (setting of council tax) in connection with the financial year beginning on that date.

(2) Where, by virtue of the order, the functions of a county council in relation to a district are, on the reorganisation date, transferred to the council of the district, the councillors for any electoral division of the county wholly comprised in the district shall not participate in the discharge of any of the functions of the county council under Chapter IV of Part I of the Local Government Finance Act 1992 (precepts) in connection with the financial year beginning on that date.

Change of name: counties without a county council

7. Section 74 of the 1972 Act (change of name of county or district) shall have effect, in relation to the change of name of a county for which there is no county council and in which there is not more than one district, as if the reference in subsection (1) of that section, to the council of a county were a reference to the council of the district.

Sheriffs

8.—(1) In the Sheriffs Act 1887⁽⁷⁾—

(a) in section 38 (definitions), after the word “requires” insert the following definition—

“The expression “county”, in relation to England, means, subject to the provisions of Schedule 2A to this Act, a county for the purposes of the Local Government Act 1972;”;

and

(b) after Schedule 2 (declaration of sheriff and under sheriff), insert the following Schedule—

“SCHEDULE 2A

Section 38

MEANING OF “COUNTY”

For the purposes of this Act, the counties or parts of counties specified in column (2) of the following Table shall be deemed to form one county known by the name specified in respect of those counties or parts in column (1) of the Table—

⁽⁶⁾ 1992 c. 14.

⁽⁷⁾ 1887 c. 55; section 3(4) was added by section 62(1) of the Local Government (Wales) Act 1994 (c. 19) (the 1994 Act). The previous definition of county in section 38 was repealed by Schedule 30 to the Local Government Act 1972 (c. 70).

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

TABLE

(1)	(2)
Durham	Durham and Hartlepool and so much of the county of Stockton-on-Tees as lies north of the line for the time being of the centre of the River Tees
The East Riding of Yorkshire	The East Riding of Yorkshire and Kingston upon Hull (City of)
Gloucestershire	Gloucestershire and South Gloucestershire
Lincolnshire	Lincolnshire, North Lincolnshire and North East Lincolnshire
North Yorkshire	North Yorkshire, Middlesbrough, Redcar and Cleveland and York and so much of the county of Stockton-on-Tees as lies south of the centre for the time being of the river Tees
Somerset	Somerset, Bath and North East Somerset and North West Somerset”(8)

(2) In section 219 of the Local Government Act 1972 (sheriffs and under-sheriffs), in subsection (8), after “section” insert ““county” has the same meaning as in the Sheriffs Act 1887 and”.

The lieutenancies

9. In the Reserve Forces Act 1980(9), in section 130 (lieutenancies in England and Wales), after subsection (1), insert the following subsection—

“(1A) For the purposes of the provisions of this Act relating to the lieutenancies in England, “county” shall, subject to the following provisions of this section, have the same meaning as in the Sheriffs Act 1887.”.

Signed by authority of the Secretary of State

10th July 1995

David Curry
Minister of State,
Department of the Environment

(8) On 1st April 1996, the counties of Bath and North East Somerset, North West Somerset and South Gloucestershire are constituted, by S.I. 1995/493; the counties of the East Riding of Yorkshire, Kingston upon Hull, North Lincolnshire and North East Lincolnshire by S.I. 1995/600; the county of York by S.I. 1995/610 and the counties of Hartlepool, Middlesbrough, Redcar and Cleveland and Stockton-on-Tees by S.I. 1995/1747.

(9) 1980 c. 9; section 130(4) was added by section 61(1) of the 1994 Act.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make incidental, consequential, transitional and supplementary provision of general application for the purposes or in consequence of orders made under section 17 of the Local Government Act 1992.

Regulations 2, 3 and 4 make minor and drafting amendments in earlier sets of Regulations of general application.

Regulation 5 makes provision with respect to preparations for the implementation of a structural change by which a county council's functions are transferred to one or more existing district councils in the county.

Regulation 6 provides that councillors for any electoral area wholly comprised in a part of an existing county or district which is affected by a structural or boundary change shall not take part in the county or district council's decisions on precepts or council tax for the financial year beginning on the date the structural or boundary change takes place.

Regulation 7 makes provision to enable a district council in a county which has the same boundaries as the district, but which has no county council, to change the name of the county.

Regulation 8 amends the Sheriffs Act 1887 by inserting a definition of "county" for the purposes of the Act in relation to England.

Regulation 9 amends the Reserve Forces Act 1980 to provide that, for the purposes of the provisions of that Act relating to the lieutenancy in England, the meaning of "county" is to be the same as in the Sheriffs Act 1887.