
STATUTORY INSTRUMENTS

1995 No. 1773

The Derbyshire (City of Derby)(Structural Change) Order 1995

PART II

LOCAL GOVERNMENT REORGANISATION IN DERBYSHIRE

Structural change

3. The functions of the County Council in relation to Derby shall, subject to the following provisions of this Part and to any other relevant provision, be transferred to the Derby Council.

Derbyshire Police Authority

- 4.—**(1) In this article, “the 1964 Act” means the Police Act 1964⁽¹⁾.
- (2) For the purposes of the functions to which this article applies—
- (a) sub-paragraph (1) of paragraph 27 of Schedule 1B to the 1964 Act (meaning of “relevant council”)⁽²⁾ shall have effect as from 1st October 1996 as if Derby had ceased to form part of Derbyshire on that date; and
 - (b) accordingly, the appointments which are required to be made to the Derbyshire Police Authority (as established under section 3 of the 1964 Act) (“the Authority”)⁽³⁾ by paragraph 2(2) of that Schedule (appointments of members of police authority by joint committee appointed by relevant councils) shall be made, as soon as practicable after that date, by a joint committee appointed by the County Council and the Derby Council (as relevant councils) in accordance with that provision.
- (3) The functions to which this article applies are—
- (a) on and after the reorganisation date, all functions of the Authority; and
 - (b) before that date (but on and after 1st October 1996), the following functions of the Authority in respect of the financial year beginning on the reorganisation date—
 - (i) functions under Chapter IV of Part I of the Local Government Finance Act 1992 (precepts)⁽⁴⁾, and
 - (ii) functions under sections 4A (local policing objectives) and 4B (local policing plans) of the 1964 Act⁽⁵⁾.
- (4) For the purposes of the functions referred to in paragraph (3)(b) above—
- (a) section 28(2)(b) of the Police and Magistrates' Courts Act 1994 (approval of decisions about precepts) shall have effect as though the reference to the members of the police

(1) 1964 c. 48.

(2) Schedule 1B was inserted by Schedule 2 to the Police and Magistrates' Courts Act 1994 (c. 29) (“the 1994 Act”).

(3) Section 3 was substituted by section 2 of the 1994 Act.

(4) 1992 c. 14; section 39 of that Act was amended by section 27(1) of the 1994 Act.

(5) Sections 4A and 4B were inserted by section 4 of the 1994 Act.

authority appointed under paragraph 2 of Schedule 1B to the 1964 Act was a reference to the members so appointed by virtue of paragraph (2) above, and

(b) the members of the Authority appointed under paragraph 2 of that Schedule otherwise than by virtue of paragraph (2) above shall not participate in the discharge of those functions.

(5) In the exercise of its powers, the joint committee referred to in paragraph (2)(b) above—

(a) shall, for the purposes of paragraph 4(1)(b) of Schedule 1B to the 1964 Act, ignore any member of the County Council elected for an electoral division in Derby⁽⁶⁾; and

(b) shall not appoint any such member to the Authority under paragraph 2(2) of Schedule 1B to the 1964 Act.

(6) A member of the Authority who was appointed under paragraph 2 of Schedule 1B to the 1964 Act otherwise than by virtue of paragraph (2) above and who is not subsequently so appointed shall cease to hold office as a member of the Authority on the reorganisation date.

(7) In determining the period of a term of years for the purpose of paragraph 17 of Schedule 1B to the 1964 Act (term of appointment of members of a police authority), any period as a member of the Authority prior to the reorganisation date under an appointment made by virtue of paragraph (2) above shall be disregarded except where the person in question had been a member of the Authority by virtue of an appointment under paragraph 2 of that Schedule prior to his appointment by virtue of paragraph (2) above.

Amendment of Schedule 1A to the Police Act 1964

5. Schedule 1A to the Police Act 1964⁽⁷⁾ shall be amended by inserting after the words “The county of Derbyshire” in the right-hand column opposite the name of the Derbyshire police area the words “and the non-metropolitan district of Derby”.

Fire services

6.—(1) In this article—

“the 1947 Act” means the Fire Services Act 1947⁽⁸⁾; and

“the relevant area” means the area comprising Derbyshire (as constituted on and after the reorganisation date) and Derby.

(2) Derby shall, subject to any combination scheme under the 1947 Act, become the area of a fire authority for the purposes of that Act.

(3) For the purposes of the making of a combination scheme with respect to the relevant area before the reorganisation date in accordance with section 10 of the 1947 Act (power to make schemes in advance of alterations to local government areas), section 5(2) of that Act shall have effect, in relation to that area, as if—

(a) in paragraphs (a) and (d) of that subsection, for “the constituent authorities”, wherever those words occur, there were substituted “the council of the county of Derbyshire”; and

(b) in paragraphs (e) and (f) of that subsection, for “any of the constituent authorities” there were substituted “the council of the county of Derbyshire”.

(4) Section 10 of the 1947 Act shall have effect, in relation to the relevant area, as if after the word “but” there were inserted the words “, except so far as it relates to the constitution of an authority as the fire authority for the combined area constituted by the scheme and the performance by that authority of any functions necessary for bringing the scheme into full operation on that date,”.

⁽⁶⁾ See article 10(2) of this Order.

⁽⁷⁾ Schedule 1A was inserted by Schedule 1 to the 1994 Act.

⁽⁸⁾ 1947 c. 41; section 10 of this Act is amended by paragraph 2 of Schedule 3 to the Local Government Act 1992.

Planning functions

7.—(1) The structure plan applying immediately before the reorganisation date to Derbyshire and any proposals prepared before that date for the alteration or replacement of that plan shall be treated as if they had been prepared jointly by the County Council and the Derby Council; and section 50 of the Town and Country Planning Act 1990⁽⁹⁾ (“the 1990 Act”) shall apply accordingly.

(2) In relation to the Derby Council—

- (a) section 36(5) of the 1990 Act (which provides that a local plan shall not contain policies in respect of minerals or waste) shall not apply;
- (b) subsection (1) of section 37 of that Act (minerals local plans) shall have effect as if, after the words “local plan”, there were added the words “or include in their local plan their detailed policies in respect of development consisting of the winning and working of minerals or involving the deposit of mineral waste”; and
- (c) subsection (2) of section 38 of that Act (waste policies) shall have effect as if, after paragraph (b), there were added the following—

“or

(c) include their waste policies in their local plan.”.

(3) This article shall not apply to any plan relating to the area of the Peak District National Park⁽⁹⁾, or to any proposals for the alteration or replacement of such a plan.

Constitution of new county of Derby

8.—(1) Derby shall cease to form part of Derbyshire.

(2) A new county shall be constituted comprising the area of Derby and shall be named the county of Derby.

(3) Section 2(1) of the 1972 Act (which provides that every county shall have a council) shall not apply in relation to the county of Derby.

⁽⁹⁾ 1990 c. 8. In this Act, sections 36 to 38 were substituted by paragraph 17 of Schedule 4 to the Planning and Compensation Act 1991 (c. 34) and section 50 was amended by paragraph 24 of that Schedule.

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