
STATUTORY INSTRUMENTS

1996 No. 1867

The Hereford and Worcester (Structural,
Boundary and Electoral Changes) Order 1996

PART I
GENERAL

Citation and commencement

1. This Order may be cited as the Hereford and Worcester (Structural, Boundary and Electoral Changes) Order 1996 and shall come into force for the purposes of articles 2(2), 3, 4, 6 to 11, 14, 15 and 19 to 23 on the day after the day on which it is made and for all other purposes on 1st April 1998.

Interpretation

2.—(1) In this Order—

“the Act” means the Local Government Act 1992;

“the 1972 Act” means the Local Government Act 1972(1);

“the 1990 Act” means the Town and Country Planning Act 1990(2);

“existing”, in relation to an area, means that area as it exists on the date this Order is made;

“the relevant date” means 5th May 1997;

“relevant provision” means a provision in any subordinate legislation made under the Act or made, in connection with the Act or such provision, under any other enactment;

“the reorganisation date” means 1st April 1998; and

“subordinate legislation” has the same meaning as in section 21 of the Interpretation Act 1978(3)

(2) The period beginning with the relevant date and ending immediately before the reorganisation date is specified as the preliminary period for the purposes of this Order and any other statutory instrument made under the Act.

(1) 1972 c. 70.
(2) 1990 c. 8.
(3) 1978 c. 30.

PART II

BOUNDARY CHANGES

Constitution of new districts

3.—(1) A new non-metropolitan district of Malvern Hills shall be constituted and shall comprise the existing areas mentioned in Schedule 1.

(2) A new non-metropolitan district of Herefordshire shall be constituted and shall comprise the areas of—

- (a) the existing city of Hereford⁽⁴⁾;
- (b) the existing district of Leominster, except the areas in that district mentioned in Schedule 1;
- (c) the existing district of Malvern Hills, except the areas in that district mentioned in Schedule 1; and
- (d) the existing district of South Herefordshire.

Constitution of new county

4.—(1) A new non-metropolitan county of Worcestershire shall be constituted and shall comprise the areas of—

- (a) the existing city of Worcester⁽⁵⁾;
- (b) the existing borough of Redditch⁽⁶⁾;
- (c) the existing districts of Bromsgrove, Wychavon and Wyre Forest; and
- (d) the new district of Malvern Hills.

(2) During the period beginning with the date on which this article comes into force and ending immediately before the reorganisation date, the new county of Worcestershire shall not be a county for the purposes of—

- (a) the Sheriffs Act 1887⁽⁷⁾;
- (b) the Education Acts 1944 to 1994;
- (c) sections 130 and 133 to 137 of the Reserve Forces Act 1980 (which make provision in respect of the lieutenancies)⁽⁸⁾; or
- (d) the Coroners Act 1988⁽⁹⁾.

Other local government areas

5.—(1) The existing principal areas of the county of Hereford and Worcester, the city of Hereford and the districts of Leominster, Malvern Hills and South Herefordshire shall be abolished and the councils of those principal areas shall be wound up and dissolved.

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

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

(4) The non-metropolitan district of Hereford has the status of a city.
(5) The non-metropolitan district of Worcester has the status of a city.
(6) The non-metropolitan district of Redditch has the status of a borough.
(7) 1887 c. 55.
(8) 1980 c. 9.
(9) 1988 c. 13.

PART III

ELECTORAL ARRANGEMENTS

Electoral areas in Malvern Hills

6.—(1) The new district of Malvern Hills shall be divided into 27 wards which shall bear the names set out in column (1) of Schedule 2.

(2) The wards shall comprise the areas respectively described (by reference to wards of the existing district of Malvern Hills(10) or, as the case may be, parishes in that district and the existing district of Leominster) in column (2) of that Schedule and the number of councillors to be elected for each ward shall be the number specified in respect of the ward in column (3) of that Schedule.

Electoral areas in Herefordshire

7.—(1) The new district of Herefordshire shall be divided into 44 wards which shall bear the names set out in column (1) of Schedule 3.

(2) The wards shall comprise the areas respectively described (by reference to existing wards(11) or, as the case may be, parishes) in column (2) of that Schedule and the number of councillors to be elected for each ward shall be the number specified in respect of the ward in column (3) of that Schedule.

Electoral areas in Worcestershire

8.—(1) The new county of Worcestershire shall be divided into 57 divisions which shall bear the names set out in column (1) of Schedule 4.

(2) Those divisions shall comprise the areas respectively described (by reference to existing divisions of the county of Hereford and Worcester(12) or, as the case may be, wards of the new district of Malvern Hills) in column (2) of that Schedule.

Election of councillors

9.—(1) Elections of all councillors of the councils of the new districts of Malvern Hills and Herefordshire shall be held simultaneously on the ordinary day of election of councillors in 1997, 2000 and 2003 and every fourth year after 2003(13); and the term of office of any councillor so elected shall be, in the case of a councillor elected in 1997 or 2000, three years and, in any other case, four years.

(2) Elections of all councillors of the council of the new county of Worcestershire shall be held simultaneously on the ordinary day of election of councillors in 1997 and every fourth year after 1997; and the term of office of every councillor so elected shall be four years.

(3) On the fourth day after an election held after 1997 by virtue of this article—

(a) the persons who were councillors immediately before the election shall retire; and

(10) For the limits of the existing wards of the district of Malvern Hills, see the District of Malvern Hills (Electoral Arrangements) Order 1976 (S.I.1976/1757).

(11) For details of wards, see the City of Hereford (Electoral Arrangements) Order 1977 (S.I.1977/413); the District of Leominster (Electoral Arrangements) Order 1978 (S.I.1978/1843); the District of Malvern Hills (Electoral Arrangements) Order 1976 and the District of South Herefordshire (Electoral Arrangements) Order 1991 (S.I.1991/816).

(12) See the County of Hereford and Worcester (Electoral Arrangements) Order 1983 (S.I.1983/1723). Changes to the boundaries of divisions in the districts of Bromsgrove and Wychavon and the borough of Redditch have been made by S.I.1993/272, 492 and 2971.

(13) For the ordinary day of election of councillors of local government areas, see section 37 of the Representation of the People Act 1983 (c. 2), amended by section 18(2) of the Representation of the People Act 1985 (c. 50).

- (b) the newly elected councillors shall come into office.

First elections

- 10.** At the elections held in 1997 by virtue of article 9, the returning officer shall be—
- (a) in the case of the new district of Malvern Hills, the returning officer appointed under section 35 of the Representation of the People Act 1983 by the council of the existing district of Malvern Hills;
 - (b) in the case of the new district of Herefordshire, the returning officer so appointed by the council of the existing district of South Herefordshire; and
 - (c) in the case of the new county of Worcestershire, the returning officer so appointed by the council of the existing county of Hereford and Worcester.

Suspension of elections and retirement of councillors

11.—(1) The ordinary election of councillors in 1997 for the council of the existing county of Hereford and Worcester shall not take place; and any councillor for that council holding office immediately before the relevant date who would, but for this paragraph, have retired on that date shall, unless he resigns his office or it otherwise becomes vacant, continue to hold office until the reorganisation date.

(2) Section 89 of the 1972 Act (filling of casual vacancies in case of councillors) shall have effect, in relation to a casual vacancy occurring in the office of councillor for any relevant electoral area, as if the reference in subsection (3) of that section to the day on which the councillor whose office is vacant would regularly have retired were a reference to the reorganisation date; and, for this purpose, “relevant electoral area” means a ward in the existing city of Hereford or the existing district of Leominster, Malvern Hills or South Herefordshire or an electoral division of the existing county of Hereford and Worcester.

PART IV

LOCAL GOVERNMENT REORGANISATION IN HEREFORD AND WORCESTER

Structural change

12. Subject to the following provisions of this Part and to any other relevant provision, the functions of the council of the existing county of Hereford and Worcester in relation to the area of the new district of Herefordshire (other than functions under Chapter II of Part II of the 1990 Act) shall be transferred to the council of that district.

Planning functions

13.—(1) The council of the new district of Herefordshire shall be treated as an authority to whose area Chapter I of Part II of the 1990 Act (“Chapter I”) (unitary development plans) applies, instead of Chapter II of that Part (structure and local plans).

(2) For the purposes of paragraph (1) above, the new district of Herefordshire shall be treated as if it were the area of a local planning authority in a metropolitan county and references in Chapter I to the local planning authority shall be construed accordingly.

- (3) The 1990 Act shall have effect in relation to the new district of Herefordshire as if—

- (a) in section 27 (meaning of “development plan” in Greater London and metropolitan counties), for the words “any district in Greater London or a metropolitan county (whether the whole or part of the area of a local planning authority)” there were substituted the words “the district of Herefordshire (whether the whole or part of the area of that district)”; and
- (b) section 28 (commencement of Chapter I: transitional provisions) did not apply.

(4) Until a unitary development plan becomes operative for the area of the new district of Herefordshire (or where parts of such a plan become operative on different dates until every part of such a plan has become operative)—

- (a) Part I of Schedule 2 to the 1990 Act (which provides for existing development plans to continue in force) shall apply to that area; and
- (b) Part III of that Schedule shall apply to it for the purposes of making continuing provision for the transitional matters for which provision was made immediately before the commencement of the 1990 Act by Schedule 7 to the Town and Country Planning Act 1971 (old development plans, etc)(**14**);

and Part I of Schedule 2 shall have effect in relation to the new district of Herefordshire as if the reference in paragraph 1(1) to the commencement of the 1990 Act were a reference to the coming into force of this article.

Fire services

14.—(1) In this article—

“the 1947 Act” means the Fire Services Act 1947(**15**); and

“the relevant area” means the area comprising the new county of Worcestershire and the new district of Herefordshire.

(2) On the reorganisation date, the new district of Herefordshire 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 Hereford and Worcester”, 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 Hereford and Worcester”.

(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,”.

Designated authorities

15.—(1) For the purposes of the Local Government Changes for England (Finance) Regulations 1994(**16**) and regulation 6(8) and Part III of the Local Government Changes for England (Property Transfer and Transitional Payments) Regulations 1995(**17**)—

(14) 1971 c. 78.

(15) 1947 c. 41; section 10 of this Act is amended by paragraph 2 of Schedule 3 to the Local Government Act 1992.

(16) S.I.1994/2825.

(17) S.I.1995/402.

- (a) the council of the new county of Worcestershire is specified as the designated authority in respect of the council of the existing county of Hereford and Worcester;
- (b) the council of the new district of Malvern Hills is specified as the designated authority in respect of the council of the existing district of Malvern Hills; and
- (c) the council of the new district of Herefordshire is specified as the designated authority in respect of the council of the existing district of Leominster.

(2) For the purposes of Part V of the Local Government Changes for England (Miscellaneous Provision) Regulations 1996 (miscellaneous employment matters)(**18**), the designated authority in respect of an eligible person (within the meaning of that Part) formerly employed by a local authority which is wound up and dissolved by this Order shall be—

- (a) in the case of the council of the existing county of Hereford and Worcester, the council of the new county of Worcestershire;
- (b) in the case of the council of the existing district of Malvern Hills, the council of the new district of Malvern Hills; and
- (c) in the case of the council of the existing district of Leominster, the council of the new district of Herefordshire.

Superannuation fund

16. The superannuation fund maintained by the council of the existing county of Hereford and Worcester by virtue of regulations made under section 7 of the Superannuation Act 1972 (local government superannuation)(**19**) together with all rights and liabilities in respect of the fund, shall vest in the council of the new county of Worcestershire.

Archives and other records

17.—(1) In this article, “relevant collection” means—

- (a) any collection of archives or other records of general or local interest held as such by the council of the existing county of Hereford and Worcester; or
- (b) any collection of a museum or gallery provided or maintained by that council.

(2) Any property forming part of a relevant collection and relating exclusively to the whole or any part of the area of the new district of Herefordshire, and any rights or liabilities exclusively in respect of any such property, shall vest in the council of that district.

(3) Any property forming part of a relevant collection and relating exclusively to the whole or any part of the area of the new county of Worcestershire, and any rights or liabilities exclusively in respect of any such property, shall vest in the council of that county.

Malvern Hills Conservators

18. In the Malvern Hills Act 1924(**20**), in subsection (2) of section 7 (constitution of Board of Conservators), for the words from “Two persons” (in the place where they first appear) to “Upton-upon-Severn” there shall be substituted the following:

“Two persons to be nominated by the council of the county of Worcestershire;
Two persons to be nominated by the council of the district of Herefordshire;
Eight persons to be nominated from and by the council of the district of Malvern Hills;”

(18) [S.I.1996/330](#).

(19) [1972 c. 11](#). The current regulations are in [S.I.1995/1019](#).

(20) [1924 c.xxxvi](#). On and after 1st April 1974, section 262 (local Acts and instruments) of the 1972 Act has had effect for the construction of references to councils and areas in section 7(2).

PART V

TRANSITIONAL PROVISION

Interpretation of Part

19. In this Part—

“transferor authority” means the council of the existing county of Hereford and Worcester, of the existing city of Hereford or of the existing districts of Leominster, Malvern Hills or South Herefordshire; and

“transferee authority” means the council of the new county of Worcestershire or of the new district of Herefordshire or Malvern Hills.

Shadow authorities

20. During the preliminary period, the transferee authorities—

- (a) shall not be local authorities for the purposes of the 1972 Act; and
- (b) shall be shadow authorities for the purposes of the Local Government Changes for England Regulations 1994(21);

and, in relation to those authorities, section 2(1) or, as the case may be, 2(2) of that Act shall have effect as if the words from “and the council” to the end of the subsection were omitted.

Co-operation and information

21. The transferor authorities and their officers and, during the preliminary period, those authorities and officers and the transferee authorities and their officers shall co-operate with each other, and generally exercise their functions, so as to facilitate the implementation of this Order and any other relevant provision.

Preparations for transfer of functions

22.—(1) The transferor authorities and, during the preliminary period, the transferee authorities may take such steps as appear to them 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 the transferee authorities by virtue or in consequence of this Order or any other relevant provision.

(2) During the preliminary period—

- (a) a transferor authority shall furnish a transferee authority with all such information relating to the transferor authority or its functions as the transferee authority may reasonably request for the purpose of implementing this Order or any other relevant provision; and
- (b) each transferee authority shall—
 - (i) in relation to the functions mentioned in paragraph (1) 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;
 - (ii) 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 in pursuance of arrangements made under section 101 of the 1972 Act (arrangements for discharge of functions) or under any other enactment; and

(21) [S.I.1994/867](#). See, in particular, Part 3 of the Regulations which has been amended by [S.I.1995/590](#), [1055](#) and [1748](#).

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

(3) In paragraph (2) above, the reference to the head of a council's paid service is a reference to the officer designated as such under section 4(1) of the Local Government and Housing Act 1989⁽²²⁾ and nothing in section 101 of the 1972 Act shall apply to the duty imposed by virtue of sub-paragraph (b) of that paragraph.

Activities preliminary to the exercise of functions

23. Where, during the preliminary period, a transferor authority is required by virtue of any enactment to prepare any budgets or plans, or to consult any person, for purposes connected with the exercise, on and after the reorganisation date, of any functions in relation to any part of the area of a transferee authority which, on and after that date, are exercisable by that transferee authority, the requirement in question shall, subject to any other relevant provision, cease to have effect during that period in relation to the transferor authority; and any such requirement shall instead have effect, during that period and for those purposes, in relation to the transferee authority.

Signed by authority of the Secretary of State

18th July 1996

David Curry,
Minister of State,
Department of the Environment

(22) 1989, c. 42.