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STATUTORY INSTRUMENTS

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**2018 No. 1128**

**The Local Government (Boundary Changes) Regulations 2018**

**PART 2**

**Transfer of functions to successor council, continuity and responsibility for functions exercised by a shadow authority**

**Transfer of functions to successor council**

4. On the reorganisation date, the functions of the predecessor councils shall become functions of the successor council.

**Continuity: references in enactments, etc.**

5.—(1) A provision of an enactment in which a predecessor council or its area is mentioned by name shall have effect on and after the reorganisation date, as if, for the name of that council or its area, there were substituted the name of the successor council or of the area of that council.

(2) A provision of an enactment which, immediately before the reorganisation date, applies to an area (however defined) that is affected by a section 10 order, shall on and after that date continue to apply to, but only to, the area to which it applied immediately before that date.

(3) Where a provision referred to in paragraph (2) applies as regards the whole or part of the area of a predecessor council by reason only of a resolution passed or order made by that council, the resolution or order shall have effect on and after the reorganisation date as if it had been passed or made by the successor council as regards the whole or, as the case may be, the relevant part of its area.

(4) In paragraphs (1) and (2) “enactment” includes a local and personal Act, a private Act, any statutory instrument to which the Statutory Instruments Act 1946(1) applies (whenever the Act or instrument is passed or made) and any charter or other grant under the royal prerogative (whenever granted) but does not include—

- (a) an Act of the Scottish Parliament or Northern Ireland legislation;
- (b) an order under section 7 or 10 of the 2007 Act or regulations under section 14 of that Act.

**Continuity: successor council**

6.—(1) The following provisions of this regulation have effect subject to regulation 7.

(2) Anything which, immediately before the reorganisation date, is in the process of being done by, or in relation to, a predecessor council or a shadow authority in the exercise of, or in connection with, a function that is to be exercised on and after that date by the successor council may be continued by, or in relation to, that council.

(3) Anything done by, or in relation to, a predecessor council or a shadow authority in the exercise of, or in connection with, a function that is to be exercised on and after the reorganisation date by the successor council shall have effect as if done by, or in relation to, that council.

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

- (a) any agreement, decision, declaration, designation, determination or instrument made by a predecessor council or a shadow authority;
- (b) any byelaws, orders or regulations made by such a council or authority;
- (c) any approval, authorisation, consent, dispensation, exemption, licence, permission, permit or relaxation granted by or to such a council or authority;
- (d) any certificate, direction or notice given by or to such a council or authority;
- (e) any application, objection, proposal or request made by or to such a council or authority;
- (f) any condition imposed by or on such a council or authority;
- (g) any fee paid by or to such a council or authority;
- (h) any appeal allowed by or in favour of such a council or authority; or
- (i) any proceedings instituted by or against such a council or authority.

(5) A reference in paragraph (2) or (3) to anything done by or in relation to a predecessor council or a shadow authority includes a reference to anything which, by virtue of any enactment, is treated as having been done by or in relation to that council or authority.

(6) So far as is required for giving effect to paragraphs (2) and (3), a reference in any document to a predecessor council or a shadow authority shall be construed on and after the reorganisation date as a reference to the successor council.

(7) A person appointed by a predecessor council to represent that council on any body (whether the body is public or private and whether or not the person has voting rights) (“the appointee”) shall, unless the appointee resigns or the appointment is otherwise terminated, continue to hold that appointment on and after the reorganisation date as if the appointee had been appointed by, and as a representative of, the successor council.

#### **Continuity: limitations**

7.—(1) Regulation 6 shall not be construed as continuing in force any contract of employment made by a predecessor council.

(2) Where anything done or in the process of being done by a predecessor council or shadow authority was limited to part of its area, regulation 6(2) and (3) shall have effect only as regards that part; but this does not preclude the successor council (if it has the power to do so), from taking steps to secure that the thing has effect in relation to the whole of its area.

#### **Responsibility for functions exercised by a shadow authority**

8.—(1) This regulation applies to a shadow authority whose shadow executive is appointed by, or nominated in accordance with, a section 10 order.

(2) Any function which is to be exercised by the shadow authority by virtue of these Regulations shall be the responsibility of its shadow executive notwithstanding any other enactment by virtue of which the function—

- (a) would not be the responsibility of its executive; or
- (b) may, but need not, be the responsibility of its executive.

(3) The 2000 Regulations (which make provision as to functions which are not, or need not be, the responsibility of an executive) shall have effect in relation to the exercise of functions by a shadow authority subject to the following modifications—

- (a) regulation 2 (giving effect to recommendations made in a community governance review) has effect as if paragraph (6E) were omitted;
- (b) Schedule 1 has effect as if—
  - (i) items 3, 4 and 5 of paragraph D (functions in relation to parishes and parish councils) were omitted; and
  - (ii) items 7, 8 and 9 of paragraph EB (certain functions relating to community governance) were omitted.