



# Local Government Act 1992

## 1992 CHAPTER 19

### PART II

#### LOCAL GOVERNMENT CHANGES FOR ENGLAND

##### *Implementation of recommendations*

#### **17 Implementation of recommendations by order.**

- (1) Where the Local Government Commission submit to the Secretary of State a report on a review together with its recommendations, he may, if he thinks fit, by order give effect to all or any of the recommendations, with or without modifications.
- (2) No order under this section shall be made before the end of the period of six weeks beginning with the submission of the report; and before making such an order, the Secretary of State may by a direction require the Local Government Commission to supply him with such additional information as may be described in the direction.
- (3) An order under this section may, in particular, include provision which, for the purpose of giving effect (with or without modifications) to recommendations of the Local Government Commission, makes provision with respect to—
  - (a) the area of any authority and the name of any such area;
  - (b) the name of any authority;
  - (c) the establishment of any new authority for any county or district or the winding up and dissolution of any existing authority;
  - (d) the total number of councillors of any authority, the apportionment of councillors among electoral areas, the assignment of existing councillors to new or altered electoral areas, and the first election of councillors for any new or altered electoral area;
  - (e) without prejudice to paragraph (d) above, the holding of a fresh election of councillors for all electoral areas in a local government area where substantial changes have been made to some of those areas, or the order of retirement of councillors for any electoral areas in the local government area in question;

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- [<sup>F1</sup>(ea) in the case of an order containing provision for a structural change by which the functions of district councils in relation to any area are transferred to a council for a county consisting of that area, the ordinary year of election and the order of retirement of parish councillors for any parish situated in the area]
  - (f) in the case of an order relating to the system of election of district councillors, the ordinary year of election and the order of retirement of parish councillors for any parish situated in the district;
  - (g) the constitution [<sup>F2</sup>, election and membership] of public bodies in any area affected by the order;
  - (h) 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.
- (4) The power to make an order under this section shall include power to make any such provision in relation to the other provisions of that order, or to the provisions of any previous order under this section, as is equivalent to that which may be contained in regulations under section 19 below or in an agreement under section 20 below.
- (5) Without prejudice to the preceding provisions of this section, where charter trustees have been constituted under section 246 of the 1972 Act for an area which is altered by an order under this section and subsection (8) of that section (incorporation of whole or part of trustees’ area in parish) does not apply, the order may make such provision with respect to the charter trustees as appears to the Secretary of State to be appropriate.
- [<sup>F3</sup>(6) The Secretary of State shall exercise his power to make orders under this section in relation to police areas in such a way as to ensure that none of the following areas—
- (a) a county in which there are no district councils,
  - (b) a district in any other county, and
  - (c) a London borough,
- is divided between two or more police areas; but this subsection shall not have effect so as to prevent the maintenance of any part of the boundary of the metropolitan police district as it exists [<sup>F4</sup>on 1st April 1995]].

**Textual Amendments**

**F1** S. 17(3)(ea) inserted (19.5.1997) by 1997 c. 29, ss. 20(1), 34(2) (with s. 25)

**F2** Words in s. 17(3)(g) substituted (1.10.1994) by 1994 c. 29, s. 39(4); S.I. 1994/2025, art. 5(1)(f)

**F3** S. 17(6) added (1.10.1994) by 1994 c. 29, s. 39(5); S.I. 1994/2025, art. 5(1)(f)

**F4** Words in s. 17(6) substituted (22.8.1996) by 1994 c. 16, ss. 103, 104(1), Sch. 7 Pt. II para. 44

**18 Consequences of structural changes etc.**

- (1) Where an order under section 17 above gives effect to any structural change by which the functions of district councils in relation to any area are transferred to a council for a county consisting of that area, then the county council—
- (a) shall, for any financial year beginning at the same time as or after the coming into force of the change, be a billing authority for the purposes of Part I of the <sup>M1</sup>Local Government Finance Act 1992 in relation to their area; and
  - (b) shall not, for any such year, be a major precepting authority for those purposes.

<sup>F5</sup>(2) .....

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- (3) An order under section 17 above which contains provision for a structural change—
- (a) shall provide that, subject to any combination scheme under the <sup>M2</sup>Fire Services Act 1947, any district the council for which are, under the order, to have the functions of a county council in relation to that district is to become the area of a fire authority for the purposes of that Act; and
  - (b) may provide, for the purposes of the making of any combination scheme under that Act, that the area of any district in relation to which the council of any county affected by the order are to have any functions is to be treated as an area that would become the area of a fire authority by virtue of the order.
- (4) It shall be the duty of the Secretary of State to have regard to any recommendations made by the Local Government Commission by virtue of section 14(5)(c) above in determining whether and how to exercise—
- <sup>F5</sup>(a) .....
  - (b) his powers under the <sup>M3</sup>Fire Services Act 1947 to approve or make a combination scheme,
- in relation to any areas which have been or are to be affected by any order under section 17 above, or in relation to any such area and other areas.
- (5) This section shall be without prejudice to the power to make any provision by order under this Part or to any power to make incidental, consequential, transitional or supplementary provision in connection with the provisions of any such order.

**Textual Amendments**

**F5** S. 18(2)(4)(a) repealed (1.10.1994) by 1994 c. 29, s. 39(6); S.I. 1994/2025, art. 5(1)(f)

**Marginal Citations**

**M1** 1992 c. 14.

**M2** 1947 c. 41.

**M3** 1947 c. 41.

**19 Regulations for supplementing orders.**

- (1) The Secretary of State may by regulations of general application make such incidental, consequential, transitional or supplementary provision as he thinks necessary or expedient for the purposes or in consequence of any orders under section 17 above, or for giving full effect to orders under that section.
- (2) Regulations under this section may, in particular, include provision of general application with respect to—
- (a) the transfer of functions, property, rights or liabilities from a local authority [<sup>F6</sup>or police authority]for any area to another local authority [<sup>F6</sup>or police authority]whose area consists of or includes the whole or any part of that area;
  - (b) 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 22 below;
  - (c) the management or custody of transferred property (whether real or personal);
  - (d) the functions or areas of jurisdiction of any public body or of any of the following persons—

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- (i) any justice of the peace, stipendiary magistrate, coroner or keeper of the rolls for a commission area (within the meaning of [F7 the Justices of the Peace Act 1997]);
  - (ii) any lord-lieutenant, lieutenant or high sheriff;
  - (iii) any other officers (including police officers) within the area of any local authority affected by any such order,
- and the costs and expenses of such public bodies and persons.
- (3) In their application in relation to any order under section 17 above, regulations under this section shall have effect subject to any provision made under that section.
- (4) Any regulations under section 67 of the 1972 Act (regulations in connection with implementation of proposals under Part IV of that Act) which are in force at the commencement of this section shall have effect, without prejudice to their operation in relation to any order made under that Part after the commencement of this section (whether by virtue of section 24(3) below or otherwise) and subject to any regulations under this section, as if orders under section 17 above were orders under that Part.

#### Textual Amendments

- F6** Words in s. 19(2)(a) inserted (1.10.1994) by 1994 c. 29, s. 39(7); S.I. 1994/2025, art. 5(1)(f)
- F7** Words in s. 19(2)(d)(i) substituted (19.6.1997) by 1997 c. 25, ss. 73(2), 74(1), Sch. 5 para. 31 (with Sch. 4 para. 27)

## 20 Agreements as to incidental matters.

- (1) Any public bodies affected by an order under this Part may from time to time make agreements with respect to any property, income, rights, liabilities and expenses (so far as affected by the order) of, and any financial relations between, the parties to the agreement.
- (2) Such an agreement may 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 either party to the agreement in respect of property, rights and liabilities so transferred or retained, or of such joint use, and in respect of the remuneration or compensation payable to any person; and
  - (c) for the making of any such payment either by way of a capital sum or of a terminable annuity.
- (3) In default of agreement as to any disputed matter, the matter shall 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;
- and the award of the arbitrator may make any provision that might be contained in an agreement under this section.
- (4) In subsection (3) above “disputed matter” means any matter which—
- (a) might be the subject of provision contained in an agreement under this section;
- and

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- (b) is the subject of such a dispute between two or more public bodies as is not resolved by or under provision contained in any order or regulations under this Part.

**Modifications etc. (not altering text)**

**C1** S. 20 extended (19.5.1997) by 1997 c. 29, ss. 23(9), 34(2) (with s. 25)

## **21 Joint authorities.**

- (1) This section applies to any functions which are to be or have become functions of any authority as a result of any structural or boundary change if the Secretary of State considers, having regard to any recommendations to that effect made by the Local Government Commission by virtue of section 14(5)(c) above, that they should be carried out in accordance with joint arrangements.
- (2) Where it appears to the Secretary of State that joint arrangements, or satisfactory joint arrangements, with respect to any functions to which this section applies—
  - (a) have not been made by the authorities in whom those functions are to be or have been vested;
  - (b) will not be in force when the structural or boundary change in question comes into force; or
  - (c) have ceased or will cease to be in operation,he may, for the areas of those authorities, by order establish a joint authority, which may be a body corporate, to carry out those functions, from a date specified in the order until such joint arrangements as appear to him to be satisfactory are brought into force.
- (3) An order under this section may make provision for enabling the Secretary of State to require the joint authority to submit to him a scheme for the winding up of the joint authority and for the transfer—
  - (a) to any of the authorities for whose areas the joint authority is established; or
  - (b) to any body established in pursuance of any joint arrangements made by or in relation to those authorities,of any of the joint authority's property, rights and liabilities or of any functions which it carries out.
- (4) The Secretary of State may by order provide—
  - (a) for excluding any functions, or any functions in any area, from those falling to be carried out by a joint authority; and
  - (b) for giving effect (with or without modifications) to any scheme submitted to him under a provision made by virtue of subsection (3) above and for the dissolution of a joint authority.
- (5) The power to make an order under any of the preceding provisions of this section shall include power to make such incidental, consequential, transitional or supplementary provision as the Secretary of State thinks necessary or expedient, including provision for the transfer of property, rights and liabilities.

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## 22 Residuary bodies.

- (1) The Secretary of State may by order establish one or more bodies (“residuary bodies”), which shall be bodies corporate, 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 17 above.
- (2) An order under subsection (1) above 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;
  - (e) make provision for 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; and
  - (f) without prejudice to the generality of paragraphs (a) to (e) above, make any such provision with respect to a residuary body as was made by Part VII of the <sup>M4</sup>Local Government Act 1985 with respect to the residuary bodies established by that Part.
- (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) above and for the dissolution of a residuary body.
- (4) The power to make an order under any of the preceding provisions of this section shall include power to make such incidental, consequential, transitional or supplementary provision as the Secretary of State thinks necessary or expedient.

### Marginal Citations

M4 1985 c. 51.

## 23 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 Part and for the transfer, in consequence of the provisions of any such order, of staff employed by such authorities;

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- (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;
- and such a commission may be established either for the whole or for any part of England.
- (2) The Secretary of State may give directions to a staff commission as to their procedure and to any relevant authority affected by an order under this Part with respect to—
    - (a) the supply of any information requested and the implementation of any advice given by a staff commission; and
    - (b) the payment by such an authority of any expenses incurred by a staff commission in doing anything requested by the authority.
  - (3) 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.
  - (4) The Secretary of State may by order provide for the winding up of any staff commission established under this section.
  - (5) In this section “relevant authority” means a local authority or a joint authority or residuary body established under section 21 or 22 above.

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