
STATUTORY INSTRUMENTS

1995 No. 1770

LOCAL GOVERNMENT, ENGLAND AND WALES

**The East Sussex (Boroughs of Brighton
and Hove) (Structural Change) Order 1995**

Made - - - - 11th July 1995

Coming into force

*For the purposes of articles
3, 6, and 8(1), (3) and (4)
and 11 to 19*

12th July 1995

For all other purposes

1st April 1997

Whereas the Local Government Commission for England, acting pursuant to section 15(4) of the Local Government Act 1992⁽¹⁾, has submitted to the Secretary of State a report on its review of the county of East Sussex together with its recommendations:

And whereas the Secretary of State has decided to give effect, with modifications, to the recommendations in respect to the boroughs of Brighton and Hove⁽²⁾:

Now, therefore, the Secretary of State, in exercise of the powers conferred on him by sections 17(3), 18(3)(a) and 26 of the Local Government Act 1992, and of all other powers enabling him in that behalf, hereby makes the following Order, a draft of which has been laid before, and approved by a resolution of, each House of Parliament:

PART I

GENERAL

Citation and commencement

1. This Order may be cited as the East Sussex (Boroughs of Brighton and Hove) (Structural Change) Order 1995 and shall come into force for the purposes of articles 3, 6, 8(1), (3) and (4), and 11 to 19 on the day after the day on which it is made, and for all other purposes on 1st April 1997.

(1) 1992 c. 19.

(2) Section 245 of the 1972 Act enables district councils to petition Her Majesty for the grant of borough status. The non-metropolitan districts of Brighton and Hove have been granted that status.

(3) As amended by sub-sections 39(4) and (5) of the Police and Magistrates' Courts Act 1994 c. 29.

Interpretation

2. In this Order—

“the Act” means the Local Government Act 1992;

“the 1972 Act” means the Local Government Act 1972(4);

“Brighton” means the borough of Brighton and “the Brighton Council” means the council of that borough;

“East Sussex” means the non-metropolitan county of East Sussex and “the County Council” means the council of that county;

“East Sussex district” means a district in East Sussex;

“Hove” means the borough of Hove and “the Hove Council” means the council of that borough;

“the preliminary period” means the period beginning with the relevant date and ending immediately before the reorganisation date;

“the relevant date” means 6th May 1996;

“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 1997; and

“subordinate legislation” has the same meaning as in section 21 of the Interpretation Act 1978(5).

PART II

LOCAL GOVERNMENT REORGANISATION IN BRIGHTON AND HOVE

Constitution of new district of Brighton and Hove

3.—(1) A new district of Brighton and Hove (“the Brighton and Hove district”) shall be constituted and shall comprise the areas of the East Sussex districts of Brighton and Hove.

(2) Subject to article 16, there shall be a new non-metropolitan district council for that district (“the Brighton and Hove Council”).

Structural change

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

Constitution of new county of Brighton and Hove

5.—(1) Brighton and Hove shall cease to form part of East Sussex.

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

(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 Brighton and Hove.

(4) 1972 c. 70.

(5) 1978 c. 30.

Sussex Police Authority

- 6.—(1) In this article, “the 1964 Act” means the Police Act 1964⁽⁶⁾.
- (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”)⁽⁷⁾ shall have effect as from 1st October 1996 as if articles 5 and 10 were in force on that date; and
 - (b) accordingly, the appointments which are required to be made to the Sussex Police Authority (as established under section 3 of the 1964 Act) (“the Authority”)⁽⁸⁾ 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 Councils of West Sussex and East Sussex and the Brighton and Hove 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)⁽⁹⁾, and
 - (ii) functions under sections 4A (local policing objectives) and 4B (local policing plans) of the 1964 Act⁽¹⁰⁾.
- (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 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 Brighton or Hove⁽¹¹⁾; 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)

⁽⁶⁾ 1964 c. 48.

⁽⁷⁾ Schedule 1B was inserted by section 3(2) of, and Schedule 2 to, the Police and Magistrates' Courts Act 1994 (c. 29.) (“the 1994 Act”).

⁽⁸⁾ Section 3 was substituted by section 2 of the 1994 Act.

⁽⁹⁾ 1992 c. 14; section 39 of that Act was amended by section 27(1) of the 1994 Act.

⁽¹⁰⁾ Sections 4A and 4B were inserted by section 4 of the 1994 Act.

⁽¹¹⁾ See article 14(2) of this Order.

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

7. Schedule 1A to the Police Act 1964⁽¹²⁾ shall be amended by inserting after the words “The counties of East Sussex and West Sussex” in the right-hand column opposite the name of the Sussex police area the words “and the non-metropolitan district of Brighton and Hove”.

Fire services

8.—(1) In this article—

“the 1947 Act” means the Fire Services Act 1947⁽¹³⁾; and

“the relevant area” means the area comprising East Sussex (as constituted on and after the reorganisation date), Brighton and Hove.

(2) The area of the Brighton and Hove district 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 East Sussex”; 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 East Sussex”.

(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,”.

Planning functions

9.—(1) The structure plan applying immediately before the reorganisation date to East Sussex and any proposals prepared before that date for the alteration or replacement of any such plan shall be treated as if they had been prepared jointly by the County Council and the Brighton and Hove Council; and section 50 of the Town and Country Planning Act 1990⁽¹⁴⁾ (“the 1990 Act”) shall apply accordingly.

(2) In relation to the Brighton and Hove 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

⁽¹²⁾ Schedule 1A was inserted by Schedule 1 to the 1994 Act.

⁽¹³⁾ 1947 c. 41; section 10 of this Act is amended by paragraph 2 of Schedule 3 to the Local Government Act 1992.

⁽¹⁴⁾ 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.

(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.”.

Existing local government areas

10.—(1) The existing East Sussex districts of Brighton and Hove shall be abolished.

(2) Brighton Council and Hove Council shall be wound up and dissolved.

PART III

ELECTORAL ARRANGEMENTS

Electoral areas in Brighton and Hove

11.—(1) The district of Brighton and Hove shall be divided into 26 wards and each ward shall be represented by 3 councillors.

(2) Those wards shall comprise the areas and bear the names of the wards described in the Borough of Brighton (Electoral Arrangements) Order 1980(**15**) and the Borough of Hove (Electoral Arrangements) Order 1978(**16**).

Elections of councillors to the Brighton and Hove Council

12.—(1) Elections of all councillors of the Brighton and Hove Council shall be held simultaneously on the ordinary day of election of councillors in 1996, 1999 and every fourth year after 1999(**17**); and the term of office of any councillor so elected shall be, in the case of a councillor elected in 1996, three years and, in any other case, four years.

(2) On the fourth day after such an election held after 1996—

- (a) the persons who were councillors immediately before the election shall retire; and
- (b) the newly elected councillors shall come into office.

First elections

13.—(1) At the ordinary election in 1996 of councillors of the Brighton and Hove Council, the returning officer shall be the returning officer appointed under section 35 of the Representation of the People Act 1983(**18**) by Brighton Council.

(2) All expenditure properly incurred by the returning officer in relation to the holding of this election shall be paid by the councils of Brighton and Hove in such proportions as may be agreed between them or, failing such agreement, as may be determined by the Secretary of State, and paragraph 2(2) of the Schedule to the Local Government Changes for England Regulations 1994(**19**) shall not apply in relation to this election.

(15) [S.I. 1980/196](#).

(16) [S.I. 1978/753](#).

(17) 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.).

(18) [1983 c. 2](#).

(19) [S.I. 1994/867](#), as amended by the Local Government Changes for England Regulations ([S.I. 1995/590](#)) and the Local Government Changes for England (No. 2) Regulations 1995 ([S.I. 1995/1055](#)). Paragraph 2(2) of the Schedule makes provision as to election expenses.

Suspension of elections and retirement of councillors

14.—(1) The ordinary election of councillors in 1996 for any ward in Brighton shall not take place; and any councillor for such a ward 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) The electoral divisions of East Sussex comprised in Brighton and Hove shall cease to be electoral divisions on the reorganisation date; and any person holding office, immediately before that date, as a councillor for such a division shall retire on that date⁽²⁰⁾.

(3) Section 89 of the 1972 Act (filling of casual vacancies in case of councillors) shall have effect—

- (a) in the case of a casual vacancy occurring in the office of councillor of Brighton Council or Hove Council after the relevant date, 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
- (b) in the case of a casual vacancy occurring in the office of councillor for any electoral division referred to in paragraph (2) above, as if that reference in that subsection were a reference to the reorganisation date.

PART IV

TRANSITIONAL PROVISION

Interpretation of Part

15. In this Part—

“transferor authority” means the County Council, the Brighton Council or the Hove Council; and

“transferee authority” means the Brighton and Hove Council.

Shadow authorities

16. During the preliminary period—

- (a) the transferee authority shall not be a local authority for the purposes of the 1972 Act and, in relation to that council, section 2(2) of that Act shall have effect as if the words from “and the council” to the end of that subsection were omitted; and
- (b) the transferee authority shall be a shadow authority for the purposes of the Local Government Changes for England Regulations 1994⁽²¹⁾.

Co-operation

17. The transferor authorities and their officers and, during the preliminary period, those authorities and officers and the transferee authority and its 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.

⁽²⁰⁾ The electoral divisions of the county of East Sussex are constituted by the County of East Sussex (Electoral Arrangements) Order 1982 (S.I. 1982/535).

⁽²¹⁾ S.I. 1994/867, as amended by the Local Government Changes for England Regulations 1995 (S.I. 1995/590) and the Local Government Changes for England (No. 2) Regulations 1995 (S.I. 1995/1055); see in particular Part 3 of the 1994 Regulations.

Preparations for transfer of functions

18.—(1) The transferor authorities and, during the preliminary period, the transferee authority, 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 authority by virtue or in consequence of this Order or any other relevant provision.

(2) During the preliminary period—

(a) the transferor authorities shall furnish the transferee authority with all such information relating to the transferor authorities or their functions as the transferee authority may reasonably request for the purpose of implementing this Order or any other relevant provision; and

(b) the 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

(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

19. 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 the transferee authority, which, on and after that date, are exercisable by the transferee authority, the requirement in question shall, subject to any other relevant provision, cease to have effect during that period in relation to that 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

11th July 1995

David Curry
Minister of State,
Department of the Environment

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

EXPLANATORY NOTE

(This note is not part of the Order)

This Order gives effect to recommendations made by the Local Government Commission for England in respect of the county of East Sussex (“East Sussex”).

Article 3 provides for the constitution of a new district of Brighton and Hove (“Brighton and Hove”) comprising the areas of the existing districts of Brighton and Hove and establishes a new district council for that area.

Article 4 effects the structural change by providing for the transfer, on 1st April 1997, of the functions of the East Sussex County Council in relation to the districts of Brighton and Hove to the council of Brighton and Hove.

Article 5 provides for the districts of Brighton and Hove to cease to form part of East Sussex on 1st April 1997 and for a new county of Brighton and Hove to be constituted on that date (but without a county council).

Articles 6 and 7 make provision in respect of the Sussex police authority.

Article 8 makes provision for the purposes of subordinate legislation to be made under the Fire Services Act 1947 in respect of fire services in Brighton and Hove.

Article 9 makes provision in relation to the East Sussex structure plan and to enable the local plan prepared by the new council of Brighton and Hove under the Town and Country Planning Act 1990 to contain minerals and waste policies.

Article 10 provides for the abolition of the districts of Brighton and Hove and for the winding up of the councils for those districts.

Article 11 makes provision in respect of electoral areas for Brighton and Hove.

Article 12 provides for whole council elections to the new council of Brighton and Hove in 1996, 1999 and every four years after that year.

Article 13 makes provision in respect of returning officers and election expenses for the first elections in 1996.

Article 14 provides for the retirement, on 1st April 1997, of existing county councillors elected for county divisions included in Brighton and Hove and for casual vacancies in the office of a councillor who, by virtue of the Order, would retire before the day they would regularly have retired.

Article 16 provides that the new council of Brighton and Hove established by the Order shall be a “shadow authority” for the purposes of the Local Government changes for England Regulations.

Articles 17 to 19 make provision with respect to preparations for implementation of the reorganisation affecting Brighton and Hove.