
STATUTORY INSTRUMENTS

1995 No. 187

The Cleveland (Structural Change) Order 1995

PART I
GENERAL

Citation and commencement

1.—(1) This Order may be cited as the Cleveland (Structural Change) Order 1995 and shall come into force for the purposes of articles 4(2) and (3), 5 and 10 to 13 on the day after the day on which it is made and for all other purposes on 1st April 1996.

Interpretation

2. In this Order—

“the Act” means the Local Government Act 1992;

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

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

“Cleveland borough” means a borough in Cleveland and “Cleveland borough council” means a council of such a borough(2);

“the Middlesbrough Council” means the council of the borough of Middlesbrough;

“the preliminary period” means the period beginning with 8th May 1995 and ending immediately before the reorganisation date;

“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 1996; and

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

(1) 1972 c. 70.

(2) By virtue of section 245 of the 1972 Act, district councils are able to petition Her Majesty for the grant of borough status. All the district councils in Cleveland have been granted that status.

(3) 1978 c. 30.

PART II

LOCAL GOVERNMENT REORGANISATION IN CLEVELAND

Structural changes

3.—(1) The County Council shall be wound up and dissolved and the functions of that council in relation to each Cleveland borough shall, subject to the following provisions of this Part and to any other relevant provision, be transferred to the council of that borough.

(2) The Schedule to this Order shall have effect in relation to the discharge of functions in the North York Moors National Park which are transferred by paragraph (1) above to the council of the borough which, by virtue of article 9, is named the borough of Redcar and Cleveland.

Fire services

4.—(1) Each Cleveland borough shall, subject to any combination scheme under the Fire Services Act 1947 (“the 1947 Act”)(4), become the area of a fire authority for the purposes of that Act.

(2) For the purposes of the making of a combination scheme with respect to Cleveland 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 Cleveland, 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 Cleveland”; 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 Cleveland”.

(3) Section 10 of the 1947 Act shall have effect, in relation to Cleveland, 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 areas constituted by the scheme and the performance by that authority of any functions necessary for bringing the scheme into full operation on that date,”.

Cleveland Police Authority

5.—(1) In this article, “the 1964 Act” means the Police Act 1964(5).

(2) For the purposes of the functions to which this article applies—

- (a) paragraph 27(1) of Schedule 1B to the 1964 Act (meaning of “relevant council”)(6) shall have effect as though the County Council was wound up and dissolved on 1st October 1995; and
- (b) accordingly, the appointments which are required to be made 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 Cleveland borough councils (as relevant councils) in accordance with that provision.

(3) The functions to which this article applies are—

- (a) after the reorganisation date, all the functions of the Cleveland Police Authority (as established under section 3 of the 1964 Act) (“the Authority”)(7); and

(4) 1947 c. 41; section 10 of this Act is amended by paragraph 2 of Schedule 3 to the Local Government Act 1992.

(5) 1964 c. 48.

(6) 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”).

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

- (b) before that date (but after appointments to the Authority have been made by virtue of paragraph (2) above), the following functions in respect of the financial year beginning on 1st April 1996—
 - (i) functions under Chapter IV of Part I of the Local Government Finance Act 1992 (precepts)(**8**); and
 - (ii) functions under sections 4A (local policing objectives) and 4B (localpolicing plans) of the 1964 Act(**9**).
- (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 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.

Planning functions

6.—(1) The structure plan prepared by the County Council and any proposals prepared by that council for the alteration or replacement of that plan shall be treated as if they had been prepared by the Cleveland borough councils jointly and section 50 of the Town and Country Planning Act 1990(**10**) (“the 1990 Act”) shall apply accordingly.

(2) In relation to a Cleveland borough 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.”.

Designated authority

7. The Middlesbrough Council is specified as the designated authority for the purposes of the Local Government Changes for England (Finance) Regulations 1994(**11**).

(**8**) 1992 c. 14; section 39 of that Act was amended by section 27(1) of the 1994 Act.

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

(**10**) 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.

(**11**) S.I. 1994/2825.

Superannuation fund

8. The superannuation fund maintained by the County Council by virtue of regulations made under section 7 of the Superannuation Act 1972 (local government superannuation)(**12**), together with all rights and liabilities in respect of the fund, shall vest in the Middlesbrough Council.

Change of name of Langbaurgh-on-Tees

9. The borough of Langbaurgh-on-Tees shall be named the borough of Redcar and Cleveland.

PART III

PROVISIONS FOR IMPLEMENTATION OF ORDER

Co-operation and information

10.—(1) The relevant 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.

(2) The County Council shall furnish any other relevant authority with all such information relating to the County Council or its functions as that authority may reasonably request for the purpose of implementing this Order or any other relevant provision.

(3) In this article, “relevant authority” means the County Council, a Cleveland borough council and any other body to which functions of the County Council will be transferred by virtue of any relevant provision.

Preparations for transfer of functions

11.—(1) Subject to paragraph (2) below, the Cleveland borough councils 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 them by virtue of this Order or any other relevant provision.

(2) During the preliminary period, each Cleveland borough council—

- (a) shall, 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;
- (b) shall, at a meeting of the council, consider a report by the head of their paid service as to whether any such functions could with advantage be discharged by one of the Cleveland borough councils, or jointly by two or more of those councils, in pursuance of arrangements made under section 101 of the 1972 Act (arrangements for discharge of functions) or under any other enactment; and
- (c) 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(**13**); and nothing in section 101 of the 1972 Act shall apply to the duty imposed by virtue of sub-paragraph (b) of that paragraph.

(12) 1972 c. 11. The current regulations are in S.I. 1986/24.

(13) 1989 c. 42.

Activities preliminary to the exercise of functions

12. Any enactment by virtue of which the County Council is required, during the preliminary period, 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 of the functions transferred by article 3 shall, subject to any other relevant provision, cease to have effect in relation to that council; and any such enactment shall instead have effect, during that period and for those purposes, in relation to the Cleveland borough councils.

PART IV

ELECTORAL MATTERS

Elections in Hartlepool

13. The Borough of Hartlepool (Electoral Arrangements) Order 1975(14) shall be amended by the substitution of the following article for article 9—

“9.—(1) The whole number of councillors shall be elected at the ordinary elections of councillors in 1995.

(2) The councillors holding office for any ward in the borough immediately before 8th May 1995 shall retire on that date and the newly elected councillors for any such ward shall come into office on that date.

(3) Of the councillors elected at the ordinary election of councillors in 1995 for any ward of the borough, other than Elwick or Greatham—

(a) one shall retire in 1996 being, subject to paragraphs (4) and (5) below, the councillor elected by the smallest number of votes;

(b) one shall retire in 1998 being, subject as aforesaid, the councillor elected by the next smallest number of votes; and

(c) the remaining councillor shall retire in 1999.

(4) In the case of an equality of votes between any persons elected which makes it uncertain which of them is to retire in any such year, the person to retire in that year shall be determined by lot.

(5) If an election of councillors for any ward is not contested, the person to retire in each such year shall be determined by lot.

(6) Where under this article any question is to be determined by lot, the lot shall be drawn at the next practicable meeting of the council after 8th May 1995, and the drawing shall be conducted under the direction of the person presiding at the meeting.

(7) The councillor elected at the ordinary election of councillors in 1995 for the Elwick ward of the borough shall retire in 1998.

(8) The councillor elected at that election for the Greatham ward of the borough shall retire in 1999.

(9) Except as otherwise provided in the foregoing paragraphs of this article, the term of office of councillors shall be four years and all councillors shall retire on the fourth day after the ordinary day of election of councillors of the borough in the year of retirement, and the newly elected councillors shall come into office on the day on which their predecessors retire.”.

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

Signed by authority of the Secretary of State

30th January 1995

David Curry
Minister of State,
Department of the Environment