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STATUTORY INSTRUMENTS

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**1995 No. 493**

**The Avon (Structural Change) Order 1995**

**PART I**  
**GENERAL**

**Citation and commencement**

1. This Order may be cited as the Avon (Structural Change) Order 1995 and shall come into force for the purposes of articles 3, 8 to 10, 12, 14(2) and (3), and 18 to 21 inclusive 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);

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

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

“Avon district” means a district in Avon and “Avon district council” means a council of such a district;

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

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

“the 1994 Regulations” means the Local Government Changes for England Regulations 1994(3);

“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;

“subordinate legislation” has the same meaning as in section 21 of the Interpretation Act 1978(4)

“the transferee authorities” means Bath and North East Somerset District Council, the City of Bristol Council, North West Somerset District Council and South Gloucestershire District Council and

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(1) 1972 c. 70, as amended.

(2) 1990 c. 8.

(3) S.I. 1994/867.

(4) 1978 c. 30.

“the transferor authorities” means Avon County Council, Bath City Council, Kingswood Borough Council, Northavon District Council and Wansdyke District Council.

## PART II

### NEW AND CONTINUING DISTRICTS

#### **Constitution of new districts of Bath and North East Somerset and South Gloucestershire**

3.—(1) A new district of Bath and North East Somerset shall be constituted and shall comprise the areas of the existing Avon districts of Bath and Wansdyke.

(2) A new district of South Gloucestershire shall be constituted and shall comprise the areas of the existing Avon districts of Kingswood and Northavon.

(3) Subject to article 18, there shall be new non-metropolitan district councils for Bath and North East Somerset, and South Gloucestershire, which shall be the transferee authorities for those new district areas.

#### **District of North West Somerset**

4.—(1) The existing Avon district of Woodspring shall be renamed North West Somerset.

(2) The existing Woodspring District Council shall be renamed the North West Somerset District Council.

#### **Existing local government areas**

5.—(1) The existing county of Avon and the existing Avon districts of Bath, Wansdyke, Kingswood and Northavon shall be abolished.

(2) The County Council, Bath City Council, Kingswood Borough Council, Northavon District Council and Wansdyke District Council shall be wound up and dissolved.

## PART III

### NEW COUNTIES

#### **Constitution of new counties**

6.—(1) New counties of North West Somerset, Bath and North East Somerset, South Gloucestershire and the City of Bristol shall be constituted and shall comprise the district areas of North West Somerset, Bath and North East Somerset, South Gloucestershire and the City of Bristol respectively.

(2) Section 2(1) of the 1972 Act (which provides that every county shall have a council) shall not apply in relation to the counties of North West Somerset, Bath and North East Somerset, South Gloucestershire and the City of Bristol.

#### **The Shrievalty**

7.—(1) The office of the High Sheriff of Avon shall cease to exist.

(2) The person holding that office immediately before the reorganisation date shall become the first High Sheriff of the county of the City of Bristol.

## PART IV

### ELECTORAL ARRANGEMENTS

#### **Elections for the City of Bristol**

**8.** For article 9 of the City of Bristol (Electoral Arrangements) Order 1980(5) there shall be substituted:

“**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 of the city 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) The order of retirement of the councillors elected in 1995 shall be as set out in the Table in Schedule 2 to this Order, except that in the first column, “1997” shall be substituted for “1984”, in the second column, “1998” shall be substituted for “1986” and in the third column “1999” shall be substituted for “1987”.

(4) Of the councillors elected in 1995 for any ward of the city, the first to retire in that ward shall be, subject to paragraphs (5) and (6) below, the councillor elected by the smaller number of votes.

(5) 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.

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

(7) 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 the question has arisen, and the drawing shall be conducted under the direction of the person presiding at the meeting.

(8) The term of office of councillors elected in 1997 shall be three years.

(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 for the city in the year of retirement and the newly elected councillors shall come into office on the day on which their predecessors retire.”

#### **Elections in Bath and North East Somerset and South Gloucestershire**

**9.**—(1) The ordinary election of councillors of the district councils of Bath and North East Somerset and South Gloucestershire shall be held in 1995 and in every fourth year thereafter.

(2) Bath and North East Somerset shall be represented by 65 councillors and divided into 36 wards, as set out in Schedule 1 to this Order.

(3) South Gloucestershire shall be represented by 70 councillors and divided into 38 wards, as set out in Schedule 2 to this Order.

(4) The term of office of such councillors shall be four years and all councillors shall retire on the fourth day after the day of the ordinary election of councillors in the year of retirement, and the newly elected councillors shall come into office on the day on which their predecessors retire.

(5) At the ordinary election in 1995—

- (a) the returning officer for the election to Bath and North East Somerset District Council shall be the returning officer appointed by Wansdyke District Council for the existing district of Wansdyke; and
- (b) the returning officer for the election to South Gloucestershire District Council shall be the returning officer appointed by Northavon District Council for the existing district of Northavon.

(6) Section 36(4) of the Representation of the People Act 1983 (“the 1983 Act”)(6) (payment of election expenses) shall not apply to that election.

(7) All expenditure properly incurred by the returning officer in relation to the holding of the election to Bath and North East Somerset District Council shall be paid by the councils of the districts of Bath and Wansdyke in such proportions as may be agreed between them or, failing such agreement, as may be determined by the Secretary of State.

(8) All expenditure properly incurred by the returning officer in relation to the holding of the election to South Gloucestershire District Council shall be paid by the councils of the districts of Kingswood and Northavon in such proportions as may be agreed between them or, failing such agreement, as may be determined by the Secretary of State.

(9) In relation to those elections, “the appropriate officer”, in Parts II and III of the 1983 Act does not have the meaning given by section 67(7) of that Act but means the returning officer for that election.

### **Suspension of elections and retirement of councillors**

**10.**—(1) The ordinary election of councillors in 1995 to the transferor authorities shall be cancelled.

(2) Any councillor of a transferor authority holding office immediately before 8th May 1995 who would, but for the provisions of this Order, have retired on that date shall, unless he resigns his office or it otherwise becomes vacant, continue to hold office until the reorganisation date.

(3) Where a vacancy for a councillor of a transferor authority occurs within the six months before the reorganisation date, an election shall not be held unless on the occurrence of the vacancy (or in the case of a number of simultaneous vacancies, the occurrence of the vacancies) the total number of unfilled vacancies in the membership of the transferor authority exceeds one third of the whole number of members.

## **PART V**

### **LOCAL GOVERNMENT REORGANISATION IN AVON**

#### **Structural change**

**11.** The functions of the County Council in relation to each Avon district shall, subject to the following provisions of this Part and to any other relevant provision, be transferred to the transferee authority for that district.

#### **Avon and Somerset police authority**

**12.**—(1) In this article, “the 1964 Act” means the Police Act 1964(7).

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

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(6) 1983 c. 2.

(7) 1964 c. 48.

- (a) paragraph 27(1) of Schedule 1B to the 1964 Act (meaning of “relevant council”)(**8**) shall have effect as though articles 5 and 6 were in force on 1st October 1995, and
  - (b) accordingly, the appointments which are required to be made to the Avon and Somerset Police Authority (as established under section 3 of the 1964 Act) (“the Authority”)(**9**) 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 transferee authorities and Somerset County 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 1995), the following functions of the Authority 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)(**10**); and
    - (ii) functions under sections 4A (local policing objectives) and 4B (local policing plans) of the 1964 Act(**11**).
- (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) 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.
- (6) In determining the period of a term of years for the purposes 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 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**

**13.** Schedule 1A to the Police Act 1964(**12**) shall be amended by substituting for the words “The counties of Avon and Somerset” in the right-hand column opposite the name of the Avon and Somerset police area the words “The county of Somerset and the non-metropolitan districts of Bath and North East Somerset, Bristol, North West Somerset and South Gloucestershire”.

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(**8**) 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”).

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

(**10**) 1992 c. 14; section 39 of that Act was amended by section 27(1) of the 1994 Act.

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

(**12**) 1964 c. 48.; Schedule 1A was inserted by Schedule 1 to the Police and Magistrates' Courts Act 1994 (c. 29.).

## Fire Services

**14.**—(1) The area of each transferee authority shall, subject to any combination scheme under the Fire Services Act 1947 (“the 1947 Act”)(**13**), 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 the areas of the transferee authorities 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 the transferee authorities, 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 Avon”; 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 Avon”.

(3) Section 10 of the 1947 Act shall have effect, in relation to the transferee authorities, 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

**15.**—(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 transferee authorities jointly and section 50 of the 1990 Act(**14**) shall apply accordingly.

(2) In relation to a transferee authority—

- (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.”

## Superannuation fund

**16.** The superannuation fund maintained by the County Council under the Local Government Superannuation Regulations 1986(**15**) together with all rights and liabilities in respect of the fund shall vest in the council of the district of Bath and North East Somerset.

## Designated authority

**17.** The council of the City of Bristol is specified as the designated authority for the purposes of the Local Government Changes for England (Finance) Regulations 1994(**16**).

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

(14) Section 50 was amended and sections 36 to 38 substituted by Schedule 4 to the Planning and Compensation Act 1991 (c. 34.).

(15) S.I. 1986/24; relevant amending instruments are S.I. 1986/380 and 1987/293.

(16) S.I. 1994/2825.

## PART VI

### TRANSITIONAL AND CONSEQUENTIAL PROVISION

#### Shadow authorities

**18.** During the preliminary period—

- (a) The Bath and North East Somerset District Council and the South Gloucestershire District Council shall not be local authorities for the purposes of the 1972 Act, and 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) those councils shall be shadow authorities for the purposes of the 1994 Regulations<sup>(17)</sup>.

#### Co-operation and information

**19.**—(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 transferor authorities shall furnish any other relevant authority with all such information relating to the transferor authorities or their 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 a transferor authority, a transferee authority and any other body to which functions of a transferor authority will be transferred by virtue of any relevant provision.

#### Preparations for transfer of functions

**20.**—(1) Subject to paragraph (2) below, the transferor and 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 of this Order or any other relevant provision.

(2) During the preliminary period, each transferee authority—

- (a) shall, in relation to the functions referred to 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 transferee authorities, or jointly by two or more of those authorities, 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<sup>(18)</sup>; and nothing in section 101 of the 1972 Act shall apply to the duty imposed by virtue of sub-paragraph (b) of that paragraph.

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<sup>(17)</sup> See in particular Part 3 of the Regulations.

<sup>(18)</sup> 1989 c. 42.

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

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### **Activities preliminary to the exercise of functions**

**21.** Where, during the preliminary period, a relevant authority (other than a transferee 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 areas of the transferee authorities which, on and after that date, are exercisable by the transferee authorities, 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 authorities.

Signed by authority of the Secretary of State

28th February 1995

*David Curry*  
Minister of State,  
Department of the Environment