
STATUTORY INSTRUMENTS

1996 No. 330

LOCAL GOVERNMENT, ENGLAND AND WALES

**The Local Government Changes for England
(Miscellaneous Provision) Regulations 1996**

<i>Made</i>	- - - -	<i>19th February 1996</i>
<i>Laid before Parliament</i>		<i>19th February 1996</i>
<i>Coming into force</i>		
<i>Except for regulation 3(2)</i>		<i>11th March 1996</i>
<i>Regulation 3(2)</i>		<i>1st April 1996</i>

The Secretary of State for the Environment, in exercise of the powers conferred on him by sections 19 and 26 of the Local Government Act 1992(1), and of all other powers enabling him in that behalf, hereby makes the following Regulations:

PART I
GENERAL

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Local Government Changes for England (Miscellaneous Provision) Regulations 1996.

(2) All regulations except regulation 3(2) shall come into force on 11th March 1996 and regulation 3(2) shall come into force on 1st April 1996.

(3) In these Regulations—

“the 1994 Regulations” means the Local Government Changes for England Regulations 1994(2);

“existing”, in relation to an area affected by the order, means that area as it existed on the date the order is made or, where there is more than one order, the date the first of them is made; and

(1) 1992 c. 19.

(2) S.I. 1994/867; amended by S.I. 1995/590, 1055 and 1748.

“new”, in relation to an area or authority, means an area or authority established pursuant to the order.

(4) In these Regulations, “the Act”, “the 1972 Act”, “the order”, “the reorganisation date”(as substituted by these Regulations) and “abolished authority” have the same meaning as in the 1994 Regulations.

PART II

AMENDMENT OF REGULATIONS

Amendment of the 1994 Regulations

2. The 1994 Regulations shall be amended as follows—

- (a) in regulation 2 (interpretation), in paragraph (2), for sub-paragraph (d) substitute—
 - “(d) “the reorganisation date” means the date (being 1st April in any year) which is specified as such in the order;”;
- (b) in regulation 7 (matters not affected) delete paragraph (b);
- (c) in regulation 15 (continuity of plan provisions), after paragraph (2) add—
 - “(3) A transferee authority may adopt proposals for the making, alteration or replacement of a development plan which it continues by virtue of regulation 4.
 - (4) Subject to paragraph (3) above, where a transferee authority has a duty by virtue of the 1990 Act to prepare a plan referred to in paragraph (3) above for the whole of its area, it shall ensure that such a plan is prepared as soon as practicable after the reorganisation date.
 - (5) For the purposes of paragraph (3) above, any reference in Part II of the 1990 Act to a development plan being prepared for the area of an authority shall include a reference to a part of that area.”;
- (d) delete regulations 19 (fire services—disciplinary proceedings) and 20 (police—disciplinary proceedings);
- (e) in regulation 25 (charter trustees)—
 - (i) in paragraph (1)—
 - (a) after “the 1972 Act” add “or, established by the Charter Trustees Regulations 1996 or any other statutory instrument made under Part II of the Act”;⁽³⁾
 - (b) delete sub-paragraph (a);
 - (c) in sub-paragraph (b), for “a parish” substitute “an existing parish”; and
 - (d) in sub-paragraph (c), after “more” insert “existing”; and
 - (ii) in paragraph (2)⁽⁴⁾ delete “(a) or”; and
- (f) after regulation 27 (maps) insert—

“Mereing of boundaries

27A.—(1) The boundaries of any area established by the order shall be mered by Ordnance Survey.

⁽³⁾ S.I. 1996/263.

⁽⁴⁾ a new paragraph (2) was substituted in this regulation by S.I. 1995/1748.

(2) Where—

- (a) a boundary of any area is defined on a map referred to in the order by reference to proposed works; and
- (b) those works have not been executed at the time the boundary is mered after the coming into operation of the order,

the boundary shall be mered as if it had not been so defined.”.

Amendment of other Regulations

3.—(1) In the Local Government Changes for England (Direct Labour and Service Organisations) Regulations 1994⁽⁵⁾, in paragraph (1)(c) of regulation 12 (interpretation etc), for “the successor authority”, in both places where the expression occurs, substitute “a relevant authority”.

(2) In the Local Government Changes for England (Miscellaneous Provision) Regulations 1995⁽⁶⁾, in regulation 8 (sheriffs), for paragraph (2) substitute—

“(2) In section 219 of the 1972 Act (sheriffs and under-sheriffs), in subsection (8), after “section” insert “county”, in relation to England, has the same meaning as in the Sheriffs Act 1887 and”.

(3) In section 24 of the Representation of the People Act 1983 (returning officers: England and Wales), in subsection (1)(a) after “county”, where it second occurs, insert “as defined by section 38 of the Sheriffs Act 1887”.⁽⁷⁾

(3) In the Civil Defence (General Local Authority Functions) Regulations 1993⁽⁸⁾, in regulation 4 (civil defence functions of county councils), after paragraph (2) insert—

“(3) Where, after he has had regard to such recommendations as are mentioned in section 18(4) of the Local Government Act 1992 (“the 1992 Act”), the Secretary of State makes a combination scheme under the Fire Services Act 1947⁽⁹⁾ with respect to a combined area which includes the area of a county council affected by a structural or boundary change (within the meaning of Part II of the 1992 Act), that council—

- (a) shall, when making or revising plans under paragraph (1)(a) above, consult with the fire authority constituted by that scheme for that combined area; and
- (b) may enter into an arrangement with that authority for the carrying out of all or any of the functions assigned to that council by paragraphs (1) and (2) above.

(4) Where a district council has, by virtue of the making of a structural change, the functions of a county council in relation to its district—

- (a) the foregoing provisions of this regulation shall apply, in relation to that district, as if any reference to a county council were a reference to the district council; and
- (b) regulation 5 shall not apply in relation to that district.”.

⁽⁵⁾ [S.I. 1994/3167](#). Regulation 12 is amended by regulation 4 of the Local Government Changes for England and Local Government Act 1988 (Competition) (Miscellaneous Amendment) Regulations 1995 ([S.I. 1995/1326](#)).

⁽⁶⁾ [S.I. 1995/1748](#).

⁽⁷⁾ Paragraph 6 of Schedule 2 to the Local Government (Wales) Act 1994 (“the 1994 Act”), which amends section 219 of the 1972 Act by the addition of a subsection (9), comes into force on 1st April 1996: see [S.I. 1995/3198](#).

⁽⁸⁾ [S.I. 1993/1812](#).

⁽⁹⁾ [1947 c. 41](#); for combination schemes, see sections 5 to 10 of the Act.

PART III

STATUS, RIGHTS, PRIVILEGES ETC.

Preservation of rights and privileges of existing areas

4.—(1) Subject to any provision made by a grant under Her Majesty's prerogative or any provision of a charter granted by Her Majesty under section 245 of the 1972 Act (status of certain districts etc), any privileges or rights belonging immediately before the reorganisation date to the inhabitants of any area by virtue of—

- (a) the provisions of subsection (1) of section 246 of the 1972 Act (preservation of powers, privileges and rights of existing cities or boroughs); or
- (b) any provision made under subsection (2)(b) of that section by a charter granted under section 245 of that Act,

shall, notwithstanding any boundary change effected by the order, belong on and after that date to the inhabitants of that area.

(2) Subsection (2) of section 246 of the 1972 Act shall apply in relation to a charter granted by Her Majesty under section 245 of that Act with respect to a new district as if—

- (a) the reference in paragraph (a) of that subsection to any powers to appoint local officers of dignity exercisable as mentioned in that paragraph were a reference to any powers to appoint local officers of dignity exercisable immediately before the reorganisation date by the council of an existing district the whole or part of which becomes comprised in the area of the new district; and
- (b) the reference in paragraph (b) of that subsection to any privileges or rights belonging as mentioned in that paragraph were a reference to any privileges or rights belonging immediately before the reorganisation date, by virtue of any such provision as is mentioned in paragraph (1) above, to the inhabitants of any area the whole or part of which becomes comprised in the area of the new district.

Freemen

5.—(1) Nothing in the order shall affect any person's status, or the right of any person to be admitted, as a freeman of any place.

(2) Section 248 of the 1972 Act (freemen and inhabitants of pre-1974 boroughs) shall have effect in relation to a city or town the whole or part of which is situated in a county in which there are no district councils as if—

- (a) the references in subsections (2) and (3) to the relevant district council were references to the relevant county council; and
- (b) the reference in subsection (2) to the council of the district were a reference to the council of the county.

Honorary aldermen and freemen

6.—(1) Services rendered to the council of a principal area the whole or part of which becomes, by virtue of a boundary change effected by the order, comprised in another principal area may, for the purposes of section 249 of the 1972 Act (honorary aldermen and freemen)(10), be treated as services rendered to the council of that other principal area.

(10) Subsections (7) and (9) (which relate to Wales) are added by paragraph 55 of Schedule 15 to the 1994 Act: see [S.I. 1995/852](#).

(2) Section 249(1) of the 1972 Act shall have effect, in relation to a principal council which is to be wound up and dissolved by the order, as if the words from “but” to the end of that subsection were omitted.

(3) Where, by virtue of a boundary change effected by the order, an existing principal area is abolished on the reorganisation date, any person who, immediately before that date, is an honorary alderman of the council of that area shall, on that date, become an honorary alderman of—

- (a) the council of the principal area in which the whole of the existing principal area becomes comprised on that date; or
- (b) where that area becomes comprised partly in each of two or more principal areas on that date, the council of the principal area in which the whole or the greater part of the relevant electoral area becomes comprised;

and, in relation to such a person—

- (i) “relevant electoral area” means the electoral area of the existing principal area for which that person was last returned as a councillor before the title of honorary alderman was conferred on him; and
- (ii) references in section 249(2) and (4) of the 1972 Act which, immediately before the reorganisation date, fall to be construed as references to the council of the existing principal area shall, on and after that date, be construed as references to the council of which that person becomes an honorary alderman on that date.

(4) Nothing in the order shall affect the status of any person who is immediately before the reorganisation date an honorary freeman of any city, borough or royal borough.

Transfer of armorial bearings from abolished authorities

7. Section 247 of the 1972 Act (transfer of armorial bearings) shall apply in relation to new and abolished authorities as it applies to the new and existing local authorities mentioned in that section but as if the reference to April 1, 1974 were a reference to the reorganisation date.

PART IV

MISCELLANEOUS TRANSITIONAL PROVISIONS

Definitive maps and statements

8. Where, on the reorganisation date, the functions of a surveying authority under Part III of the Wildlife and Countryside Act 1981 (public rights of way)(11) in relation to any area become functions of another local authority—

- (a) that authority shall be deemed to have prepared that part of any definitive map and statement (within the meaning of that Part) which relates to that area on that date;
- (b) that part shall be deemed to be the definitive map and statement for that area; and accordingly
- (c) that authority may resolve that its own name be included in the title of that definitive map and statement, whether or not in substitution for the name of any other authority.

(11) 1981 c. 69.

Local authority companies

9.—(1) Where by virtue of or under any provision made under the Act, on or after the reorganisation date there become vested in a local authority (“transferee authority”) investments, rights and liabilities of another local authority (“the transferor authority”) in relation to a company which immediately before that date is, for the purposes of Part V of the 1989 Act, a company under the control of that authority, section 68 of that Act shall have effect on and after the reorganisation date in relation to that company and that transferee authority with the following modifications—

- (a) the reference in subsection (5)(a) to the taking of or refraining from action by the authority applies to action by the transferor authority;
- (b) the reference in subsection (6) to a resolution of the authority is, in relation to the financial year beginning on the reorganisation date, a reference to a resolution of the transferor authority;
- (c) the reference in subsection (6) to the application of conditions while the company has been under the control of the local authority is a reference to their application while the company has been under the control of either the transferor authority or any transferee authority;
- (d) the reference in paragraph (c) of subsection (6) to directors of the company having been members or officers of the authority is a reference in relation to any time before the reorganisation date to their having been members or officers of the transferor authority, and in relation to any time on or after that date is a reference to their having been members of the relevant transferee authority;
- (e) the reference in paragraph (d) of subsection (6) to the company’s occupation of land is, in relation to any time before the reorganisation date, to the occupation of land in which the transferor authority had an interest, and in relation to any time on or after that date is a reference to land in which the relevant transferee authority had an interest;
- (f) the reference in paragraph (e) of subsection (6) to an agreement is to an agreement entered into with the transferor authority;
- (g) the references in paragraphs (f) to (h) to the lending of money or the making of any grant are references to lending or, as the case may be, the making of any grant by the transferor authority before the reorganisation date or by a transferee authority on or after that date.

(2) Where by virtue of or under any provision made under the Act, on or after the reorganisation date there become vested in a local authority (“transferee authority”) rights and liabilities of another local authority (“the transferor authority”) in relation to a company which immediately before that date is, for the purposes of Part V of the 1989 Act, a company under the influence of that authority, section 69 of that Act shall have effect on and after the reorganisation date in relation to that company and that transferee authority with the following modifications—

- (a) in paragraph (a) of subsection (3), the reference to payments by the authority is, in relation to any time before the reorganisation date, to payments by the transferor authority, and in relation to any time on or after that date, to payments by a transferee authority;
- (b) in paragraphs (c) and (d) of subsection (3), references to grants made and loans made or guaranteed include grants made or, as the case may be, loans made or guaranteed by—
 - (i) the transferor authority,
 - (ii) a transferee authority, or
 - (iii) a company under the control of the transferor authority or a transferee authority;
- (c) in paragraph (e) of subsection (3), the reference to an interest in land obtained from the local authority or a company under the control of the local authority is to an interest in land obtained from either the transferor authority, a transferee authority or, as the case may be, a company under the control of the authority which made the land available;

- (d) in paragraph (d) of subsection (5) and paragraph (b) of subsection (6), references to a person being associated with the authority are to be construed in relation to any time before the reorganisation date as references to that person being associated with the transferor authority, and in relation to any time on or after that date as references to that person being associated with a transferee authority.
- (3) In this regulation—
- (a) “the 1989 Act” means the Local Government and Housing Act 1989⁽¹²⁾;
 - (b) references to a company under the control of an authority are to be construed in accordance with Part V of the 1989 Act; and
 - (c) “the relevant transferee authority”, in relation to a company and any time, means the transferee authority in which the investments, rights or liabilities of the transferor authority in relation to that company are or were for the time being vested.

PART V

MISCELLANEOUS EMPLOYMENT MATTERS

Disapplication

10. Regulations 5 to 10 of the Local Government Changes for England (Property Transfer and Transitional Payments) Regulations 1995 (“the 1995 Regulations”)⁽¹³⁾ shall not apply with respect to any rights or liabilities of an abolished authority which are transferred to a successor authority or the designated authority by virtue of this Part.

Interpretation of Part

11.—(1) In this Part—

“eligible person” means a person to whom one of the following paragraphs is applicable—

- (a) (i) a person who immediately before the reorganisation date is employed by an abolished authority under a contract of employment which would continue but for the winding up and dissolution of that authority, and
 - (ii) whose employment is not transferred by an order made under the Act for the transfer of staff or by operation of law upon the winding up and dissolution of that authority;
- (b) a person whose employment was terminated by an abolished authority for reasons unconnected with an order made under section 17 of the Act;
- (c) a person who immediately before the reorganisation date is employed by an abolished authority and who not later than four weeks after that date commences employment with either—
 - (i) a successor authority which is not the designated authority in respect of that person, or
 - (ii) any other employer; or
- (d) a person who resigns from employment with an abolished authority at any time during the preliminary period as defined by the relevant order made under section 17 of the Act, and who commences employment before the reorganisation date with either—

⁽¹²⁾ 1989 c. 42.

⁽¹³⁾ S.I. 1995/402. The definition of “successor authority” is amended by S.I. 1995/2796 which also makes other amendments.

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- (i) a successor authority which is not the designated authority in respect of that person or
- (ii) any other employer.

“successor authority” has the same meaning as in the 1995 Regulations.

(2) For the purposes of this Part, the designated authority in respect of an eligible person formerly employed by an abolished authority shall be—

- (a) in a case where there is only one successor authority in relation to that abolished authority, that successor authority; and
- (b) in the case of an abolished authority mentioned in column (1) of the following Table, the successor authority mentioned in column (2)—

(1) Abolished authority	(2) Designated authority
Avon County Council	Bristol City Council
Cleveland County Council	Middlesbrough Borough Council
Humberside County Council	East Riding of Yorkshire District Council
Boothferry Borough Council	East Riding of Yorkshire District Council

Claims etc, in connection with contracts of employment

12.—(1) Where immediately before the reorganisation date an eligible person has any claim or right of action against an abolished authority arising under, or in connection with, his contract of employment—

- (a) if he is a person to whom sub-paragraphs 11(c)(i) or (d)(i) above applies, he shall be entitled to bring, or to continue, that claim or any proceedings against the successor authority with whom he is employed; and
- (b) in all other cases he shall be entitled to bring, or to continue, that claim or any proceedings against the designated authority.

(2) Where an eligible person has any claim or wishes to bring any proceedings with respect to the termination of his employment with an abolished authority—

- (a) if he is a person to whom sub-paragraphs 11(1)(c)(i) or (d)(i) above applies, he shall be entitled to bring that claim or any proceedings against the successor authority with whom he is employed; and
- (b) in all other cases, he shall be entitled to bring that claim or any proceedings against the designated authority.

(3) An eligible person shall be entitled to recover from the designated authority, or from the successor authority if he is a person to whom sub-paragraphs 11(1)(c)(i) and (d)(i) above apply, any sum to which he is entitled—

- (a) by virtue of regulation 5 (redundancy payments) of the Local Government Changes for England (Staff) Regulations 1995⁽¹⁴⁾; or
- (b) by way of compensation under Part II or III of the Local Government (Compensation for Redundancy) Regulations 1994⁽¹⁵⁾ or Part VI of the Employment Protection (Consolidation) Act 1978⁽¹⁶⁾ (“the 1978 Act”); or

⁽¹⁴⁾ S.I. 1995/520.

⁽¹⁵⁾ S.I. 1994/3025.

⁽¹⁶⁾ 1978 c. 44.

- (c) by way of compensation payable under Part V of the 1978 Act (unfair dismissal);
- (d) by way of compensation under the Teachers (Compensation for Redundancy and Premature Retirement) Regulations 1989(17); or
- (e) by way of damages for any breach of his contract of employment.

Discretionary increases in compensation

13.—(1) This regulation applies where, before the reorganisation date—

- (a) it was the prevailing practice of an abolished authority to exercise any discretionary power in respect of any employee, or description of employee, so as to secure the payment of any increase in remuneration, allowances, or gratuities; and
- (b) the abolished authority was unable, or failed, to exercise that power before the reorganisation date; and
- (c) the effect of exercising that power would have been to increase the amount of any compensation payable to an eligible person as a result of the termination of his employment.

(2) The designated authority, or the successor authority if sub-paragraphs 11(1)(c)(i) and (d)(i) above apply, may treat an eligible person for the purposes of any claim for compensation he may have as if the designated authority or successor authority had exercised that power in a way which is neither more nor less beneficial than the general character of the prevailing practice mentioned in paragraph (1) above.

Costs of designated authorities

14. Where the designated authority is a successor authority mentioned in column (2) of the Table in regulation 11(2)—

- (a) any costs incurred by that authority in complying with regulations 12 and 13 shall be borne equally by that authority and each of the other successor authorities in relation to the corresponding abolished authority mentioned in column (1) of that Table; and
- (b) the designated authority shall be entitled to recover from such other successor authorities any sum which is payable under the previous sub-paragraph.

Signed by authority of the Secretary of State for the Environment

Department of the Environment
19th February 1996

David Curry
Ministry of State,

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EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make incidental, consequential, transitional and supplementary provision of general application for the purposes or in consequence of orders made under section 17 of the Local Government Act 1992.

Regulation 2 amends further the Local Government Changes for England Regulations 1994.

Regulation 3 makes minor or drafting changes in other Regulations.

Regulation 4 makes provision for the preservation of the rights and privileges of existing areas affected by reorganisation.

Regulations 5 and 6 make provision, respectively, in relation to freemen and honorary aldermen and honorary freemen.

Regulation 7 makes provision in respect of the transfer of the armorial bearings of abolished authorities.

Regulations 8 and 9 make transitional provision, respectively, in relation to definitive maps and statements of rights of way and interests in companies controlled or influenced by local authorities.

Regulations 10 to 14 make provision in respect of certain claims by employees of abolished authorities. Claims are to be dealt with by successor authorities which are specified as designated authorities for the purposes of these Regulations, except where the employee is employed by a successor authority which is not a designated authority, in which case the claims are to be dealt with by that successor authority.

Regulation 11 specifies the designated authorities in respect of employees of those authorities which are to be abolished on 1st April 1996.