
EXPLANATORY NOTE

(This note is not part of the Regulations)

Part 1 of the Local Government and Public Involvement in Health Act 2007 (the “2007 Act”) provides for the establishment of a single tier of local government for areas in England. There is a single tier of local government for an area if there is either a county council and no district councils for that area, or a district council and no county council for that area (section 1(2) of the 2007 Act). Where the Secretary of State has received a proposal or a recommendation that there should be a single tier of local government for an area, he may make an order to implement the proposal or recommendation with or without modification. These Regulations make incidental, consequential, transitional and supplementary provision of general application for the purposes of, and in consequence of, orders made by the Secretary of State under section 7 of the 2007 Act (“section 7 orders”).

Section 14(3) of the 2007 Act provides for these Regulations to have effect subject to any provision included in a section 7 order.

In Part 1 of these Regulations, regulation 1(2) provides for the Regulations to have no effect on matters for which provision has been made in other regulations and orders of specified descriptions or in agreements under section 16 of the 2007 Act.

Regulation 2 contains definitions.

In Part 2, regulation 3 enables a preparing or shadow council (as defined in regulation 2(1)) which is a district council to exercise, as regards its district and at any time before the reorganisation date, certain functions of a local education authority under the Education and Inspections Act 2006 as if it were a local education authority. The functions relate to proposals for the reorganisation of schools in the authority’s area. The School Organisation (Establishment and Discontinuance of Schools) (England) Regulations 2007 and the School Organisation (Prescribed Alteration to Maintained Schools) (England) Regulations 2007 are applied as if references to the local education authority included references to the preparing or shadow council.

Part 3 (regulations 4 to 7) relates to allegations that a member of a predecessor council has failed to comply with the council’s code of conduct (“an allegation of misconduct”).

Regulation 4 contains definitions of terms used in Part 3.

Regulation 5 deals with the situation where, having investigated an allegation of misconduct, a predecessor council is minded to suspend one of its members for a period which, if the council were not abolished on the reorganisation date, would extend beyond that date. The regulation requires the council to refer the matter to the Adjudication Panel for England (which has additional powers, including power to suspend councillors from membership of any relevant authority). Consequential modifications are made to paragraphs (6) and (7) of regulation 17 of the Standards Committee (England) Regulations 2008 (“the 2008 Regulations”).

Regulation 6 applies where it is likely that steps being taken by a predecessor council under the 2008 Regulations in relation to an allegation of misconduct will not be completed before the reorganisation date. It requires the predecessor council’s monitoring officer to provide the monitoring officer of the preparing or shadow council that will become the single tier council (taking over the predecessor council’s functions on the reorganisation date) with documents and information relevant to the allegation and a summary of the steps taken. The single tier council is then required to take, through its monitoring officer, its standards committee or a sub-committee of that committee, as the

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circumstances require, whatever steps remain to be taken under the 2008 Regulations in relation to the allegation.

Regulation 7 enables a person who wishes to make an allegation of misconduct relating to a member of a predecessor council to do so after the reorganisation date. In this case, the allegation is to be referred to the standards committee of the single tier council that takes over the predecessor council's functions on that date. It also enables a person who does not agree with the decision of a predecessor council that no further action should be taken as regards an allegation to request the incoming single tier council to review that decision. Provision is made for references in the 2008 Regulations to authorities (which on and after the reorganisation date would not include predecessor councils), to extend to predecessor councils where necessary.

In Part 4, regulations 8 to 11 relate to the closing of the accounts of predecessor councils for the financial year ending immediately before the reorganisation date.

Regulation 8 contains definition relevant to Part 4.

In regulation 9, paragraph (1) requires a single tier county council to be responsible for closing the final year accounts of its predecessor councils. Paragraph (2) requires a single tier district council to be responsible for closing the final year accounts of its predecessor district councils. Paragraph (3) makes special provision where a county council is to be succeeded by more than one single tier district council. In this case responsibility for closing the county council's accounts for its final year lies with the single tier council nominated by the Secretary of State under regulation 10 of the Local Government (Structural Changes) (Transfer of Functions, Property, Rights and Liabilities) Regulations 2008 to deal with the county council's financial reserves. Paragraph (4) makes consequential modifications to the Accounts and Audit Regulations 2003, and paragraphs (5) and (6) deal with the provision of information in cases to which paragraph (3) applies.

Regulation 10 requires the preparing or shadow council to take steps in the period beginning with that on which these Regulations come into force and ending on the reorganisation date in preparation for the closure of accounts after that date. It also makes other consequential modifications to the Accounts and Audit Regulations 2003, and requires co-operation between the officers responsible for the administration of the financial affairs of predecessor councils and those responsible for those matters as regards preparing or shadow councils.

Regulation 11 requires predecessor councils to prepare and approve an up-to-date statement of the way in which their financial affairs are controlled internally (a "statement of internal control"). If the officer responsible for the administration of the financial affairs of the single tier council that succeeds a predecessor council has reason to believe that the statement of internal control is inaccurate or contains significant omissions, a report is to be made to the single tier council.

Part 5 (regulation 12) makes provision associated with any resolution under section 74(1) of the Local Government Act 1972, passed by a council which has been established as a single tier council by a section 7 order, to change the name of its area. Its effect is that, where a single tier county council has resolved to change the name of the county, the name of the coterminous district is changed to match that of the county. Similarly, where a single tier district council has resolved to change the name of the district, the name of the coterminous county is changed to match that of the district.

Part 6 contains amendments to the Local Government (Structural and Boundary Changes) (Staffing) Regulations 2008 ("the Staffing Regulations") and the Local Government (Structural Changes) (Transitional Arrangements) (No.2) Regulations ("the No.2 Transitional Regulations").

Regulation 13 inserts a new paragraph (4A) into regulation 4 of the Staffing Regulations. The effect of the new paragraph is to establish the dates on which the arrangements for which regulation 4(4) provides cease to have effect. Regulation 4(4) provides that, as regards matters relating to chief officers, certain functions of a preparing council (a local authority which, in accordance with a section 7 order, becomes a single tier council on the reorganisation date), a shadow council (an authority (not being a local authority) which, in accordance with a section 7 order, becomes a single tier council on the reorganisation date) and a single tier council, that would not otherwise be the

responsibility of the council's executive, are functions that the council may, but need not, delegate to its executive.

Regulation 14 amends regulation 19 of the No.2 Transitional Regulations, which makes transitional arrangements in relation to documents that are "local development documents" for the purposes of Part 2 of the Planning and Compulsory Purchase Act 2004. The effect of the amendment is to omit from the documents that are "local development documents" and, as such, must be specified in local development schemes, statements of community involvement prepared by local planning authorities that cease to exist on the reorganisation date.

A full impact assessment has not been produced for these Regulations as no impact on the private or voluntary sectors is foreseen.