
STATUTORY INSTRUMENTS

2018 No. 1296

The Local Government (Structural and Boundary Changes) (Amendment) Regulations 2018

Citation and commencement

1. These Regulations may be cited as the Local Government (Structural and Boundary Changes) (Amendment) Regulations 2018 and come into force on 2nd January 2019.

PART 1

Amendment of Regulations

Amendment of the Local Government (Structural Changes) (Finance) Regulations 2008

2. The Local Government (Structural Changes) (Finance) Regulations 2008⁽¹⁾ are amended in accordance with regulations 3 to 13.

Regulation 2

3. In regulation 2 (interpretation)—

- (a) in the definition of “order” after “section 7” insert “or section 10”;
- (b) after the definition of “Implementation Executive” insert—
 - ““merged council” means a district council which, in accordance with a section 10 order, becomes the council for the area of two or more district councils which are wound up and dissolved under that order;”;
- (c) in the definition of “reorganisation date” after “structural change” insert “or boundary change”;
- (d) for the definition of “reorganised area” substitute—
 - ““reorganised area” means any area which—
 - (a) in accordance with an order under section 7, becomes the area of a single-tier council on the reorganisation date; or
 - (b) in accordance with an order under section 10, becomes the area of a merged council on the reorganisation date;”;
- (e) after the definition of “single-tier council” insert—
 - ““successor council” means—
 - (a) in relation to an area which is a reorganised area in consequence of an order under section 7, the single-tier council;

⁽¹⁾ [S.I. 2008/3022](#), amended by [S.I. 2012/20](#).

- (b) in relation to an area which is a reorganised area in consequence of an order under section 10, the merged council.”.

Regulation 8

4. In regulation 8 (exercise of functions) in paragraph (b) for “single-tier council” substitute “successor council”.

Regulation 9

5. In regulation 9 (continuity of functions) for “single-tier council” substitute “successor council”.

Regulation 10

6. In regulation 10 (relevant lists) in each place in which it occurs for “single-tier council’s” substitute “successor council’s”.

Regulation 11

7. In regulation 11 (amalgamation of relevant lists) in each place in which it occurs for “single-tier council’s” substitute “successor council’s”.

Regulation 12

8. In regulation 12 (interpretation of Part 4) in the definition of “appropriate authority” for “single-tier council” substitute “successor council”.

Regulation 15

9. In regulation 15—

- (a) in paragraph (1)(b) (different basic amounts of council tax for the predecessor areas)—
 - (i) for “single-tier council” substitute “successor council”;
 - (ii) in sub-paragraph (iv) for the full stop substitute a comma;
 - (iii) after sub-paragraph (iv) insert—
 - “(v) the sixth year,
 - (vi) the seventh year.”;
- (b) in paragraph (3) after “because it is made” insert “on or”.

Regulation 15A

10. In regulation 15A (modifications to Chapters 4ZA and 6, etc.)—

- (a) in paragraph (2) for “the fourth and the fifth years” substitute “the fourth, the fifth, the sixth and the seventh years”; and
- (b) in paragraph (3)—
 - (i) for “the sixth year” substitute “the eighth year”; and
 - (ii) for “the fifth year” substitute “the seventh year”.

New regulation 15B

11. After regulation 15A insert—

“Modifications to the Council Tax (Demand Notices) (England) Regulations 2011

15B. In relation to a reorganised area the Council Tax (Demand Notices) (England) Regulations 2011(2) shall have effect with the modifications specified in Schedule 4 to these Regulations.”.

Schedule 3

12. In Schedule 3 (referendums relating to council tax: modifications to Chapters 4ZA, etc.)—

(a) in paragraph 1 (section 52ZC of the Local Government Finance Act 1992)—

(i) for “In section 52ZC (determination of whether increase is excessive)—” substitute—

“(1) This paragraph has effect in relation to determinations made by or in relation to a single-tier council.

(2) In section 52ZC (determination of whether increase is excessive)—”;

(ii) in paragraph (b) for new paragraph (b)(ii) substitute—

“(ii) either—

(aa) a comparison falling within subsection (3C) below; or

(bb) a comparison falling within subsection (3D) below.”

(iii) in paragraph (d) after new subsection (3C) insert—

“(3D) A comparison falls within this subsection if it is between—

(a) the amount that would have been the authority’s uniform amount of council tax for the year under consideration if section 31A above did not require or permit it to take into account the amounts mentioned in section 52ZX(1)(a) and (b) below; and

(b) the amount found by applying the formula in subsection (3A)(b) above.”;

(b) after paragraph 1 insert—

“**1A.**—(1) This paragraph has effect in relation to determinations made by or in relation to a merged council.

(2) In section 52ZC (determination of whether increase is excessive)—

(a) after subsection (1) insert—

“(1A) For these purposes—

(a) the principles mentioned in subsection (2)(b)(i) apply if for the year under consideration the authority calculates its basic amount of council tax under section 31B(1) above; and

(b) the principles mentioned in subsection (2)(b)(ii) apply if for that year the authority calculates basic amounts of council tax for its predecessor areas under Part 4 of the 2008 Regulations.”;

(b) in subsection (2), for paragraph (b) substitute—

“(b) must constitute or include—

- (i) a comparison falling within subsection (3A) below, and
- (ii) either—
 - (aa) a comparison falling within subsection (3C) below; or
 - (bb) a comparison falling within subsection (3D) below.”
- (c) omit subsection (3); and
- (d) before subsection (4) insert—

“(3A) A comparison falls within this subsection if it is between—

- (a) the amount that would be calculated by the authority for the year under consideration under section 31B(1) above if section 31A above did not require or permit it to take into account the amounts mentioned in section 52ZX(1)(a) and (b) below; and
- (b) the amount found by applying the formula—

$$\frac{A}{B}$$

where—

A is the aggregate of the amounts calculated by applying the formula in subsection (3B) in relation to the financial year immediately preceding the year under consideration and in relation to each district council that was a district council for a predecessor area of the authority, and

B is the aggregate of the council tax bases calculated for the authority’s predecessor areas for the financial year immediately preceding the year under consideration.

(3B) The formula is—

$$C \times D$$

where—

C is, in relation to a district council for a predecessor area of the authority, the amount that would have been calculated by the council under section 31B(1) above if section 31A above had not required or permitted the amounts mentioned in section 52ZX(1)(a) and (b) below to be taken into account, and

D is the council tax base calculated for the area mentioned in the definition of item C above.

(3C) A comparison falls within this subsection if it is to be made for each predecessor area between—

- (a) the basic amount of council tax that would be calculated by the authority for the area for the year under consideration under Part 4 of the 2008 Regulations if section 31A above did not require or permit the authority to take into account the amounts mentioned in section 52ZX(1)(a) and (b) below; and
- (b) the aggregate of the amounts that would have been calculated for the area for the financial year immediately preceding the year under consideration by any district council for the predecessor area, under section 31B(1) above if section 31A above had not required or

- permitted the amounts mentioned in section 52ZX(1)(a) and (b) below to be taken into account.
- (3D) A comparison falls within this subsection if it is between—
- (a) the amount that would have been that authority’s uniform amount of council tax for the year under consideration if section 31A above did not require or permit it to take into account the amounts mentioned in section 52ZX(1)(a) and (b) below; and
 - (b) the amount found by applying the formula in subsection (3A)(b) above.”;
- (c) in paragraph 2 (section 52ZE of the Local Government Finance Act 1992)—
- (i) in sub-paragraph (a)—
 - (aa) in new paragraph (b) for the full stop substitute “; or”;
 - (bb) after new paragraph (b) insert—
 - “(c) the amount mentioned in section 52ZC(3D)(b) above.”
 - (ii) in paragraph (b) after “section 52ZC(3C)(b) above,” insert “or the amount mentioned in section 52ZC(3D)(b) above,”;
- (d) in paragraph 9 (section 52ZC of the Local Government Finance Act 1992)—
- (i) in sub-paragraph (b) for new paragraph (b)(ii) substitute—
 - “(ii) either—
 - (aa) a comparison falling within subsection (3C) below; or
 - (bb) a comparison falling within subsection (3F) below.”;
 - (ii) in sub-paragraph (d) after new subsection (3E) insert—
 - “(3F) A comparison falls within this subsection if it is between—
 - (a) the amount that would have been the authority’s uniform amount of council tax for the year under consideration if section 31A above did not require or permit it to take into account the amounts mentioned in section 52ZX(1)(a) and (b) below; and
 - (b) the amount that would have been the authority’s uniform amount of council tax for the financial year immediately preceding that year if section 31A above had not required or permitted it to take into account the amounts mentioned in section 52ZX(1)(a) and (b) below.”;
- (e) in paragraph 10 (section 52ZE of the Local Government Finance Act 1992)—
- (i) in sub-paragraph (a)—
 - (aa) in new paragraph (b) for the full stop substitute “; or”;
 - (bb) after new paragraph (b) insert—
 - “(c) the amount mentioned in section 52ZC(3F)(b) above.”;
 - (ii) in sub-paragraph (b) after “section 52ZC(3D) and (3E) above,” insert “or the amount mentioned in section 52ZC(3F)(b) above,”.
- (f) after paragraph 17 insert—

“Section 52ZE of the Local Government Finance Act 1992

18. In section 52ZE (alternative notional amounts) in subsection (2) for the words from “the authority’s” to the end substitute “the amount mentioned in section 52ZC(3)(b) above.”.

New Schedule 4

13. After Schedule 3 insert the Schedule in the Schedule to these Regulations.

Amendment of the Local Government (Structural Changes) (Transitional Arrangements) Regulations 2008

14.—(1) The Local Government (Structural Changes) (Transitional Arrangements) Regulations 2008⁽³⁾ are amended in accordance with paragraphs (2) and (3).

(2) In regulation 10A (community right to challenge) for paragraph (3) substitute—

“(3) Where a resolution is made under paragraph (2)—

- (a) except for the references in sections 81(1)(a), 82 and 84(6), Chapter 2 of Part 5 of the 2011 Act has effect as if the references to relevant authority were references to the single tier council;
- (b) sections 81(1)(a) and 82(1), (2) and (3) of the 2011 Act have effect as if the references to relevant authority were references to the predecessor council;
- (c) section 82(4) of the 2011 Act has effect as if the reference to the relevant authority—
 - (i) before the reorganisation date were reference to the predecessor council; and
 - (ii) after the reorganisation date were reference to the single tier council; and
- (d) section 84 of the 2011 Act has effect as if—
 - (i) in subsection (3)(a) the reference to the date on which the relevant authority receives an expression of interest were reference to the reorganisation date;
 - (ii) in subsection (6)—
 - (aa) the reference to a relevant authority receiving an expression of interest were reference to the predecessor council receiving such an expression of interest; and
 - (bb) the reference to a relevant authority notifying the relevant body in writing were reference to the single tier council so notifying the relevant body; and
 - (iii) in subsection (7) each time it occurs reference to the period of 30 days were reference to the period of 30 days beginning with the reorganisation date.”.

(3) For regulation 11 (preparation of new agreements and assessments) substitute—

“Preparation of new assessments and strategies

11.—(1) This regulation applies for the purposes of—

- (a) the preparation and publication of an assessment of relevant needs; and
- (b) the preparation and publication of a joint health and wellbeing strategy⁽⁴⁾,

for the area of a single tier council.

(2) Part 5 of the 2007 Act has effect during the transitional period—

- (a) in relation to a preparing council which is a district council and to a shadow council, as if that preparing or shadow council, as the case may be, were a responsible local authority under sections 103 and 117 of that Act; and

(3) [S.I. 2008/2113](#), amended by [S.I. 2018/930](#).

(4) See sections 116 and 116A of the Local Government and Public Involvement in Health Act 2007 (c. 28) for the requirements on local authorities in relation to assessments of relevant health and social care needs and joint health and wellbeing strategies.

(b) in relation to a predecessor council which is a county council, as if that council were a partner authority under sections 104 and 117 of that Act, and not a responsible local authority under sections 103 and 117.

(3) Where the predecessor council is a county council, its successor council and each partner clinical commissioning group within the meaning of section 116 of the 2007 Act must consult with the predecessor council when preparing an assessment of relevant needs under that section.”.

Amendment of the Local Government (Structural Changes) (Transitional Arrangements) (No. 2) Regulations 2008

15.—(1) The Local Government (Structural Changes) (Transitional Arrangements) (No. 2) Regulations 2008⁽⁵⁾ are amended in accordance with paragraph (2).

(2) In regulation 26 (application of Part 6 of the Local Government and Housing Act 1989)—

(a) in the heading at the end insert “and Part 7 of the Localism Act 2011”;

(b) in paragraph (1)—

(i) for “Part 6 of the Local Government and Housing Act 1989 (housing finance)” substitute “The relevant provisions”;

(ii) for “by a preparing council” substitute “by or in relation to a preparing council”;

(iii) for “by a shadow council” substitute “by or in relation to a shadow council”;

(c) in paragraph 2 for “Part 6 of the Local Government and Housing Act 1989” substitute “the relevant provisions”;

(d) after paragraph (2) insert—

“(3) In this regulation “the relevant provisions” means—

(a) Part 6 of the Local Government and Housing Act 1989⁽⁶⁾ (housing finance); and

(b) sections 171, 172, 173 (insofar as that section relates to a determination under section 171) and 175 of the Localism Act 2011⁽⁷⁾ (limits on indebtedness).”.

Amendment of the Charter Trustees Regulations 2009

16.—(1) The Charter Trustees Regulations 2009⁽⁸⁾ are amended in accordance with paragraph (2).

(2) In regulation 12(1) for “50(1)” substitute “49A(1)”.

PART 2

Funds and council tax

Interpretation

17. In this Part—

(5) [S.I. 2008/2867](#), relevant amendments made by [S.I. 2018/930](#).

(6) [1989 c. 42](#). Sections 78A and 78B were inserted by paragraph 4(1) of Schedule 18(2) to the Housing Act 1996, c.52. Sections 79 and 80 were amended to apply to Wales only by section 89(1) of the Local Government Act 2003, c. 26. Section 81 was repealed by paragraph 1 of Schedule 1 to the Social Security (Consequential Provisions) Act 1992, c. 6 and sections 82 to 84 were repealed by paragraph 7 of Schedule 15 to the Localism Act 2011, c. 20.

(7) [2011 c. 20](#).

(8) [S.I. 2009/467](#).

“the 1988 Act” means the Local Government Finance Act 1988⁽⁹⁾;

“the 1992 Act” means the Local Government Finance Act 1992⁽¹⁰⁾;

“the 2007 Act” means the Local Government and Public Involvement In Health Act 2007;

“merged council” means a district council which, in accordance with a section 10 order, becomes the council for the area of two or more district councils which are wound up and dissolved under that order;

“reorganisation date” in relation to a merged council, means the date specified in the section 10 order as that on which a boundary change comes into effect;

“section 10 order” means an order under section 10 of the 2007 Act (implementation of recommendations by order);

“shadow council” means an authority (not being a local authority) which in accordance with a section 10 order becomes a local authority on the reorganisation date.

Establishment of collection funds of merged councils

18. As regards a merged council in relation to which a shadow council is established in accordance with a section 10 order, the date specified for the purposes of section 89(2C) of the 1988 Act (collection funds) is the date that falls one day after the date on which the shadow council makes its calculation under section 31A (calculation of council tax requirement) of the 1992 Act for the financial year beginning on the reorganisation date.

Establishment of general funds of merged councils

19. As regards a merged council which is established in accordance with a section 10 order, the date specified for the purposes of section 91(3D) of the 1988 Act (general funds) is the reorganisation date.

Anticipation of amounts required to discharge functions of charter trustees

20.—(1) Section 31A of the 1992 Act (calculation of council tax requirement) has effect in relation to—

- (a) a shadow council which, by virtue of regulation 8 of the Local Government (Structural Changes) (Finance) Regulations 2008, is the billing authority for an area for any part of which charter trustees are likely to be established on the reorganisation date; and
- (b) the financial year beginning on that date,

as if, notwithstanding subsection (6), it required the authority, in making calculations under that section (whether originally or by way of substitute), to anticipate the amount likely to be required in that financial year for the discharge of the charter trustees’ functions.

(2) An amount anticipated as mentioned in paragraph (1) is to be treated for the purposes of section 34 of the 1992 Act (additional calculations where special items relate to part only of an area) as if it were an item mentioned in section 35(1) of that Act (special items for the purposes of section 34) relating to the area for which the charter trustees are to act.

(3) Where paragraph (1) applies, section 36A(1) of the 1992 Act (substitute calculations: England) has effect as if after “purpose” there were inserted “and taking into account the modification of that section by regulation 20(1) of the Local Government (Structural and Boundary Changes) (Amendment) Regulations 2018”.

(9) 1988 c. 41.

(10) 1992 c. 14.

Signed by authority of the Secretary of State for Housing, Communities and Local Government

26th November 2018

Rishi Sunak
Parliamentary Under Secretary of State
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