
STATUTORY INSTRUMENTS

1996 No. 1863

LOCAL GOVERNMENT, ENGLAND AND WALES

The Cheshire (Boroughs of Halton and Warrington) (Structural Change) Order 1996

<i>Made</i>	- - - -	<i>18th July 1996</i>
<i>Coming into force</i>		
<i>For the purposes of articles 2(2), 5(1), (3) and (4), 7 and 8</i>		<i>19th July 1996</i>
<i>For all other purposes</i>		<i>1st April 1998</i>

Whereas the Local Government Commission for England, acting pursuant to section 15(4) of the Local Government Act 1992⁽¹⁾, has submitted to the Secretary of State a report on its review of the boroughs of Halton and Warrington in the county of Cheshire⁽²⁾ together with its recommendations:

And whereas the Secretary of State has decided to give effect to those recommendations:

Now, therefore, the Secretary of State, in exercise of the powers conferred on him by sections 17(3), 18(3)(a) and 26 of the Local Government Act 1992, and of all other powers enabling him in that behalf, hereby makes the following Order, a draft of which has been laid before, and approved by a resolution of, each House of Parliament.

PART I
GENERAL

Citation and commencement

1. This Order may be cited as the Cheshire (Boroughs of Halton and Warrington) (Structural Change) Order 1996 and shall come into force for the purposes of articles 2(2), 5(1), (3) and (4), 7 and 8 on the day after the day on which it is made and for all other purposes on 1st April 1998.

(1) 1992 c. 19.

(2) The non-metropolitan districts of Halton and Warrington have been granted the status of a borough.

(3) Amended by section 39(4) and (5) of the Police and Magistrates' Courts Act 1994 (c. 29).

Interpretation

2.—(1) In this Order—

“the Act” means the Local Government Act 1992;

“the 1972 Act” means the Local Government Act 1972⁽⁴⁾;

“the 1990 Act” means the Town and Country Planning Act 1990⁽⁵⁾;

“Cheshire” means the non-metropolitan county of Cheshire;

“the County Council” means the council of Cheshire;

“Halton”(except in references to the county of Halton) means the borough of Halton and “the Halton Council” means the council of that borough;

“the relevant date” means 5th May 1997;

“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 1998;

“subordinate legislation” has the same meaning as in section 21 of the Interpretation Act 1978⁽⁶⁾; and

“Warrington”(except in references to the county of Warrington) means the borough of Warrington and “the Warrington Council” means the council of that borough.

(2) The period beginning with the relevant date and ending immediately before the reorganisation date is specified as the preliminary period for the purposes of any statutory instrument made under the Act.

PART II

LOCAL GOVERNMENT REORGANISATION IN HALTON AND WARRINGTON

Structural change

3. Subject to the following provisions of this Part and to any other relevant provision, the functions of the County Council in relation to Halton and Warrington (other than functions under Chapter II of Part II of the 1990 Act) shall be transferred to the Halton Council and the Warrington Council respectively.

Planning functions

4.—(1) The Halton Council and the Warrington Council shall each be treated as an authority to whose area Chapter I of Part II of the 1990 Act (“Chapter I”) (unitary development plans) applies, instead of Chapter II of that Part (structure and local plans).

(2) For the purposes of paragraph (1) above, Halton or, as the case may be, Warrington shall be treated as if it were the area of a local planning authority in a metropolitan county and references in Chapter I to the local planning authority shall be construed accordingly.

(3) The 1990 Act shall have effect in relation to Halton and Warrington as if—

(a) in section 27 (meaning of “development plan” in Greater London and metropolitan counties), for the words “any district in Greater London or a metropolitan county (whether

⁽⁴⁾ 1972 c. 70.

⁽⁵⁾ 1990 c. 8.

⁽⁶⁾ 1978 c. 30.

the whole or part of the area of a local planning authority)” there were substituted the words “the district of Halton (whether the whole or part of the area of that district)” or, as the case may be, “the district of Warrington (whether the whole or part of the area of that district)”;

(b) section 28 (commencement of Chapter I: transitional provisions) did not apply.

(4) Until a unitary development plan becomes operative for the area of Halton or the area of Warrington (or where parts of such a plan become operative on different dates until every part of such a plan has become operative)—

(a) Part I of Schedule 2 to the 1990 Act (which provides for existing development plans to continue in force) shall apply to that area; and

(b) Part III of that Schedule shall apply to it for the purposes of making continuing provision for the transitional matters for which provision was made immediately before the commencement of the 1990 Act by Schedule 7 to the Town and County Planning Act 1971 (old development plans, etc)(7);

and Part I of Schedule 2 shall have effect in relation to Halton or, as the case may be, Warrington as if the reference in paragraph 1(1) to the commencement of the 1990 Act were a reference to the coming into force of this article.

Fire services

5.—(1) In this article—

“the 1947 Act” means the Fire Services Act 1947(8); and

“the relevant area” means the area comprising Cheshire (as constituted on and after the reorganisation date), Halton and Warrington.

(2) Halton and Warrington shall, subject to any combination scheme under the 1947 Act, each become the area of a fire authority for the purposes of that Act.

(3) For the purposes of the making of a combination scheme with respect to the relevant area 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 that area, 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 Cheshire”; 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 Cheshire”.

(4) Section 10 of the 1947 Act shall have effect, in relation to the relevant area, 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,”.

Constitution of new counties of Halton and Warrington

6.—(1) Halton and Warrington shall cease to form part of Cheshire.

(2) A new county shall be constituted comprising the area of Halton and shall be named the county of Halton.

(3) A new county shall be constituted comprising the area of Warrington and shall be named the county of Warrington.

(7) 1971 c. 78.

(8) 1947 c. 41; section 10 of this Act is amended by paragraph 2 of Schedule 3 to the Local Government Act 1992.

(4) 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 Halton and Warrington.

PART III

TRANSITIONAL PROVISION

Election of councillors in 1997 and subsequent years

7.—(1) The Borough of Halton (Electoral Arrangements) Order 1986⁽⁹⁾ shall be amended by the substitution of the following article for article 6—

“6.—(1) Elections of all councillors for wards of the borough shall be held simultaneously on the ordinary day of election of councillors in 1997.

(2) The councillors holding office for any ward in the borough immediately before 5th May 1997 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 elections of councillors in 1997 for any ward of the borough, other than Daresbury and Hale—

- (a) one-third shall retire in 1999 being, subject to paragraphs (4) and (5) below, the councillor elected by the smallest number of votes;
- (b) one-third shall retire in 2000 being, subject as aforesaid, the councillor elected by the next smallest number of votes; and
- (c) the remaining councillor shall retire in 2001.

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

(7) The councillor elected in 1997 for the Daresbury ward of the borough shall retire in 2000.

(8) The councillor elected in 1997 for the Hale ward of the borough shall retire in 1999.

(9) In each year in which a councillor for a ward in the borough retires in accordance with paragraphs (3) to (8) above an election of a councillor for that ward shall be held on the ordinary day of election of councillors in that year; and the term of office of councillors elected at such an election shall be three years.

(10) 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.”⁽¹⁰⁾.

⁽⁹⁾ S.I.1986/280.

⁽¹⁰⁾ For the ordinary day of election of councillors of local government areas, see section 37 of the Representation of the People Act 1983 (c. 2), amended by section 18(2) of the Representation of the People Act 1985 (c. 50).

(2) The Borough of Warrington (Electoral Arrangements) Order 1989⁽¹¹⁾ shall have effect subject to the provisions of paragraphs (3) to (5) below.

(3) Elections of all councillors of the Warrington Council shall be held simultaneously on the ordinary day of election of councillors in 1997, 2000 and 2003 and every fourth year after 2003.

(4) The term of office of any councillor so elected shall be, in the case of councillors elected in 1997 and 2000, three years and, in any other case, four years.

(5) On the fourth day after any such elections—

- (a) the persons who were councillors immediately before those elections shall retire; and
- (b) the newly elected councillors shall come into office.

Suspension of elections and retirement of councillors

8.—(1) The ordinary election of councillors in 1997 for the electoral divisions of Cheshire comprised in Halton and Warrington⁽¹²⁾ shall not take place; and any councillor for such a division holding office immediately before the relevant date who would, but for this paragraph, have retired on that date shall, unless he resigns his office or it otherwise becomes vacant, continue to hold office until the reorganisation date.

(2) Section 89 of the 1972 Act (filling of casual vacancies in case of councillors) shall have effect—

- (a) in the case of a casual vacancy occurring in the office of councillor of the Halton Council or the Warrington Council before the relevant date, as if the reference in subsection (3) of that section to the day on which the councillor whose office is vacant would regularly have retired were a reference to the relevant date; and
- (b) in the case of a casual vacancy occurring in the office of councillor for any electoral division referred to in paragraph (1) above, as if that reference in that subsection were a reference to the reorganisation date.

(3) The electoral divisions of Cheshire comprised in Halton and Warrington shall cease to be electoral divisions on the reorganisation date.

Signed by authority of the Secretary of State

Department of the Environment
18th July 1996

David Curry
Minister of State,

⁽¹¹⁾ S.I. 1989/1976.

⁽¹²⁾ The electoral divisions of the county of Cheshire are constituted by the County of Cheshire (Electoral Arrangements) Order 1980 (S.I. 1980/1805).

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

EXPLANATORY NOTE

(This note is not part of the Order)

This Order gives effect to recommendations by the Local Government Commission for England in respect of the structure of local government in the county of Cheshire (“Cheshire”).

Article 3 effects two structural changes by providing for the transfer, on 1st April 1998, of the functions (other than structure plan functions) of Cheshire County Council in relation to the borough of Halton (“Halton”) and the borough of Warrington (“Warrington”) to their respective councils.

Article 4 provides that the councils of Halton and Warrington, as local planning authorities, shall each prepare a unitary development plan for its area instead of separate structure and local plans. It also makes consequential modifications of the Town and Country Planning Act 1990.

Article 5 makes provision for the purposes of subordinate legislation which may be made under the Fire Services Act 1947 in respect of fire services.

Article 6 provides for Halton and Warrington to cease to form part of Cheshire on 1st April 1998 and for new counties of Halton and Warrington to be constituted on that date (but without county councils).

Article 7 makes provision for whole council elections in Halton and Warrington in 1997. It also provides for councillors so elected for Halton to revert to retirement by thirds and for councillors elected for Warrington in 1997 to retire in 2000 and for those so elected in 2000 to retire in 2003.

Article 8 makes provision for the suspension of county council elections in 1997 in electoral divisions in Halton and Warrington and extends the term of office of councillors for such divisions until 1st April 1998. It also makes provision in respect of casual vacancies in the office of councillor of the local authorities affected by this order.