



Local Democracy, Economic Development and Construction Act 2009

2009 CHAPTER 20

PART 3

LOCAL GOVERNMENT BOUNDARY AND ELECTORAL CHANGE

Establishment of the Local Government Boundary Commission for England

55 Local Government Boundary Commission for England

- (1) The Local Government Boundary Commission for England is established as a body corporate.
- (2) The Local Government Boundary Commission for England is not to be regarded as a servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown.
- (3) Accordingly, the property of the Local Government Boundary Commission for England is not to be regarded as the property of the Crown or as property held on behalf of the Crown.
- (4) The Local Government Boundary Commission for England may do anything, except borrow money, which is calculated to facilitate, or is incidental or conducive to, the exercise of its functions.
- (5) Schedule 1 (which makes further provision about the constitution and administration of the Local Government Boundary Commission for England) is part of this Part.

Local Government Boundary Commission for England: functions relating to electoral change

56 Review of electoral arrangements

- (1) The Local Government Boundary Commission for England must from time to time—

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- (a) conduct a review of the area of each principal council, and
 - (b) recommend whether a change should be made to the electoral arrangements for that area.
- (2) The Local Government Boundary Commission for England may at any time—
 - (a) conduct a review of all or any part of the area of a principal council, and
 - (b) recommend whether a change should be made to the electoral arrangements for the area of the principal council.
- (3) In this Part “principal council” means—
 - (a) a county council in England;
 - (b) a district council;
 - (c) the Council of the Isles of Scilly;
 - (d) a London borough council.
- (4) In this Part “electoral arrangements”, in relation to the area of a principal council, means—
 - (a) the total number of members of the council (“councillors”),
 - (b) the number and boundaries of electoral areas for the purposes of the election of councillors,
 - (c) the number of councillors to be returned by any electoral area in that area, and
 - (d) the name of any electoral area.
- (5) Where under this section the Local Government Boundary Commission for England recommends that a change should be made to the electoral arrangements for the area of a principal council, the Commission must also recommend whether, in consequence, a change should be made to the electoral arrangements for the area of any parish council, where that area is within the area of the principal council.
- (6) In this Part “electoral arrangements”, in relation to the area of a parish council, means—
 - (a) the total number of members of the parish council (“parish councillors”),
 - (b) arrangements for the division of the parish or (in the case of a common parish council) any of the parishes into wards for the purposes of the election of parish councillors,
 - (c) the number and boundaries of any wards,
 - (d) the number of parish councillors to be returned by any ward or, in the case of a common parish council, by each parish, and
 - (e) the name of any ward.
- (7) Section 6(2)(a) of the [Local Government Act 1972 \(c. 70\)](#) (electoral divisions of non-metropolitan county to return one councillor each) does not limit the recommendations that may be made under this section.
- (8) Schedule 2 (which makes further provision relating to recommendations under this section) is part of this Part.
- (9) A principal council or parish council must, if requested by the Local Government Boundary Commission for England to do so, provide the Commission, by such date as it may specify, with any information that it may reasonably require in connection with its functions under this section.

57 Requests for review of single-member electoral areas

- (1) A principal council which falls within subsection (3) may request the Local Government Boundary Commission for England to—
 - (a) conduct a review of the council’s area under section 56(2)(a), and
 - (b) make recommendations as to single-member electoral areas under section 56(2)(b).
- (2) In this section “recommendations as to single-member electoral areas” means recommendations, for each electoral area in the area of a principal council, as to whether the electoral area should return one member of the council.
- (3) A principal council falls within this subsection if—
 - (a) it is not the case that each of the electoral areas in the council’s area returns one member of the council, and
 - (b) the council is subject to a scheme for whole-council elections.
- (4) For the purposes of subsection (3)(b) a principal council is “subject to a scheme for whole-council elections” if, in each year in which ordinary elections of members of the council are to be held, all the members of the council are to be elected.
- (5) If the Local Government Boundary Commission for England grants a request under this section, in making its recommendations it must (in addition to the matters to be considered pursuant to Schedule 2) have regard to the desirability of securing that each electoral area in the principal council’s area should return one member of the council.
- (6) If the Local Government Boundary Commission for England decides not to grant a principal council’s request under this section, it must notify the council of its decision and the reasons for it.
- (7) Nothing in this section prevents the Local Government Boundary Commission for England, when making recommendations as to single-member electoral areas pursuant to subsection (1), from making other recommendations under section 56(2)(b).
- (8) In subsections (2) and (5), references to electoral areas are, in relation to a case where the Local Government Boundary Commission for England makes recommendations for change to the number or boundaries of electoral areas in the area of a principal council, to the recommended electoral areas.

58 Review procedure

- (1) As soon as reasonably practicable after deciding to conduct a review under section 56, the Local Government Boundary Commission for England must take such steps as it considers sufficient to secure that persons who may be interested in the review are informed of—
 - (a) the fact that the review is to take place, and
 - (b) any particular matters to which the review is to relate.
- (2) In conducting a review under section 56, the Local Government Boundary Commission for England must—
 - (a) prepare and publish draft recommendations,
 - (b) take such steps as its considers sufficient to secure that persons who may be interested in the recommendations are informed of them and of the period within which representations with respect to them may be made, and

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- (c) take into consideration any representations made to the Local Government Boundary Commission for England within that period.
- (3) The Local Government Boundary Commission for England may at any time before publishing draft recommendations under subsection (2)(a) consult such persons as it considers appropriate.
- (4) As soon as practicable after conducting a review under section 56, the Local Government Boundary Commission for England must—
 - (a) publish a report stating its recommendations, and
 - (b) take such steps as it considers sufficient to secure that persons who may be interested in the recommendations are informed of them.

59 Implementation of review recommendations

- (1) Where a report under section 58(4) contains recommendations for electoral changes, the Local Government Boundary Commission for England may by order give effect to all or any of the recommendations.
- (2) An order under this section may in particular include provision as to—
 - (a) the total number of members of any principal council or parish council (“councillors”);
 - (b) the number and boundaries of electoral areas for the purposes of the election of councillors;
 - (c) the number of councillors to be returned by any electoral area;
 - (d) the name of any electoral area;
 - (e) the election of councillors for any electoral area;
 - (f) the order of retirement of councillors;
 - (g) the ordinary year of election for a parish council.
- (3) An order under this section may not require or authorise the holding of an election for membership of a principal council otherwise than at an ordinary election for that council.
- (4) An order under this section may—
 - (a) contain incidental, consequential, supplementary or transitional provision, or savings;
 - (b) make different provision for different cases, including different provision for different areas or councils.
- (5) The provision referred to in subsection (4)(a) may include provision—
 - (a) applying any instrument made under an enactment, with or without modifications,
 - (b) extending, excluding or amending any such instrument, or
 - (c) repealing or revoking any such instrument.
- (6) Where the Local Government Boundary Commission for England is satisfied that—
 - (a) a mistake has occurred in the preparation of an order under subsection (1), and
 - (b) the mistake is such that it cannot be rectified by a subsequent order under this section by virtue of section 14 of the [Interpretation Act 1978 \(c. 30\)](#) (implied power to amend),

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the Local Government Boundary Commission for England may by order under this subsection make such provision as it thinks necessary or expedient for rectifying the mistake.

- (7) In subsection (6), “mistake”, in relation to an order, includes a provision contained in or omitted from the order in reliance on information supplied by any public body which is inaccurate or incomplete.
- (8) An order under this section is to be made by statutory instrument.
- (9) A draft of a statutory instrument containing an order under this section is to be laid before Parliament before the instrument is made.

*Local Government Boundary Commission for
England: functions relating to boundary change*

60 Transfer of functions relating to boundary change

- (1) The functions of the Electoral Commission’s Boundary Committee under Chapter 1 of Part 1 of the [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#) (structural and boundary change) are, subject to this Part, transferred to the Local Government Boundary Commission for England.
- (2) The functions of the Electoral Commission under the enactments specified in subsection (3) are, subject to the following provisions of this Part, transferred to the Local Government Boundary Commission for England.
- (3) Those enactments are—
 - (a) section 2(4) of the [Greater London Authority Act 1999 \(c. 29\)](#) (constituencies for the Greater London Assembly);
 - (b) Chapter 1 of Part 2 of the [Local Government and Public Involvement in Health Act 2007](#) (electoral arrangements);
 - (c) section 59 of that Act (change of name of electoral area);
 - (d) Chapter 3 of Part 4 of that Act (parish re-organisation).
- (4) In this Part, the “Electoral Commission’s Boundary Committee” means the Boundary Committee for England constituted by the Electoral Commission under section 14 of the [Political Parties, Elections and Referendums Act 2000 \(c. 41\)](#).

Termination of involvement of Electoral Commission

61 Removal of functions relating to boundary and electoral change

- (1) The duty of the Electoral Commission under section 14 of the [Political Parties, Elections and Referendums Act 2000 \(c. 41\)](#) to establish Boundary Committees is abolished so far as relating to England.
- (2) Accordingly, the following provisions of that Act are repealed—
 - (a) section 14 (Boundary Committees), so far as relating to England;
 - (b) section 15 (Deputy Electoral Commissioners).

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- (3) In that Act, the following provisions (which provide for the transfer of functions etc to the Electoral Commission and which are not in force or in force only to a limited extent) are repealed—
- (a) section 14 (Boundary Committees) so far as relating to Scotland, Wales and Northern Ireland;
 - (b) sections 16 and 17 (transfer of functions and property etc of Boundary Commissions to the Electoral Commission);
 - (c) sections 19 and 20 (transfer of functions of Local Government Boundary Commissions for Scotland and Wales to Electoral Commission);
 - (d) Part 1 of Schedule 3 (amendments relating to the transfer of functions of Boundary Commissions);
 - (e) in Schedule 22 (repeals), the entries relating to the [Parliamentary Constituencies Act 1986 \(c. 56\)](#) and the [Boundary Commissions Act 1992 \(c. 55\)](#).

62 Transfer schemes

- (1) For the purpose of the exercise of functions conferred on the Local Government Boundary Commission for England by or under this Part, the Electoral Commission must make one or more schemes for the transfer of property, rights and liabilities from the Electoral Commission to the Local Government Boundary Commission for England.
- (2) The Electoral Commission may not make a scheme under this section—
- (a) without consulting the Secretary of State;
 - (b) without the consent of the Electoral Commission’s Boundary Committee.
- (3) If the Electoral Commission and the Electoral Commission’s Boundary Committee fail to agree on the provision to be included in a scheme under this section, the Secretary of State may by order specify the provision to be included in the scheme.
- (4) A scheme under this section must be made on or before—
- (a) 31 December 2009, or
 - (b) such later date as the Secretary of State may by order specify.
- (5) A transfer under a scheme under this section has effect in accordance with the terms of the scheme.
- (6) A transfer under a scheme under this section may have effect—
- (a) whether or not the property, rights and liabilities would otherwise be capable of being transferred;
 - (b) without any instrument or other formality being required.
- (7) The rights and liabilities which may be transferred by a scheme under this section include rights and liabilities in relation to a contract of employment.
- (8) The Transfer of Undertakings (Protection of Employment) Regulations 2006 ([SI 2006/246](#)) apply to the transfer under a scheme under this section (whether or not the transfer is a relevant transfer for the purposes of those regulations).
- (9) A scheme under this section may define the property, rights and liabilities to be transferred by specifying or describing them.

- (10) A scheme under this section may include supplementary, incidental, transitional and consequential provision and may in particular—
- (a) make provision for the continuing effect of things done by the Electoral Commission in relation to anything transferred by the scheme;
 - (b) make provision for the continuation of things (including legal proceedings) in the process of being done, by or on behalf of or in relation to the Electoral Commission in relation to anything transferred by the scheme;
 - (c) make provision for references to the Electoral Commission in an agreement (whether written or not), instrument or other document in relation to anything transferred by the scheme to be treated (so far as necessary for the purposes of or in consequence of the transfer) as references to the Local Government Boundary Commission for England;
 - (d) make provision for the shared ownership or use of any property or facilities.
- (11) Where a scheme has been made under this section, the Electoral Commission and the Local Government Boundary Commission for England may (subject to any order under this section) agree in writing to modify the scheme; and any such modification is to have effect as from the date the original scheme came into effect.
- (12) An order under this section is to be made by statutory instrument.
- (13) A statutory instrument containing an order under this section is subject to annulment in pursuance of a resolution of either House of Parliament.

Transitional

63 Continuity of functions

- (1) Anything done before the relevant day by the Electoral Commission's Boundary Committee for the purposes of the discharge of its functions under Part 2 of the [Local Government Act 1992 \(c. 19\)](#) may for the purposes of the discharge of any function of the Local Government Boundary Commission for England under any of sections 56 to 59 be regarded as having been done by the Local Government Boundary Commission for England under that section.
- (2) In subsection (1) “relevant day” means the day on which section 56 comes into force.
- (3) Anything done before the relevant day by the Electoral Commission's Boundary Committee for the purposes of the discharge of any function referred to in section 60(1) may for the purposes of the discharge of that function by the Local Government Boundary Commission for England under Chapter 1 of Part 1 of the [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#) be regarded as having been done by the Local Government Boundary Commission for England under that Chapter.
- (4) Anything done before the relevant day by the Electoral Commission for the purposes of the discharge of any function under an enactment specified in section 60(3) may for the purposes of the discharge of that function by the Local Government Boundary Commission for England under that enactment be regarded as having been done by the Local Government Boundary Commission for England under that enactment.
- (5) In subsections (3) and (4), “relevant day” means the day on which section 60 comes into force.

64 Interim provision

- (1) Schedule 3 (which makes modifications to Part 2 of the [Local Government Act 1992 \(c. 19\)](#) for an interim period) is part of this Part.
- (2) Where the Electoral Commission receives recommendations under Part 2 of the [Local Government Act 1992](#) before the day on which this Act is passed, it must determine whether to give effect to any or all of those recommendations on or before 31 March 2010.

Miscellaneous

65 Electoral changes consequential on boundary change in England

- (1) Chapter 1 of Part 1 of the [Local Government and Public Involvement in Health Act 2007](#) (structural and boundary change) is amended as follows.
- (2) In section 8 (review of local government areas) after subsection (6) insert—
 - “(6A) Where under subsection (2) the Local Government Boundary Commission recommend that a boundary change should be made in relation to any local government area, the Commission must recommend to the Secretary of State whether, in consequence, a change should be made to—
 - (a) the electoral arrangements of the area of a local authority;
 - (b) the electoral arrangements of the area of a parish council.
 - (6B) In subsection (6A)(a) “electoral arrangements”, in relation to the area of a local authority means—
 - (a) the total number of members of the local authority (“councillors”);
 - (b) the number and boundaries of electoral areas for the purposes of the election of councillors;
 - (c) the number of councillors to be returned by any electoral area in that area; and
 - (d) the name of any electoral area.
 - (6C) In subsection (6A)(b) “electoral arrangements”, in relation to the area of a parish council means—
 - (a) the total number of members of the parish council (“parish councillors”);
 - (b) arrangements for the division of the parish or (in the case of a common parish council) any of the parishes into wards for the purposes of the election of parish councillors;
 - (c) the number and boundaries of any wards;
 - (d) the number of parish councillors to be returned by any ward or, in the case of a common parish council, by each parish; and
 - (e) the name of any ward.
 - (6D) Schedule 2 to the Local Democracy, Economic Development and Construction Act 2009 applies in relation to the making of recommendations under subsection (6A).
 - (6E) Where under subsection (2) the Local Government Boundary Commission recommend that a boundary change should be made in relation to the area of a

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London borough council, the Commission must recommend to the Secretary of State whether, in consequence, a change should be made to the area of any constituency for the London Assembly in order to comply with the rules set out in paragraph 7 of Schedule 1 to the Greater London Authority Act 1999.”

- (3) In that section, in subsection (7), for “subsection (1), (2), (5) or (6)” substitute “this section”.
- (4) In section 10 (implementation of recommendations), after subsection (2) insert—
- “(2A) Subsections (2B) to (2D) apply where the Local Government Boundary Commission make a recommendation to the Secretary of State under section 8(6A) or (6E) in consequence of a recommendation under section 8(2).
- (2B) Where under subsection (1)(a) the Secretary of State implements the recommendation under section 8(2) without modification, the Secretary of State must by order implement the recommendation under section 8(6A) or (6E).
- (2C) Where pursuant to subsection (1)(a) the Secretary of State proposes to implement the recommendation under section 8(2) with modification, the Secretary of State must request the Local Government Boundary Commission to recommend whether a modification is needed to their recommendation under section 8(6A) or (6E).
- (2D) Where under section (1)(a) the Secretary of State implements a recommendation under section 8(2) with modification—
- (a) if the Local Government Boundary Commission have recommended under subsection (2C) that a modification is needed to their recommendation under section 8(6A) or (6E), the Secretary of State must by order implement the recommendation under section 8(6A) or (6E) with that modification;
- (b) if the Local Government Boundary Commission have recommended under subsection (2C) that no modification is needed to the recommendation under section 8(6A) or (6E), the Secretary of State must by order implement that recommendation.”
- (5) In section 11 (implementation orders: provision that may be included)—
- (a) in subsection (3), at the end insert—
- “(i) electoral matters within the meaning of section 12.”;
- (b) in subsection (4), omit paragraph (d).
- (6) In section 12 (provision relating to membership etc of authorities), in subsection (1)—
- (a) for “section 11(4)” substitute “section 11(3)”;
- (b) at the end insert—
- “(l) the ordinary year of election for a parish council.”

66 Repeal of redundant provisions

The following provisions (which relate to the Local Government Commission for England) are repealed—

- (a) in the [Local Government Act 1992 \(c. 19\)](#), section 12 and Schedule 2;
- (b) in the [Political Parties, Elections and Referendums Act 2000 \(c. 41\)](#), section 18.

General

67 Consequential and supplementary provision

- (1) Schedule 4 (which contains amendments consequential on, and supplementary to, this Part) is part of this Part.
- (2) The Secretary of State may by order make such other provision as the Secretary of State considers appropriate in consequence of any provision made by this Part.
- (3) The power conferred in subsection (2) includes power to amend, repeal or revoke provision contained in an enactment passed or made before the day on which this Act is passed.
- (4) An order under subsection (2) is to be made by statutory instrument.
- (5) A statutory instrument containing an order under subsection (2) which includes provision—
 - (a) amending or repealing provision contained in an Act, or
 - (b) amending or revoking provision contained in an instrument of which a draft was required to be laid before and approved by a resolution of each House of Parliament,may not be made unless a draft of the instrument has been laid before, and approved by a resolution of each House of Parliament.
- (6) A statutory instrument containing any other order under subsection (2) is subject to annulment in pursuance of a resolution of either House of Parliament.

68 Interpretation

In this Part—

- “the Electoral Commission’s Boundary Committee” has the meaning given by section 60(4);
- “electoral arrangements” has the meaning given in section 56(4) and (6);
- “principal council” has the meaning given in section 56(3).