

1978 No. 247

LOCAL GOVERNMENT, ENGLAND AND WALES

The Local Government Area Changes (Amendment)
Regulations 1978

<i>Made</i>	- - -	20th February 1978
<i>Laid before Parliament</i>		9th March 1978
<i>Coming into Operation</i>		30th March 1978

The Secretary of State for the Environment and the Secretary of State for Wales, in exercise of the powers conferred upon them by section 67(1) and (2) of, and paragraph 9 of Schedule 10 to, the Local Government Act 1972^(a) and of all other powers enabling them in that behalf, hereby make the following regulations:—

Title, commencement and interpretation

1. These regulations may be cited as the Local Government Area Changes (Amendment) Regulations 1978 and shall come into operation on 30th March 1978.

2.—(1) The Interpretation Act 1889^(b) shall apply for the interpretation of these regulations as it applies for the interpretation of an Act of Parliament.

(2) In these regulations, “the principal regulations” means the Local Government Area Changes Regulations 1976^(c).

Application: extent of exercise of powers

3.—(1) Subject to paragraph (2) of this regulation, these regulations make incidental, consequential, transitional or supplementary provision for the purposes or in consequence of orders made under Part IV of the Local Government Act 1972 by the Secretary of State for the Environment or the Secretary of State for Wales, or both, or under paragraph 7 of Schedule 10 to the said Act by the Secretary of State for Wales, coming into operation for purposes other than those set out in regulation 4(1) of the principal regulations on or after 1st April 1978.

(2) The provision made by paragraph (6) of regulation 4 below is also made in consequence of the following orders made by the Secretary of State for the Environment, namely—

- The Glanford and Scunthorpe (Areas) Order 1976^(d);
- The Berkshire and Oxfordshire (Areas) Order 1977^(e);
- The Berkshire and Buckinghamshire (Areas) Order 1977^(f); and
- The Runnymede and Woking (Areas) Order 1977^(g).

(a) 1972 c. 70.

(d) S.I. 1976/188.

(g) S.I. 1977/382.

(b) 1889 c. 63.

(e) S.I. 1977/218.

(c) S.I. 1976/246.

(f) S.I. 1977/219.

- (3) These regulations are made—
by the Secretary of State for the Environment in so far as they are made in relation to orders by him;
by the Secretary of State for Wales in so far as they are made in relation to orders made by him; and
by both such Secretaries in so far as they are made in relation to orders made by both.

Amendment of principal regulations

4.—(1) The amendments set out in paragraphs (2) to (16) below shall be made in the principal regulations.

(2) In regulation 3 (Interpretation), in paragraph (2), “except in regulation 49” shall be omitted.

(3) In regulation 19 (Justices), in paragraph (1), there shall be added “and in respect of which proceedings have not been commenced before the appointed day”.

(4) Regulation 20 (Licensing) shall be omitted.

(5) After regulation 27 there shall be inserted the regulation (Children) set out in Schedule 1 to these regulations.

(6) After regulation 40 there shall be inserted the regulation (Construction of pre-1967 references to parishes) set out in Schedule 2 to these regulations.

(7) For regulation 49 (Local land charges) there shall be substituted the regulation set out in Schedule 3 to these regulations.

(8) For regulation 51 (Rate support grants) there shall be substituted the regulation set out in Schedule 4 to these regulations.

(9) After regulation 54 there shall be inserted the regulation (Distribution of payments made by Transport Boards) set out in Schedule 5 to these regulations.

(10) For regulation 55 (Rating of British Gas Corporation and electricity boards) there shall be substituted the regulation set out in Schedule 6 to these regulations.

(11) In regulation 56 (Valuation of hereditaments of National Coal Board)—
in paragraph (2), for “article 7 of the National Coal Board (Valuation) Order 1963” there shall be substituted “article 6 of the National Coal Board (Rateable Values) Order 1977(a)”;
in paragraph (3), for “article 21(3) (b) and (c) of the said order of 1963,” there shall be substituted “article 4(2) (c) and (d) of the said order of 1977,”;
in paragraph (4), for “article 21(4) of the said order of 1963,” there shall be substituted “article 4(3) of the said order of 1977,” and for “article 21(4),” where subsequently occurring, there shall be substituted “article 4(3)”;
and in paragraph (5), for “article 21(5) or (6) of the said order of 1963” there shall be substituted “article 4(4) of the said order of 1977” and for “article 21(5) or (6),” where subsequently occurring, there shall be substituted “article 4(4)”.

(12) For regulation 57 (Valuation of hereditaments of Post Office) there shall be substituted the regulation set out in Schedule 7 to these regulations.

(a) S.I. 1977/2083.

(13) In regulation 66 (Liabilities to certain funds), for paragraph (3) there shall be substituted—

“(3) Where by virtue of these regulations or of the order any matter in respect of which any advance from a fund established or deemed to be established under paragraph 16 of Schedule 13 to the Local Government Act 1972, as set out in section 28(1) of the Local Government (Miscellaneous Provisions) Act 1976(a), is not fully repaid is transferred to an authority other than the authority by whom such fund is maintained on and after the appointed day, the first-mentioned authority may treat the outstanding amount of the advance as an advance to any similar fund so established or deemed to be established by them and make such payments to the fund as they consider appropriate, but otherwise any liability to make repayments in respect of the advance shall cease.”.

(14) In Schedule 1 (Petty sessions areas)—

(a) in Part I, in paragraph 1, in the definition of “supervision order”, there shall be added—

“an order under section 17(1)(a) or 36(3)(b) of the Children Act 1975(b);

(b) in the said Part, for paragraph 2 there shall be substituted—

“2. Subject to the following paragraphs, except where a transferor area is abolished by the order, the transfer of an area shall not affect any proceedings commenced before the appointed day before the transferor justices, and any such proceedings may be disposed of as if the order had not been made.”;

(c) in the said Part, for paragraph 5 there shall be substituted—

“5. Where periodical payments are payable under section 52 of the Magistrates’ Courts Act 1952 through the clerk to the justices for the transferor area to a person who resides in the transferred area, the said clerk may amend the order so as to require payments to be made through the clerk to the justices for the transferee area and, if he does so, shall give notice of the amendment to the person entitled to the payments, to the person required to make the payments and to the justices’ clerk for the transferee area.”;

(d) in the said Part, paragraph 7 shall be omitted;

(e) for Part II there shall be substituted—

“PART II

PROVISIONS APPLYING WHERE A PETTY SESSIONS AREA CEASES TO EXIST

1. In this Part—

“abolished area” means a petty sessions area which is abolished by the order;

“related area”, in relation to any abolished area, means the petty sessions area specified as such in the order; and

“community service order”, “probation order” and “supervision order” have the same meanings as in Part I to this Schedule.

2. Any process issued, order made, sentence passed, appeal brought, case ordered, licence granted, recognizance entered into, proceeding begun, appointment made or other thing done before the appointed day by, from,

(a) 1976 c. 57.

(b) 1975 c. 72.

to or before any justices for an abolished area or their clerk shall, on and after that day, be deemed to have been issued, made, passed, brought, ordered, granted, entered into, begun, made or done by, from, to or before those justices as justices for the related area or their clerk, as the case may be.

3. Any order made by a magistrates' court directing the payment of money to the clerk or any other officer of a magistrates' court acting for an abolished area shall have effect as if it had directed payment to be made to the clerk of the justices for the related area.

4. Where an abolished area is named in a community service order, probation order or supervision order, the powers and functions of the justices for that area in relation to the order shall vest in and be discharged by the justices for the related area, and the order, unless amended in regard to the petty sessions area named, shall have effect in all respects as if the related area were named therein.

This paragraph does not apply to any order in respect of which provision is made in paragraph 6 of Part I of this Schedule.

5.—(1) Any process, records or other documents in the custody, by virtue of his office as such, of the clerk to the justices for an abolished area shall be retained by the clerk in his capacity as clerk to the justices for the related area, or, if he does not hold that clerkship, be transferred to the custody of the clerk to the justices for the related area.

(2) Copies of or extracts from any such record or other document as aforesaid made or certified by the clerk to the justices for the related area shall be of the same effect as if they had been made or certified by the clerk to the justices for the abolished area.”; and

(f) In Part III, in paragraph 1, in item (ii), for “the election of a juvenile court panel” there shall be substituted “the appointment of a juvenile court panel”.

(15) In Schedule 5 (Rating of British Gas Corporation and electricity boards), in paragraph 1, for “that Schedule as” there shall be substituted “the Schedule”.

(16) in Schedule 6 (Transfer of specified classes of property, etc.), in the definition of “sited property”, after “easement” there shall be added “or right”.

SCHEDULE 1

Article 4(5)

Children

27A.—(1) This regulation shall apply where an area is transferred from one relevant area to another such area, and in this regulation “the transferred area” means the area so transferred and—

“local authority” means the council of a non-metropolitan county, a metropolitan district or a London borough or the Common Council of the City of London;

“the transferor authority”, in relation to any transferred area, means the local authority for the relevant area from which the transferred area is transferred;

“the transferee authority”, in relation to any transferred area, means the local authority for the relevant area to which the transferred area is transferred; and

“relevant area” means a non-metropolitan county, a metropolitan district, a London borough or the City and the Temples.

(2)(a) This paragraph shall apply to any child or young person—

- (i) received into the care of the transferor authority under section 1 of the Children Act 1948(a);
- (ii) committed to the care of the transferor authority by an order of the court in England or Wales; or
- (iii) placed under the supervision of the transferor authority by an order of the court in England or Wales made under any provision of the Children and Young Persons Act 1969(b) or any other enactment,

who was on the appointed day in the care, or as the case may be under the supervision, of the transferor authority.

(b) Where a child or young person described in (i) of sub-paragraph (a) was ordinarily resident in the transferred area at the time he was received into care or if he has been so received on more than one occasion when last so received then that child or young person may on or after the appointed day be transferred to the care of the transferee authority. Any question as to such ordinary residence shall be determined as though it arose under section 1 of the Children Act 1948.

(c) Where in the case of a child or young person described in (ii) of sub-paragraph (a)—

such child or young person resided in the transferred area at the time the order of the court was made; or

it had not appeared to the court making the order that such child or young person resided in the area of a local authority but it had appeared that the offence was committed, or the circumstances in consequence of which the order was made arose, in the transferred area,

then that child or young person may on or after the appointed day be transferred to the care of the transferee authority.

(d) Where a child or young person described in (iii) of sub-paragraph (a) is immediately before the appointed day residing in the transferred area, then that child or young person may on or after that day be transferred to the supervision of the transferee authority.

(3)(a) Any functions, powers, rights or liabilities vested in or attaching to the transferor authority with respect to a child or young person transferred to the care of the transferee authority under paragraph (2)(b) or (c) shall thereafter vest in the transferee authority.

(b) Any order of the court committing a child or young person to whom paragraph (2)(c) or (d) applies to the care, or as the case may be the supervision, of the transferor authority shall, after the care or supervision of the child or

(a) 1948 c. 43.

(b) 1969 c. 54.

young person is transferred, have effect with the substitution of the name of the transferee authority for that of the transferor authority.

(c) Without prejudice to the provisions of sub-paragraph (a), where functions, powers, rights and liabilities under a resolution passed under section 2 of the Children Act 1948 are transferred under this regulation to a transferee authority, the resolution shall thereafter be deemed to have been passed by the transferee authority.

(4) A transferor authority may recover from the transferee authority any expenses in respect of any child or young person to whom paragraph (2) applies duly incurred under Part II of the Children Act 1948 or any other enactment by them on or after the appointed day, including any travelling or other expenses incurred in connection with a transfer under paragraph (2)(b).

SCHEDULE 2

Article 4(6)

Construction of pre-1967 references to parishes

40A.—(1) The provisions of this regulation—

- (a) apply in relation to England outside Greater London;
- (b) so apply for the construction of any enactment passed before 22nd March 1967; and
- (c) shall have effect subject to any contrary intention which may appear in any such enactment.

(2) Where any part of a parish ceases to form part of any parish, any reference in any such enactment to a parish or an urban parish shall be construed as including a reference to such part of a parish.

(3) Where any part of an area to which paragraph (2), (3) or (4) of paragraph 6 of Schedule 29 to the Local Government Act 1972, as enacted or as extended by article 3(19) of the Local Authorities etc. (Miscellaneous Provision) (No. 2) Order 1974(a), applies becomes a parish or part of a parish, such paragraph shall cease to apply to the first-mentioned part.

SCHEDULE 3

Article 4(7)

Local land charges

49.—(1) This regulation shall apply where an area is transferred from one relevant area to another such area, and in this regulation “transferred area” means an area so transferred and—

“register” means a local land charges register kept in pursuance of section 3(2) of the Local Land Charges Act 1975(b);

“registering authority” means a registering authority for the purposes of that Act;

“relevant area” means a district or London borough or the City and the Temples;

(a) S.I. 1974/595.

(b) 1975 c. 76.

“the transferor authority”, in relation to any transferred area, means the registering authority for the relevant area from which the transferred area is transferred; and

“the transferee authority”, in relation to any transferred area, means the registering authority for the relevant area to which the transferred area is transferred.

(2)(a) This paragraph shall apply to every transferred area other than one transferred from a transferor authority dissolved by the order to the residuary successor of that authority.

(b) The transferor authority shall immediately before the appointed day supply to the transferee authority an office copy of any registration in the register kept by the transferor authority relating to any land in the transferred area and of any document, map or plan deposited with or filed by the transferor authority in connection with that registration.

(c) The transferee authority shall, within 14 days after the receipt under sub-paragraph (b) of an office copy of any registration and any document, map or plan, enter the particulars of the registration, with any necessary modifications, in the appropriate part of the register kept by them, and file the document, map or plan.

(d) Until all the registration and filing required by sub-paragraph (c) has been carried out and notice thereof has been given under sub-paragraph (e), the following provisions shall have effect in relation to land in the transferred area—

- (i) the transferee authority shall notify any person making a personal search in the register kept by that authority that an additional search should be made in the register kept by the transferor authority;
- (ii) where a requisition is made for an official search of the register kept by the transferee authority, that authority shall, in addition to making the search required and issuing an official search certificate setting out the result of the search, forward the requisition to the transferor authority;
- (iii) subject to paragraph (4), the transferor authority shall permit and make such searches and furnish such office copies and certificates as they would have been required to permit, make and furnish, and shall in relation thereto have the same powers and be subject to the same obligations, as they would have had or been subject to if this regulation and the order had not been made.

(e) On the completion of all the registration and filing required by sub-paragraph (c) the transferee authority shall notify the transferor authority that such registration and filing is complete.

(3)(a) This paragraph shall have effect where a registering authority is dissolved by the order, and in this paragraph—

“the registering authority” means such registering authority;

“the residuary successor” means the residuary successor of the registering authority.

(b) The registering authority shall immediately before the appointed day deliver the register kept by them to the residuary successor, together with any document, map or plan deposited with or filed by the registering authority as such.

(c) On delivery of the register and any document, map or plan under sub-paragraph (b), the residuary successor shall incorporate any registration in the register relating to land in the area transferred to the residuary successor, with any necessary modifications, in the register kept by them, and file any document, map or plan connected with that registration.

(d) Until such incorporation and filing has been completed—

- (i) the residuary successor shall notify any person making a personal search in the register kept by them that an additional search should be made in the register delivered under sub-paragraph (b);
- (ii) where a requisition is made for an official search of the register kept by the residuary successor, the search shall extend to the registration in the register delivered under sub-paragraph (b) relating to land in the area transferred to the residuary successor;
- (iii) subject to paragraph (4), the residuary successor shall in relation to any additional or extended search made under (i) or (ii) above have the same powers and be subject to the same obligations as the registering authority would have had or been subject to if this regulation and the order had not been made.

(e) In the application of paragraph (2)(d) to any area transferred from the registering authority to any authority other than the residuary successor of the registering authority—

in (i), for “kept by the transferor authority” there shall be substituted “delivered to the residuary successor of the transferor authority under paragraph (3)(b)”;

in (ii), for “transferor authority” there shall be substituted “residuary successor of the transferor authority”;

in (iii), for “transferor authority” there shall be substituted “residuary successor of the transferor authority” and for “they”, wherever occurring, there shall be substituted “the transferor authority”,

and in the application of paragraph (2)(e) to any such area, for “the transferor authority” there shall be substituted “the residuary successor of the transferor authority”.

(4) The fee paid for the making of any search of a register to which paragraph (2)(d)(i) or (ii) or paragraph (3)(d)(i) or (ii), as the case may be, applies, shall cover any additional or extended search made under such provisions in connection with the first-mentioned search.

SCHEDULE 4

Article 4(8)

Rate support grants

51. In any calculations of the rate support grants for the year beginning on the appointed day or any subsequent year, the changes of areas made by the order shall be deemed to have been effective at all material times.

Article 4(9)

SCHEDULE 5

Distribution of payments made by Transport Boards

54A.—(1) In the distribution, under article 4, 5 or 6 of the Transport Boards (Distribution of Payments for Rating Authorities) Order 1977(a), of the payments made under section 32(5) of and paragraph 4(1) of Schedule 5 to the General Rate Act 1967(b) by the British Railways Board, the London Transport Executive or the British Waterways Board for the year beginning on the appointed day or any subsequent year, the changes of areas made by the order shall be deemed to have been operative at all material times.

(2) Where the British Railways Board, the London Transport Executive or the British Waterways Board have furnished the information required by article 7(2) of the said order, they shall as soon as may be after the coming into operation of the order furnish to the Secretary of State for the Environment in writing any correction of such information which is necessary.

Article 4(10)

SCHEDULE 6

Rating of British Gas Corporation and electricity boards

55.—(1) In the application of the specified provisions to the British Gas Corporation and to the Central Electricity Generating Board and any Area Board in relation to any rate period beginning on or after the appointed day, the changes of rating areas made by the order shall be deemed to have been operative at all material times.

(2) The provisions of Schedule 5 shall have effect in relation to matters provided for by the specified provisions.

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

in relation to the British Gas Corporation—

Section 33 of the General Rate Act 1967 (set out in Schedule 5 to the Gas Act 1972(c));

Any order under section 19 of, and paragraph 3 of Schedule 3 to, the Local Government Act 1974 for the time being in force; and

Part II of Schedule 6 to the said Act of 1967 (set out in Schedule 5 to the Gas Act 1972); and

in relation to the Central Electricity Generating Board and any Area Board, section 34 of, and section 7 to, the said Act of 1967.

(a) S.I. 1977/481.

(b) 1967 c. 9.

(c) 1972 c. 60.

SCHEDULE 7

Article 4(12)

Valuation of hereditaments of Post Office

57.—(1) For the purposes of articles 5 and 6 of the Post Office (Rateable Values) Order 1976(a) in relation to any year beginning on or after the appointed day, the changes of areas made by the order shall be deemed to have been operative at all material times.

(2) Where the Commissioners of Inland Revenue have notified the amounts of rateable values under paragraph (1) of the said article 5, they shall as soon as may be after the coming into operation of the order notify to the rating authorities any variation of such amounts or of apportionments made under paragraph (3) of the said article which is necessary, and the valuation officer in his action under paragraph (4) of such article shall proceed accordingly.

Peter Shore,

Secretary of State for the Environment.

17th February 1978.

John Morris,

Secretary of State for Wales.

20th February 1978.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

Part IV of the Local Government Act 1972 makes provision for changes of local government areas, to be effected by orders. Section 67(1) and (2) of the Act of 1972 empowers the making of provision incidental, consequential, transitional or supplementary to the orders by regulations of general application. The Local Government Area Changes Regulations 1976 contained such provision, which also extended to the orders made under the provisions of Schedule 10 to the Act of 1972 for the initial review of the communities in Wales. These Regulations make further provision, and amend some of the provisions of the 1976 Regulations.

(a) S.I. 1976/206.

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