
STATUTORY INSTRUMENTS

1996 No. 507

LOCAL GOVERNMENT, ENGLAND AND WALES

**The Leicestershire (City of Leicester and District
of Rutland) (Structural Change) Order 1996**

Made - - - - 29th February 1996

Coming into force

*For the purposes of articles
2(2), 4, 6(1), (3) and (4), 9
and 10*

1st March 1996

For all other purposes

1st April 1997

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 county of Leicestershire together with its recommendations:

And whereas the Secretary of State has decided to give effect, with modifications, to the recommendations in respect of the city of Leicester⁽²⁾ and the district of Rutland:

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 Leicestershire (City of Leicester and District of Rutland) (Structural Change) Order 1996 and shall come into force for the purposes of articles 2(2), 4, 6(1), (3) and (4), 9 and 10 on the day after the day on which it is made and for all other purposes on 1st April 1997.

⁽¹⁾ 1992 c. 19.

⁽²⁾ The non-metropolitan district of Leicester has been granted the status of a city.

⁽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⁾;

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

“Leicestershire” means the non-metropolitan county of Leicestershire and “the County Council” means the council of that county;

“the relevant date” means 6th May 1996;

“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 1997;

“Rutland” (except in references to the county of Rutland) means the non-metropolitan district of Rutland and “the Rutland Council” means the council of that district; and

“subordinate legislation” has the same meaning as in section 21 of the Interpretation Act 1978⁽⁵⁾.

(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 LEICESTER AND RUTLAND

Structural change

3. The functions of the County Council in relation to Leicester and Rutland shall, subject to the following provisions of this Part and to any other relevant provision, be transferred to the Leicester Council and the Rutland Council respectively.

Leicestershire Police Authority

4.—(1) In this article, “the 1964 Act” means the Police Act 1964⁽⁶⁾.

(2) For the purposes of the functions to which this article applies—

(a) sub-paragraph (1) of paragraph 27 of Schedule 1B to the 1964 Act (meaning of “relevant council”)⁽⁷⁾ shall have effect as from 1st October 1996 as if Leicester and Rutland had ceased to form part of Leicestershire on that date; and

(b) accordingly, the appointments which are required to be made to the Leicestershire Police Authority (as established under section 3 of the 1964 Act) (“the Authority”)⁽⁸⁾ by paragraph 2(2) of that Schedule (appointments of members of police authority by joint committee appointed by relevant councils) shall be made, as soon as practicable after that

(4) 1972 c. 70.

(5) 1978 c. 30.

(6) 1964 c. 48.

(7) Schedule 1B was inserted by Schedule 2 to the Police and Magistrates' Courts Act 1994 (“the 1994 Act”).

(8) Section 3 was substituted by section 2 of the 1994 Act.

date, by a joint committee appointed by the County Council, the Leicester Council and the Rutland Council (as relevant councils) in accordance with that provision.

- (3) The functions to which this article applies are—
- (a) on and after the reorganisation date, all functions of the Authority; and
 - (b) before that date (but on and after 1st October 1996), the following functions of the Authority in respect of the financial year beginning on the reorganisation date—
 - (i) functions under Chapter IV of Part I of the Local Government Finance Act 1992 (precepts)**(9)**, and
 - (ii) functions under sections 4A (local policing objectives) and 4B (local policing plans) of the 1964 Act**(10)**.
- (4) For the purposes of the functions referred to in paragraph (3)(b) above—
- (a) section 28(2)(b) of the Police and Magistrates' Courts Act 1994 (approval of decisions about precepts) shall have effect as though the reference to the members of the police authority appointed under paragraph 2 of Schedule 1B to the 1964 Act was a reference to the members so appointed by virtue of paragraph (2) above, and
 - (b) the members of the Authority appointed under paragraph 2 of that Schedule otherwise than by virtue of paragraph (2) above shall not participate in the discharge of those functions.
- (5) In the exercise of its powers, the joint committee referred to in paragraph (2)(b) above—
- (a) shall, for the purposes of paragraph 4(1)(b) of Schedule 1B to the 1964 Act, ignore any member of the County Council elected for an electoral division in Leicester or Rutland**(11)**; and
 - (b) shall not appoint any such member to the Authority under paragraph 2(2) of Schedule 1B to the 1964 Act.

(6) A member of the Authority who was appointed under paragraph 2 of Schedule 1B to the 1964 Act otherwise than by virtue of paragraph (2) above and who is not subsequently so appointed shall cease to hold office as a member of the Authority on the reorganisation date.

(7) In determining the period of a term of years for the purpose of paragraph 17 of Schedule 1B to the 1964 Act (term of appointment of members of a police authority), any period as a member of the Authority prior to the reorganisation date under an appointment made by virtue of paragraph (2) above shall be disregarded except where the person in question had been a member of the Authority by virtue of an appointment under paragraph 2 of that Schedule prior to his appointment by virtue of paragraph (2) above.

Amendment of Schedule 1A to Police Act 1964

5. Schedule 1A to the Police Act 1964**(12)** shall be amended by inserting after the words “The county of Leicestershire” in the right-hand column opposite the name of the Leicestershire police area the words “and the non-metropolitan districts of Leicester and Rutland”.

Fire services

- 6.—(1) In this article—
- “the 1947 Act” means the Fire Services Act 1947**(13)**; and

(9) 1992 c. 14; section 39 of that Act was amended by section 27(1) of the 1994 Act.

(10) Sections 4A and 4B were inserted by section 4 of the 1994 Act.

(11) See article 10(2) of this Order.

(12) Schedule 1A was inserted by Schedule 1 to the 1994 Act.

(13) 1947 c. 41; section 10 of this Act is amended by paragraph 2 of Schedule 3 to the Local Government Act 1992.

“the relevant area” means the area comprising Leicestershire (as constituted on and after the reorganisation date), Leicester and Rutland.

(2) Leicester and Rutland 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 Leicestershire”; 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 Leicestershire”.

(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,”.

Planning functions

7.—(1) The structure plan applying immediately before the reorganisation date to Leicestershire, and any proposals prepared before that date for the alteration or replacement of that plan, shall be treated as if they had been prepared jointly by the County Council, the Leicester Council and the Rutland Council; and section 50 of the Town and Country Planning Act 1990(14) (“the 1990 Act”) shall apply accordingly.

(2) In relation to the Leicester Council and the Rutland Council—

- (a) section 36(5) of the 1990 Act (which provides that a local plan shall not contain policies in respect of minerals or waste) shall not apply;
- (b) subsection (1) of section 37 of that Act (minerals local plans) shall have effect as if, after the words “local plan”, there were added the words “or include in their local plan their detailed policies in respect of development consisting of the winning and working of minerals or involving the deposit of mineral waste”; and
- (c) subsection (2) of section 38 of that Act (waste policies) shall have effect as if, after paragraph (b), there were added the following—

“or

- (c) include their waste policies in their local plan.”.

Constitution of new counties

8.—(1) Leicester and Rutland shall cease to form part of Leicestershire.

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

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

(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 Leicester and Rutland.

(14) 1990 c. 8. In this Act, sections 36 to 38 were substituted by paragraph 17 of Schedule 4 to the Planning and Compensation Act 1991 (c. 34) and section 50 was amended by paragraph 24 of that Schedule.

PART III

TRANSITIONAL PROVISION

Election of councillors in 1996 and subsequent years

9.—(1) The City of Leicester (Electoral Arrangements) Order 1979⁽¹⁵⁾ and the District of Rutland (Electoral Arrangements) Order 1977⁽¹⁶⁾ shall have effect subject to the provisions of this article.

(2) Elections of all councillors of the Leicester Council and the Rutland Council shall be held simultaneously on the ordinary day of election of councillors in 1996, 1999 and every fourth year after 1999⁽¹⁷⁾.

(3) The term of office of any councillor so elected shall be, in the case of the councillors elected in 1996, three years and, in any other case, four years.

(4) 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.

(5) The City of Leicester (Electoral Arrangements) Order 1984⁽¹⁸⁾ is hereby revoked.

Retirement of councillors and casual vacancies

10.—(1) The electoral divisions of Leicestershire comprised in Leicester and Rutland shall cease to be electoral divisions on the reorganisation date; and any person holding office, immediately before that date, as a councillor for such a division shall retire on that date⁽¹⁹⁾.

(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 Leicester Council and the Rutland Council during the period beginning with the date on which this article comes into force and ending with 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.

⁽¹⁵⁾ S.I.1979/1474.

⁽¹⁶⁾ S.I. 1977/1865.

⁽¹⁷⁾ 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).

⁽¹⁸⁾ S.I. 1994/924.

⁽¹⁹⁾ The electoral divisions of Leicestershire are those described in the Schedule to the County of Leicestershire (Electoral Arrangements) Order 1984 (S.I. 1984/119).

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

Signed by authority of the Secretary of State

29th February 1996

David Curry
Minister of State,
Department of the Environment

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 city of Leicester (“Leicester”) and the district of Rutland (“Rutland”).

Article 3 effects a structural change by providing for the transfer, on 1st April 1997, of the functions of Leicestershire County Council in relation to Leicester and Rutland to their respective councils.

Articles 4 and 5 make provision in respect of the Leicestershire Police Authority.

Article 6 makes provision for the purposes of subordinate legislation which may be made under the Fire Services Act 1947 in respect of fire services.

Article 7 makes provision in relation to the structure plan applying to Leicestershire. It also makes provision to enable the local plan prepared by the councils of Leicester and Rutland under the Town and Country Planning Act 1990 to contain minerals and waste policies.

Article 8 provides for Leicester and Rutland to cease to form part of Leicestershire on 1st April 1997 and for new counties of Leicester and Rutland to be constituted on that date (but without county councils).

Article 9 makes provision for whole council elections in Leicester and Rutland in 1996, 1999 and every fourth year after that year.

Article 10 provides for the retirement, on 1st April 1997, of existing county councillors elected for divisions in Leicester and Rutland. It also makes provision in respect of casual vacancies in the office of a councillor who, by virtue of the Order, would retire before the day he would regularly have retired.