
STATUTORY INSTRUMENTS

2008 No. 2176

The Local Government (Structural Changes) (Transfer of Functions, Property, Rights and Liabilities) Regulations 2008

PART 1

GENERAL

Citation, commencement, application and effect

1.—(1) These Regulations may be cited as the Local Government (Structural Changes) (Transfer of Functions, Property, Rights and Liabilities) Regulations 2008 and shall come into force on 8th September 2008.

(2) These Regulations, which are of general application—

(a) have effect subject to any provision for the transfer of functions, property, rights or liabilities included in—

(i) other regulations under Chapter 1 of Part 1 of the Local Government and Public Involvement in Health Act 2007 **(1)** (structural and boundary change),

(ii) an order under section 20 of that Act (correction of orders),

(iii) an order under section 86 of that Act (reorganisation of community governance)**(2)**,

(iv) regulations under section 97 of that Act (supplementary regulations),

(v) an order under Part 2 of the Local Government and Rating Act 1997**(3)** (parishes and parish councils), or

(vi) regulations under section 7 of the Superannuation Act 1972**(4)** (superannuation of persons employed in local government service, etc.); and

(b) do not affect any transfer of property, rights or liabilities for which provision is contained in an agreement under section 16 of the Local Government and Public Involvement in Health Act 2007 (agreements about incidental matters).

Interpretation

2.—(1) In these Regulations—

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

“agreement”, except in regulations 14, 15 and 17(1)(b), means an agreement under section 16 of the Act;

“caretaker council” has the meaning given by regulation 13(1);

(1) See also section 14(3), which provides that regulations under section 14 have effect subject to any provision included in an order under section 7 or 10.

(2) See also section 98(3) and (4) and the definition of “reorganisation order” in section 102(2).

(3) 1997 c.29. Part 2 is repealed, with savings; see S.I. 2008/337.

(4) 1972 c.11. There are amendments of which none is relevant to these Regulations.

“default award”, means the arbitrator’s award in the arbitration of a disputed matter under section 16(3) of the Act (agreements about incidental matters)(5);

“nominated council” has the meaning given by regulation 10(1);

“preparing council” means a local authority which, in accordance with a section 7 order, becomes a single tier council on the reorganisation date;

“predecessor council”, in relation to a section 7 order, means a county or district council for whose winding up and dissolution the order provides;

“relevant instrument” means a statutory instrument made under the Act or, in connection with the Act or such an instrument, under any other Act, and includes these Regulations;

“the reorganisation date”, in relation to a predecessor council and a section 7 order, means the date specified in the order as that on which the council is to be wound up and dissolved;

“section 7 order” means an order under section 7 of the Act (implementation of proposals by order);

“single tier council” means the county or district council which, on the reorganisation date, becomes the principal authority for an area for which there is a single tier of local government(6); and

“successor council”—

(a) in relation to a predecessor council whose entire area becomes part of the area of a sole single tier council on the reorganisation date, means that council;

(b) in relation to a predecessor council whose area becomes the area of more than one single tier council on the reorganisation date, means those councils,

but this is subject to paragraph (2).

(2) Where, as regards any period—

(a) which, for the purposes of the section 7 order relevant to a predecessor council, is a shadow period(7) or part of a transitional period(8) before the reorganisation date, and

(b) during which a provision of these Regulations requires or authorises steps to be taken by a successor council,

the definition of “successor council” shall have effect as if, for “that council” and “those councils”, there were substituted—

(i) as regards a shadow period, “the shadow authority”;

(ii) as regards part of a transitional period before the reorganisation date, “the preparing council”.

(3) Any reference in these Regulations to rights or liabilities of a predecessor council includes a reference to rights or liabilities acquired or incurred by any predecessor in title of that council.

Information for facilitating implementation of Regulations

3.—(1) This regulation has effect for the purpose of facilitating the implementation of these Regulations.

(2) A predecessor council shall supply to the successor council—

(a) details of every relevant contract;

(b) details of every relevant action or proceeding; and

(5) As to “disputed matter”, see section 16(5) of the Local Government and Public Involvement in Health Act 2007.

(6) As to “a single tier of local government”, see section 1(2) of the Local Government and Public Involvement in Health Act 2007.

(7) See, for example, the definition in article 2 of S.I. 2008/634 and article 14 of S.I. 2008/907.

(8) See, for example, article 6(1) of S.I. 2008/490 and 2008/491.

- (c) such other information relating to the predecessor council's property, rights or liabilities as the successor council may reasonably request.
- (3) Those details and that information shall be provided—
 - (a) where paragraph (4) applies, not later than the day before the reorganisation date;
 - (b) in any other case, as soon as practicable and not later than the end of the relevant period.
- (4) This paragraph applies where the predecessor council and the successor council agree that—
 - (a) details of—
 - (i) a relevant contract entered into before the beginning of the preliminary period; or
 - (ii) a relevant action or proceeding arising before the beginning of the preliminary period, or
 - (b) such other information relating to the predecessor council's property, rights or liabilities as may be specified (whether generally or by reference to a particular class or description),do not need to be provided by the end of the relevant period.
- (5) A person authorised in that behalf by the successor council shall be entitled, at any reasonable time before the reorganisation date, on producing, if so required, evidence of his authority—
 - (a) to inspect any record belonging to or under the control of the predecessor council which relates to any relevant contract, action or proceeding or any property, rights or liabilities mentioned in paragraph (2); and
 - (b) to take, or be supplied with, a copy of any such record or part of it.
- (6) The rights conferred by paragraph (5) include the right to require any record which is not in legible form to be made available in legible form for the purposes of inspection or copying or being supplied with copies.
- (7) In this regulation—
 - “the preliminary period” means the period beginning on the date on which the section 7 order relevant to the predecessor council comes into force and ending on the reorganisation date;
 - “record” includes material in whatever form or medium which conveys or is capable of conveying information;
 - “relevant action or proceeding”, means an action or proceeding—
 - (a) to which a predecessor council is a party; and
 - (b) which, in that council's opinion, is unlikely to have been determined or settled before the reorganisation date;
 - “relevant contract” means a contract entered into by a predecessor council the period of which extends, or may, under the terms of the contract, be extended, beyond the reorganisation date; and
 - “relevant period”—
 - (a) as regards details referred to in paragraph (2)(a) and (b), means—
 - (i) where the relevant action or proceeding arises, or the relevant contract is entered into, before the date on which the preliminary period begins, the period beginning on that date and ending six months before the reorganisation date;
 - (ii) where the relevant action or proceeding arises, or the relevant contract is entered into on or after the date on which the preliminary period begins, the period beginning on the date on which the action or proceeding arises or the contract is entered into and ending on whichever is the earlier of the reorganisation date and the date that falls four months after that on which the action or proceeding arose or the contract was entered into;

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

- (b) as regards information referred to in paragraph (2)(c), means—
 - (i) where the request is made at least six weeks before the reorganisation date, the period of six weeks beginning with the date of the making of the request; and
 - (ii) where the request is made within six weeks of the reorganisation date, the period beginning with the date of the making of the request and ending on the day before the reorganisation date.