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STATUTORY INSTRUMENTS

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**2018 No. 930**

**LOCAL GOVERNMENT, ENGLAND**

**The Local Government (Structural Changes)  
(General) (Amendment) Regulations 2018**

<i>Made</i>	- - - -	<i>8th August 2018</i>
<i>Laid before Parliament</i>		<i>13th August 2018</i>
<i>Coming into force</i>	- -	<i>5th September 2018</i>

The Secretary of State, in exercise of the powers conferred by sections 14(1) and 240(10) of the Local Government and Public Involvement in Health Act 2007<sup>(1)</sup>, makes the following Regulations.

**Citation and commencement**

1. These Regulations may be cited as the Local Government (Structural Changes) (General) (Amendment) Regulations 2018 and come into force on 5th September 2018.

**Amendment of the Local Government (Structural and Boundary Changes) (Staffing) Regulations 2008**

2.—(1) The Local Government (Structural and Boundary Changes) (Staffing) Regulations 2008<sup>(2)</sup> are amended in accordance with paragraphs (2) and (3).

(2) In regulation 5 (redundancy payments) for “the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007” substitute “the Local Government Pension Scheme Regulations 2013<sup>(3)</sup>”.

(3) In regulation 6 (Local Government Pension Scheme) for “paragraph 2 of Part 1 of Schedule 2 of the Local Government Pension Scheme (Administration) Regulations 2008” substitute “paragraph 1 of Part 1 of Schedule 2 (Scheme employers) to the Local Government Pension Scheme Regulations 2013”.

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(1) [2007 c. 28](#). Section 14(2) provides for section 14(1) to be read with section 15. Section 240(10) provides for different provision to be made for different cases.

(2) [S.I. 2008/1419](#), amended by [S.I. 2009/276](#).

(3) [S.I. 2013/2356](#), amended by paragraph 5 of Schedule 6 to the Enterprise Act [2016 \(c. 12\)](#) and by [S.I. 2014/44](#), [S.I. 2014/1146](#), [S.I. 2014/3255](#), [S.I. 2015/57](#), [S.I. 2015/755](#), [S.I. 2016/946](#), [S.I. 2018/103](#) and [S.I. 2018/493](#).

### **Amendment of the Local Government (Structural Changes) (Transitional Arrangements) Regulations 2008**

3.—(1) The Local Government (Structural Changes) (Transitional Arrangements) Regulations 2008(4) are amended in accordance with paragraphs (2) to (4).

(2) In regulation 7 (establishment of parishes and parish councils under the 2007 Act) after paragraph (4) insert—

“(5) Where a predecessor council receives a community governance petition under section 80 or a community governance application under section 80A(5) of the 2007 Act during the transitional period, the predecessor council may resolve that the review be undertaken by the single tier council after the reorganisation date.

(6) Where a resolution is made by a predecessor council under paragraph (5)—

- (a) section 93(8) of the 2007 Act has effect as if the reference to the period of 12 months were a reference to the period of 12 months starting with the reorganisation date; and
- (b) sections 86 and 96 to 100 of the 2007 Act have effect as if the single tier council were the principal council for the purposes of the review mentioned in paragraph (5).”.

(3) For regulation 10 (petitions on executive arrangements) substitute—

#### **“Petitions on executive arrangements**

**10.** Part 1A of the Local Government Act 2000 (arrangements with respect to local authority governance in England) shall have effect in relation to a predecessor council as if any regulations made under section 9MC (referendum following petition) did not apply to that council.”.

(4) After regulation 10 insert—

## **“PART 3A**

### **COMMUNITY EMPOWERMENT**

#### **Community right to challenge**

**10A.**—(1) This regulation applies in relation to an expression of interest received by a predecessor council under Chapter 2 of Part 5 of the Localism Act 2011(6) (“the 2011 Act”) (community right to challenge) where the predecessor council has not considered the expression of interest in accordance with that chapter before the beginning of the transitional period.

(2) The predecessor council may resolve that consideration of the expression of interest be undertaken by the single tier council after the reorganisation date.

(3) Where a resolution is made under paragraph (2)—

- (a) except for the references in section 81(1)(a), section 82(1), (2) and (3) and section 84(6), Chapter 2 of Part 5 of the 2011 Act has effect as if reference to an authority were reference to the single tier council;

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(4) [S.I. 2008/2113](#).

(5) Section 80 was amended and section 80A inserted by [S.I. 2015/998](#), articles 3 and 4.

(6) [2011 c. 20](#).

- (b) section 82(4) of the 2011 Act has effect as if the reference to the relevant authority—
  - (i) before the reorganisation date were reference to the predecessor council; and
  - (ii) after the reorganisation date were reference to the single tier council; and
- (c) section 84 of the 2011 Act has effect as if—
  - (i) in subsection (3)(a) the reference to the date on which the relevant authority receives an expression of interest were reference to the reorganisation date;
  - (ii) in subsection (6)—
    - (aa) reference to a relevant authority receiving an expression of interest were reference to the predecessor council receiving such an expression of interest; and
    - (bb) reference to a relevant authority notifying the relevant body in writing were reference to the single tier council so notifying the relevant body; and
  - (iii) in subsection (7) each time it occurs reference to the period of 30 days were reference to the period of 30 days beginning with the reorganisation date.”.

#### **Amendment of the Local Government (Structural Changes) (Transfer of Functions, Property, Rights and Liabilities) Regulations 2008**

4.—(1) The Local Government (Structural Changes) (Transfer of Functions, Property, Rights and Liabilities) Regulations 2008(7) are amended in accordance with paragraphs (2) and (3).

- (2) In regulation 1(2)(a) (citation, commencement etc.)—
  - (a) in paragraph (v) omit “or”;
  - (b) in paragraph (vi) for “and” substitute “or”; and
  - (c) after paragraph (vi) insert—

“(vii) regulations under section 3 of the Public Service Pensions Act 2013(8) (scheme regulations); and”.
- (3) In regulation 10 (property consisting of financial reserves)—
  - (a) in paragraph (1) after “financial reserves” insert “, or such proportion of the financial reserves as may be agreed between the successor councils,”;
  - (b) after paragraph (1) insert—

“(1A) Where an agreement has been made between the successor councils under paragraph (1) above for a proportion of the financial reserves to vest in the nominated council on trust, the remainder of the financial reserves shall transfer to the successor councils on the reorganisation date in such proportions as may be agreed between those councils.”; and
  - (c) in paragraph (2) after “financial reserves” insert “, or such proportion of the financial reserves as are held on trust by agreement between the successor councils under paragraph (1),”.

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(7) S.I. 2008/2176, amended by S.I. 2009/5.

(8) 2013 c. 25.

## **Amendment of the Local Government (Structural Changes) (Transitional Arrangements) (No. 2) Regulations 2008**

5.—(1) The Local Government (Structural Changes) (Transitional Arrangements) (No. 2) Regulations 2008<sup>(9)</sup> are amended in accordance with paragraphs (2) to (11).

(2) In regulation 9 (interim acting and local returning officers, etc.)—

(a) in paragraphs (1) and (2)(b) for “30th November 2008” substitute “the relevant date”;

(b) in paragraph (7)—

(i) for “1st December 2008” substitute “the day after the relevant date”; and

(ii) for “1st April 2009” substitute “the reorganisation date”; and

(c) after paragraph (11) insert—

“(12) In this regulation “the relevant date” means the 30th November that immediately precedes the reorganisation date.”.

(3) In regulation 11 (plans required before reorganisation date) in paragraph (1) for “31st March 2009” substitute “the day before the reorganisation date”.

(4) In regulation 12 (plans, reviews, schemes, etc.)—

(a) in the heading—

(i) after “reviews,” insert “rules,”; and

(ii) for “12 months” substitute “24 months”;

(b) in paragraph (1)—

(i) in sub-paragraph (a)(i) for “167” substitute “166A”;

(ii) in sub-paragraph (a)(iii) omit “and”; and

(iii) after sub-paragraph (a)(iv) insert—

“(v) a council tax reduction scheme under section 13A(2) (reductions by billing authority) of the Local Government Finance Act 1992<sup>(10)</sup>; and

(vi) rules determined under section 47(1)(a) (discretionary relief) of the Local Government Finance Act 1988<sup>(11)</sup>.”;

(c) in paragraphs (1)(b)(i) and (3)(a) for “section 28D of the Disability Discrimination Act 1995” substitute “Schedule 10 to the Equality Act 2010<sup>(12)</sup>”;

(d) in paragraph (2)(a) for “(iv)” substitute “(vi)”;

(e) in paragraph (5)—

(i) after “review,” in each place in which it occurs insert “rules,”;

(ii) after “published,” in the second place in which it occurs insert “as soon as practicable and”;

(iii) for “12 months” substitute “24 months”;

(f) in paragraph (6)—

(i) after “plans,” insert “rules,”; and

(ii) in sub-paragraph (b) after “review,” insert “rules,”;

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<sup>(9)</sup> S.I. 2008/2867, amended by S.I. 2009/276, S.I. 2010/602 and S.I. 2010/1172.

<sup>(10)</sup> 1992 c.14. Section 13A was inserted by the Local Government Finance Act 2012 (c. 17), section 10(1).

<sup>(11)</sup> 1988 c. 41. Section 47(1) was amended by the Localism Act 2011 (c. 20), section 69(1) and by the Local Government Finance Act 1992 (c. 14), section 117(1) and Schedule 13, paragraph 65(1).

<sup>(12)</sup> 2010 c. 15. Schedule 10 was amended by paragraph 20(3) of Schedule 13 to the Education Act 2011 (c. 21) and by S.I. 2012/976.

- (g) in paragraph (7) after “review,” in each place in which it occurs insert “rules.”;
- (h) in paragraph (8)—
  - (i) for “three” substitute “five”;
  - (ii) for “2011” substitute “2021, or the five year period specified by the related preparing or shadow council or by the single tier council under section 5(6C) of that Act(13)”;
- (i) in paragraph (9) for “2010” substitute “2019”;
- (j) after paragraph (9) insert—

“(10) Where a single tier council is taking steps under paragraph (5) to prepare a council tax reduction scheme under section 13A(2) of the Local Government Finance Act 1992 paragraph 5(1) of Schedule 1A to that Act does not apply.”.
- (5) In regulation 18 (interpretation of Part 6) omit the definitions of “the 2004 Regulations” and “the Regional Regulations”.
- (6) In regulation 19 (local development documents)—
  - (a) omit paragraph (2); and
  - (b) after paragraph (3) insert—

5.—“(4) A single tier council must adopt a local development document under section 23 of the 2004 Act to apply to the whole of its area within a period of five years starting with the reorganisation date.

(5) On or after the reorganisation date and prior to adoption of a document to apply to the whole of its area as required by paragraph (4) a single tier council may revise or replace a document referred to in paragraph (1) for a part of its area which was the area of a predecessor council.

(6) In revising or replacing a document in accordance with paragraph (5), a single tier council may adopt, with or without modification, a document which was prepared but not adopted by a predecessor council before the reorganisation date.

(7) Where—

    - (a) a predecessor council has not before the reorganisation date prepared or adopted a local development document under section 23 of the 2004 Act; and
    - (b) the single tier council has not yet adopted such a document for the whole of its area as required by paragraph (4),

the single tier council may prepare and adopt such a document for the part of its area which was the area of the predecessor council.”.
- (7) Omit regulations 20 to 23.
- (8) In regulation 25 (schools forums)—
  - (a) in paragraph (1) for sub-paragraph (a) substitute—

“(a) the governing bodies and head teachers of schools in its area that are—

    - (i) 16-19 providers;
    - (ii) alternative provision Academies;
    - (iii) early years providers;

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(13) Section 5 of the Licensing Act 2003 requires a licensing authority to determine and publish its licensing policy for each five year period ending with 6 January 2016 and for each subsequent five year period. Section 5 was amended by section 122 of the Police Reform and Social Responsibility Act 2011 (c. 13) to substitute for the reference to three years in subsection (1) reference to a period of five years, to insert the definition of “five year period” and “licensing statement” in subsection (8) and to insert subsections (6A) to (6C) to allow an authority to replace its policy at any time within the five year period and to specify the five year period to which the policy relates. There are other amendments not relevant to this provision.

- (iv) mainstream Academies;
- (v) maintained by a local authority; or
- (vi) special Academies,

within the meaning of regulation 1(3) of the Schools Forums (England) Regulations 2012<sup>(14)</sup>; and”; and

(b) in paragraph (3)—

- (i) for “The Schools Forums (England) Regulations 2002” substitute “The Schools Forums (England) Regulations 2012”;
- (ii) in sub-paragraph (b) for “regulation 2 (establishment of schools forum)” substitute “regulation 3 (constitution of schools forum)”;
- (iii) in sub-paragraph (c) for “regulation 9” substitute “regulation 10”.

(9) In regulation 26(1) for “1st April 2009” substitute “1st April 2019”.

(10) In regulation 32 (honorary aldermen)—

- (a) in the title, for “aldermen” substitute “titles”;
- (b) in each place in which it occurs after “alderman” insert “or alderwoman”;
- (c) in paragraph (1) for “aldermen and freemen” substitute “titles”<sup>(15)</sup>; and
- (d) after paragraph (3) insert—

“(4) A person who, before the reorganisation date, has been admitted as an honorary freeman or freewoman of a local government area that is abolished by a section 7 order (an “abolished area”) shall, on that date, be treated as having been admitted as an honorary freeman or freewoman of the area which, on the reorganisation date, comprises or includes that abolished area.”.

(11) Omit regulation 33 (honorary freemen).

#### **Amendment of the Local Government (Structural Changes) (Further Financial Provisions and Amendment) Regulations 2009**

6.—(1) The Local Government (Structural Changes) (Further Financial Provisions and Amendment) Regulations 2009<sup>(16)</sup> are amended in accordance with paragraph (2).

(2) In regulation 4 (establishment of general funds) for “2009” substitute “2019”.

#### **Amendment of the Local Government (Structural Changes) (Further Transitional and Supplementary Provision and Miscellaneous Amendments) Regulations 2009**

7.—(1) The Local Government (Structural Changes) (Further Transitional and Supplementary Provision and Miscellaneous Amendments) Regulations 2009<sup>(17)</sup> are amended in accordance with paragraphs (2) to (7).

(2) In regulation 1(2)(a) (citation etc.)—

- (a) in paragraph (v) omit “or”; and
- (b) after paragraph (vi) insert—

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<sup>(14)</sup> S.I. 2012/2261, amended by S.I. 2012/2991, S.I. 2015/2033, S.I. 2017/44 and S.I. 2018/10.

<sup>(15)</sup> Section 249 of the Local Government Act 1972 (c. 70) was amended by the Local Democracy, Economic Development and Construction Act 2009 (c. 20), section 29 to substitute “titles” for “aldermen and freemen”, to insert references to “alderwomen” and to substitute provision in relation to the criteria and procedure for admission to such status.

<sup>(16)</sup> S.I. 2009/5, amended by S.I. 2012/460.

<sup>(17)</sup> S.I. 2009/276, amended by S.I. 2010/22 and S.I. 2010/1172.

- “(vii) regulations under section 3 of the Public Services Pensions Act 2013<sup>(18)</sup> (scheme regulations); or”.
- (3) In regulation 3—
- (a) in paragraph (1), in the list of sections—
- (i) before the entry for section 7 insert “section 6A (requirement to seek proposals for establishment of new Academies)<sup>(19)</sup>,”;
- (ii) after the entry for section 7 insert “section 7A (withdrawal of notices under section 7)<sup>(20)</sup>,”; and
- (iii) after the entry for section 11 insert “section 11A (restriction on power of governing body to make proposals)<sup>(21)</sup>,”; and
- (b) in paragraph (5)—
- (i) for “The School Organisation (Establishment and Discontinuance of Schools) (England) Regulations 2007” substitute “The School Organisation (Establishment and Discontinuance of Schools) Regulations 2013<sup>(22)</sup>”; and
- (ii) for “the School Organisation (Prescribed Alteration to Maintained Schools) (England) Regulations 2007” substitute “the School Organisation (Prescribed Alteration to Maintained Schools) (England) Regulations 2013<sup>(23)</sup>”.
- (4) In regulation 8(1) (interpretation of Part 4)—
- (a) for the definition of “the 2003 Regulations” substitute—
- ““the 2015 Regulations” means the Accounts and Audit Regulations 2015<sup>(24)</sup>,”;
- and
- (b) for the definition of “statement of accounts” substitute—
- ““statement of accounts” means the statement required by regulation 7(1) (statement of accounts for Category 1 authorities) of the 2015 Regulations.”.
- (5) In regulation 9 (responsibility for preparation of final accounts of predecessor councils) for paragraph (4) substitute—
- “(4) The 2015 Regulations shall have effect for the purposes of paragraphs (1) to (3) as if—
- (a) in regulation 7 (statement of accounts for Category 1 authorities)—
- (i) in paragraph (1) the reference to an authority were a reference to the single tier council and not to any of its related predecessor councils; and
- (ii) in paragraphs (2) and (5) the reference to an authority were a reference to a predecessor council and not to its related single tier council;
- (b) in regulation 8 (narrative statements)—
- (i) the references to an authority were references to the single tier council and not to any of its related predecessor councils; and
- (ii) in paragraph (2) the reference to an authority’s financial performance and economy, efficiency and effectiveness were reference to those matters in relation to a predecessor council and not to its related single tier council;

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<sup>(18)</sup> 2013 c. 25.

<sup>(19)</sup> Section 6A was inserted by paragraph 2 of Schedule 11 to the Education Act 2011 (c. 21).

<sup>(20)</sup> Section 7A was inserted by paragraph 4 of Schedule 11 to the Education Act 2011 (c. 21).

<sup>(21)</sup> Section 11A was inserted by section 7 of the Children, Schools and Families Act 2010 (c. 26).

<sup>(22)</sup> S.I. 2013/3109, amended by S.I. 2013/3110 and S.I. 2014/2103.

<sup>(23)</sup> S.I. 2013/3110, amended by S.I. 2014/2103.

<sup>(24)</sup> S.I. 2015/234.

- (c) in regulation 9 (signing and approval of statement of accounts, etc.)—
  - (i) the reference to the responsible financial officer were a reference to the section 151 officer; and
  - (ii) in paragraphs (1)(a) and (3)(a) and (b) the references to an authority were references to a predecessor council and not to its related single tier council; and
- (d) the requirement in regulation 10(1) (publication of statement of accounts, etc.) were a requirement for the single tier council to publish the final accounts of each of its predecessor councils.”.
- (6) In regulation 10 (transitional responsibility for preparation of final accounts, etc.) for paragraph (2) substitute—
  - “(2) The 2015 Regulations shall have effect for the purposes of paragraph (1) as if in regulation 7 (statement of accounts for Category 1 authorities)—
    - (a) in paragraph (1) the reference to an authority were a reference to the preparing or shadow council and not to any of its related predecessor councils; and
    - (b) in paragraphs (2) and (5) the references to an authority were references to a predecessor council and not to its related preparing or shadow council.”.
- (7) In regulation 11 (other transitional provisions relating to financial matters)—
  - (a) for paragraph (1) substitute—
    - “(1) Not later than the reorganisation date each predecessor council must, in accordance with regulation 6 (review of internal control) of the 2015 Regulations, prepare and approve an annual governance statement (having conducted a review as mentioned in paragraph (1)(a) of that regulation and having considered the findings of that review as mentioned in paragraph (2)(a) of that regulation).”;
  - (b) omit paragraph (6); and
  - (c) in paragraph (7) for “statement of internal control” substitute “annual governance statement”.

#### **Amendment of the Local Government (Structural Changes) (Further Transitional Arrangements and Staffing) Regulations 2009**

- 8.—**(1) The Local Government (Structural Changes) (Further Transitional Arrangements and Staffing) Regulations 2009(**25**) are amended in accordance with paragraph (2).
- (2) In regulation 4 (preparation of reports and plans etc.)—
  - (a) in paragraph (1)(c) for “84(2)(b)” substitute “84(2)”; and
  - (b) in paragraph (2) for “12 months” substitute “24 months”.



Signed by authority of the Secretary of State for Housing, Communities and Local Government

8th August 2018

*Bourne of Aberystwyth*  
Parliamentary Under Secretary of State  
Ministry of Housing, Communities and Local  
Government

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

Part 1 of the Local Government and Public Involvement in Health Act 2007 (“the 2007 Act”) provides for the establishment of a single tier of local government for areas in England. There is a single tier of local government for an area if there is either a county council and no district councils for that area, or a district council and no county council for that area (section 1(2) of the 2007 Act). The Secretary of State may by order implement (with or without modification) a proposal received for a single tier of local government (section 7 of the 2009 Act).

Section 14 of the 2007 Act provides for regulations to make incidental, consequential, transitional and supplementary provision of general application for the purposes or in consequence of any orders under section 7 (“section 7 orders”) or for giving full effect to such orders. Regulations have been made under section 14 to make such provision in relation to the transfer of functions, property, rights and liabilities; financial provisions; and staffing. These Regulations amend the existing regulations, following the making of an order under section 7 establishing a single tier of local government in Dorset (S.I. 2018/648).

Regulation 2 amends the Local Government (Structural and Boundary Changes) (Staffing) Regulations 2008 to substitute references to revoked statutory instruments.

Regulation 3 amends the Local Government (Structural Changes) (Transitional Arrangements) Regulations 2008 to update references to statutory provisions relating to the establishment of parish councils and authorities’ executive arrangements; and to make transitional provision in relation to the community right to challenge under Part 5 of the Localism Act 2011.

Regulation 4 amends the Local Government (Structural Changes) (Transfer of Functions, Property, Rights and Liabilities) Regulations 2008 to update references to statutory provisions relating to the Local Government Pension Scheme and to allow councils to agree that only a proportion of predecessor council’s financial reserves are held in trust for a transitional period following reorganisation.

Regulation 5 amends the Local Government (Structural Changes) (Transitional Arrangements) (No. 2) Regulations 2008 to update provisions relating to returning officers; transitional provisions relating to plans and schemes which councils are required to prepare; planning and education functions; and provision in relation to honorary titles.

Regulation 6 amends the Local Government (Structural Changes) (Further Financial Provisions and Amendment) Regulations 2009 to specify the date upon which a new council’s general fund must be established in accordance with the Local Government Finance Act 1988.

Regulation 7 amends the Local Government (Structural Changes) (Further Transitional and Supplementary Provision and Miscellaneous Amendments) Regulations 2009 to update references to statutory provisions relating to the Local Government Pension Scheme and education functions; and to provide for modifications to the Accounts and Audit Regulations 2015 to make updated provision for transitional arrangements in respect of accounts and other financial matters.

Regulation 8 amends the Local Government (Structural Changes) (Further Transitional Arrangements and Staffing) Regulations 2009 to update a reference to a statutory provision and to extend the transitional period within which a newly established council must prepare and publish certain statutory plans.

A full regulatory impact assessment has not been prepared as this instrument will have no impact on the costs of business and the voluntary sector.

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

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