This Draft Statutory Instrument has been printed in substitution for the Draft Statutory Instrument of the same title, which was laid on 17th December 2007, and is being issued free of charge to all known recipients of that Draft Statutory Instrument.
Draft Order laid before Parliament under section 240(6) of the Local Government and Public Involvement in Health Act 2007, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2008 No.

LOCAL GOVERNMENT, ENGLAND

The Cornwall (Structural Change) Order 2008

Made - - - - 2008

Coming into force in accordance with article 1

This Order implements, without modification, a proposal, submitted to the Secretary of State for Communities and Local Government under section 2 of the Local Government and Public Involvement in Health Act 2007(**1**), that there should be a single tier of local government for the county of Cornwall.

That proposal was made by Cornwall County Council.

The Secretary of State did not make a request under section 4 of the Local Government and Public Involvement in Health Act 2007 (request for Boundary Committee for England's advice).

Before making the Order the Secretary of State consulted the following about the proposal—

(a) every authority affected by the proposal(**2**) (except the authority which made it); and

(b) other persons the Secretary of State considered appropriate.

The Secretary of State for Communities and Local Government makes this Order in the exercise of the powers conferred by sections 7, 11, 12 and 13 of the Local Government and Public Involvement in Health Act 2007:

(**1**) 2007 c.28. *See* section 21(3) as to proposals made in response to pre-commencement invitations, and section 23(3).
(**2**) *See* section 7(4) as to authorities "affected by" a proposal for the purposes of that section.

PART 1

GENERAL

Citation and commencement

2. This Order may be cited as the Cornwall (Structural Change) Order 2008 and shall come into force on the day after that on which it is made.

Interpretation

3. In this Order—

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

"the 2000 Act" means the Local Government Act 2000 as it has effect in relation to the Cornwall council(**3**);

"the 1972 Act" means the Local Government Act 1972(**4**);

"article 7 functions" means the functions referred to in article 7;

"Cornwall", except in the definition of "the Cornwall council" and the second mention of those words in article 3(2), means the county of Cornwall;

"the 2009 election day" means the ordinary day of election of councillors(**5**) in 2009;

"the Cornwall council" means the council of the county of Cornwall;

"the district councils" means the councils specified in article 4(b);

"the Implementation Executive" means the committee established (whether before or after the coming into force of this Order) for the purposes of article 6(3); and

"the main transitional function" has the meaning given by article 6(1).

PART 2

ESTABLISHMENT OF SINGLE TIER LOCAL GOVERNMENT IN CORNWALL

Single tier local government in Cornwall

4.—(1) On and after 1st April 2009 the Cornwall council shall be the sole principal authority for Cornwall.

(2) For the purposes of enactments relating to local government, there shall be a new district, whose area shall be co-terminous with that of Cornwall; and the name of that new district shall be Cornwall.

Abolition of districts and winding up and dissolution of district councils

5. On 1st April 2009—

(a) the following local government areas shall be abolished—

(i) the borough of Restormel,

(**3**) 2000 c.22. Relevant amendments are made by Part 3 of the Local Government and Public Involvement in Health Act 2007, but see paragraph 2 of Schedule 4 to that Act for transitional provisions relevant to the Cornwall council.
(**4**) 1972 c.70.
(**5**) *See* section 37 of the Representation of the People Act 1983 (c.2).

(ii) the district of Caradon,

(iii) the district of Carrick,

(iv) the district of Kerrier,

(v) the district of North Cornwall, and

(vi) the district of Penwith; and

(b) the following councils shall be wound up and dissolved—

(i) Caradon District Council,

(ii) Carrick District Council,

(iii) Kerrier District Council,

(iv) North Cornwall District Council,

(v) Penwith District Council, and

(vi) Restormel Borough Council.

Cessation of term of office of district councillors

6. Every person who holds office as a councillor of one of the district councils immediately before 1st April 2009 shall cease to hold office on that date.

PART 3

TRANSITIONAL FUNCTIONS AND THEIR DISCHARGE

Transitional functions of the Cornwall council and establishment of Implementation Executive

7.—(1) On the coming into force of this Order there shall be added to the functions of the Cornwall council the function, which is to be exercisable only during the transitional period ending on the fourth day after the 2009 election day, of preparing for and facilitating the economic, effective, efficient and timely transfer of the district councils' functions, property, rights and liabilities ("the main transitional function").

(2) Section 15 of the 2000 Act (discharge of functions: leader and cabinet executive) shall have effect in relation to the Cornwall council and—

(a) the main transitional function, and

(b) the other transitional functions referred to in article 7 ("the article 7 functions"),

as if, in subsection (1), after the words "19 or 20," there were inserted "or under the Cornwall (Structural Change) Order 2008,".

(3) The Cornwall council's executive arrangements shall provide for the discharge of the main transitional function and the article 7 functions to be the responsibility of a committee of the council's executive, to be known as the Implementation Executive.

(4) Such statutory provisions as apply to, or in relation to, committees of a local authority's executive shall apply to, or in relation to, the Implementation Executive subject only to paragraphs (5), (6) and (8) to (11) of this article and article 8(2) to (4); and for this purpose "statutory provisions" includes —

(a) any enactment contained in an Act passed after the making of this Order; and

(b) any instrument made at any time under an enactment (including an enactment contained in an Act passed after the 2007 Act).

(5) The Implementation Executive shall consist of—

(a) the person who is for the time being the leader of the Cornwall council's executive;

(b) eleven persons nominated by the Cornwall council, being persons who are for the time being members of that council; and

(c) twelve other persons, of whom each of the district councils shall nominate two, being persons who are for the time being members of the council by which they are nominated (whether or not including the leaders for the time being of those councils).

(6) In making the nominations referred to in paragraph (5)(b) and (c), the Cornwall council and the district councils shall, to the extent that it is practicable to do so, secure that at all times there are on the Implementation Executive—

(a) four members of the Conservative Party,

(b) six persons who are members of no registered party within the meaning of that term in the Political Parties, Elections and Referendums Act 2000(**6**),

(c) one member of the Labour Party, and

(d) thirteen members of the Liberal Democrats.

(7) It shall be the duty of the Cornwall council and each of the district councils to co-operate in the establishment of the Implementation Executive.

(8) The leader of the Implementation Executive shall be the person who is for the time being the leader of the Cornwall council's executive; and that person shall preside at all meetings of the Implementation Executive at which he is present.

(9) The persons who, immediately before 1st April 2009, are members of the Implementation Executive by virtue of paragraph (5)(c) shall continue as members of the Implementation Executive notwithstanding that they cease on that date to be members of the district councils.

(10) The Implementation Executive shall regulate its own proceedings, but a question to be decided by the Executive shall, in the first instance, be decided by the majority of those present and voting at the meeting at which the question is put, each member (including the leader of the Implementation Executive) having one vote.

(11) In the case of an equality of votes, the person presiding at the meeting (whether or not the leader of the Implementation Executive) shall have a casting vote, in addition to any other vote the person may have.

Other transitional functions

8.—(1) The other transitional functions referred to in article 6(2)(b), which are to be exercisable only during the transitional period ending on the fourth day after the 2009 election day, are—

(a) such executive and non-executive functions of the Cornwall council as exist on the date on which this Order is made; and

(b) such other functions (including functions exercisable by all or any of the district councils, and functions conferred on or after that date on local authorities generally or on particular classes of local authority),

as, by any of the means mentioned in paragraph (2), the Secretary of State may specify.

(2) The means referred to in paragraph (1) are—

(a) this Order,

(**6**) 2000 c.41. *See* the definition in section 160(1), and Part 2 of the Act.

(b) a subsequent order made under section 7 of the 2007 Act by virtue of section 14 of the Interpretation Act 1978 (power to amend)(**7**),

(c) an order under section 20 of the 2007 Act (correction of orders), and

(d) regulations under section 14 of the 2007 Act (regulations for supplementing orders).

Discharge of functions by Implementation Executive

9.—(1) The discharge of the main transitional function and the article 7 functions shall be a responsibility of the Implementation Executive, and shall not be a responsibility of the executive of the Cornwall council.

(2) Section 15(7) of the 2000 Act (which enables a committee of a local authority executive to arrange for the discharge of its functions by an officer of the authority) shall have effect in relation to the Implementation Executive as if—

(a) references to functions included references to responsibilities, and

(b) the reference to an officer of the authority included a reference to—

(i) a sub-committee of the Implementation Executive, and

(ii) an officer of any of the district councils.

(3) Section 15(9) of the 2000 Act (which enables a person who has made arrangements for the discharge by another person of any function of his, to discharge that function himself) shall have effect in relation to arrangements made under subsection (7) of that section (as modified by paragraph (2) above) as if —

(a) references to functions included references to responsibilities, and

(b) the reference to an officer of the authority included a reference to—

(i) a sub-committee of the Implementation Executive, and

(ii) an officer of any of the district councils.

(4) Section 21 of the 2000 Act (overview and scrutiny committees) shall not apply on or before 31st March 2009 in relation to any matter—

(a) that is a responsibility of the Implementation Executive by virtue of paragraph (1), or

(b) that is the responsibility of that Executive under arrangements made by the Cornwall council under the 2000 Act.

(5) Until 1st April 2009, section 13 of the 2000 Act (functions which are the responsibility of an executive) shall have effect as if, at the end of subsection (10)(c), there were added "or as mentioned in article 8(6) of the Cornwall (Structural Change) Order 2008".

(6) The Cornwall council and the district councils may discharge jointly under arrangements under section 101(5) of the 1972 Act the functions of—

(a) reviewing or scrutinising decisions made, or other action taken, by the Implementation Executive in connection with any matter of a description mentioned in paragraph (4); or

(b) preparing reports for, or making recommendations to, the Implementation Executive in connection with any function or responsibility of that Executive.

(7) Where such arrangements as are mentioned in paragraph (6) are made, the joint committee shall inform the Cornwall council and the district councils at least once in each period of three months beginning with the period ending on 31st March 2008 of—

(a) the matters that it has considered during the period in question, and

(b) the conclusions (if any) that it has reached concerning those matters.

(**7**) 1978 c.30.