STATUTORY RULES OF NORTHERN IRELAND

2014 No. 148

LOCAL GOVERNMENT

The Local Government (Transitional, Supplementary, Incidental Provisions and Modifications) Regulations (Northern Ireland) 2014

Laid before the Assembly in draft

Made - - - -	*28th May 2014*
Coming into operation	*28th May 2014*

The Department of the Environment, in exercise of the powers conferred by section 20 of the Local Government (Miscellaneous Provisions) Act (Northern Ireland) 2010 (**1**) and sections 38 and 124 of the Local Government Act (Northern Ireland) 2014(**2**), makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Local Government (Transitional, Supplementary, Incidental Provisions and Modifications) Regulations (Northern Ireland) 2014 and shall come into operation on 28th May 2014.

(2) In these Regulations—

"1972 Act" means the Local Government Act (Northern Ireland) 1972(**3**);

"2005 Order" means the Local Government (Northern Ireland) Order 2005(**4**);

"2010 Act" means the Local Government (Miscellaneous Provisions) Act (Northern Ireland) 2010;

"2011 Act" means the Local Government Finance Act (Northern Ireland) 2011(**5**);

"2014 Act" means the Local Government Act (Northern Ireland) 2014;

"local government legislation" means—

(a) the 1972 Act;

(**1**) 2010 c. 7 (N.I.) as amended by 2011 c.10 (N.I.).
(**2**) 2014 c. 8 (N.I.).
(**3**) 1972 c. 9 (N.I.).
(**4**) S.I. 2005/1968.
(**5**) 2011 c. 10 (N.I.).

(b) the Local Government (Miscellaneous Provisions) (Northern Ireland) Order 2002(**6**);

(c) Part 2 of the 2005 Order;

(d) Chapter 2 of Part 2 of the 2010 Act;

(e) the 2011 Act;

(f) the 2014 Act; and

(g) any regulations or orders made under any of the immediately preceding statutory provisions.

"district" means a local government district established in pursuance of section 1 of the Local Government (Boundaries) Act (Northern Ireland) 2008(**7**);

"population" means the population determined by the Department of Finance and Personnel on the basis of mid-year home population estimates for local government districts, and provided by the Department of Finance and Personnel to the Department;

"new council" means a district council constituted under section 1 (district councils) of the 1972 Act as amended by section 3(1) of the Local Government (Boundaries) Act (Northern Ireland) 2008;

"existing council" means a district council constituted under section 1 of the 1972 Act as in force immediately prior to the making of the Local Government (Boundaries) (2008 Act) (Commencement, Transitional Provision and Savings) Order (Northern Ireland) 2013(**8**);

in relation to a new council, an existing council is a "predecessor council" if the whole or the major part of the district of the existing council is, in accordance with section 1 of the 1972 Act as in force immediately prior to the making of the Local Government (Boundaries) (2008 Act) (Commencement, Transitional Provision and Savings) Order (Northern Ireland) 2013, to be incorporated in the district of the new council;

"election day" means 22nd May 2014; and

"transitional period" means the period beginning with 25th May 2014 and ending on 31st March 2015.

(3) In these Regulations, a reference to a name of a district is a reference to the corresponding name set out in Schedule 1 to the Local Government (Boundaries) Order (Northern Ireland) 2012(**9**).

Functions of new councils and existing councils during the transitional period

2.—(1) A new council shall, during the transitional period, have the functions described in these Regulations.

(2) A new council shall—

(a) prepare for the discharge of its functions after 31st March 2015 and shall, in particular, establish such committees and sub-committees, appoint such staff, and prepare such budgets, plans, schemes and other things as are, or will be, required for that purpose; and

(b) liaise with any existing council for the purpose of ensuring continuity in the exercise of its functions on and after 1st April 2015.

(3) Subject to these Regulations and the Local Government (Boundaries) (2008 Act) (Commencement, Transitional Provision and Savings) Order (Northern Ireland) 2013, a new council may exercise any of the powers conferred by local government legislation during the transitional period.

(**6**) S.I 2002/3149.
(**7**) 2008 c. 7 (N.I.).
(**8**) S.R. 2013 No. 238 (c. 15).
(**9**) S.R. 2012 No. 421.

(4) The provisions of local government legislation mentioned in Schedule 1 shall not have effect in relation to new councils during the transitional period.

(5) The provisions of local government legislation mentioned in Schedule 2 shall not have effect in relation to existing councils during the transitional period.

(6) The selection and appointment of a person to the office of clerk of a new council during the transitional period shall be made in accordance with sections 40 and 41 of the 1972 Act and shall be on merit on the basis of fair and open competition.

(7) A new council may use the seal of one of its predecessor councils until such time as it may obtain a seal in its own name.

Temporary modifications relating to bye-laws

3.—(1) In relation to bye-laws made by a new council during the transitional period, section 91 of the 1972 Act shall apply as modified by this regulation.

(2) In subsection (7)—

(a) after the words "on which a bye-law is to come into operation,", insert "which shall not be before 1st April 2015,"; and

(b) for the words "at the expiration of one month from the date of its confirmation", substitute "on 1st April 2015".

Duty of existing councils to assist new councils

4.—(1) Subject to paragraphs (2) and (3), an existing council shall provide a new council with such assistance and information as that new council may reasonably request for the purposes of discharging, whether before or after 1st April 2015, any of its functions.

(2) An existing council shall furnish information requested in accordance with paragraph (1) to a new council within such period as the parties may agree.

(3) Paragraph (1) shall have effect, subject to any statutory prohibition or restriction, rule of law or order of a Court.

(4) A new council may not require information to be provided by an existing council whose local government district does not correspond, at least in part, with the district of the new council.

(5) A predecessor council shall provide to its new council—

(a) suitable premises and facilities; and

(b) administrative staff.

(6) Any costs incurred by a new council shall be defrayed amongst its predecessor councils in proportion to the population of the local government district of the existing council that will become part of the district of the new council.

(7) For the purposes of paragraph (6), the costs incurred by a new council shall include the cost of anything provided to a new council by a predecessor council in accordance with paragraph (5).

(8) For the purposes of paragraph (6), in relation to costs incurred by the new council for the Belfast district, the predecessor council shall be deemed to be the existing council for the local government district of Belfast established by the Local Government (Boundaries) Order (Northern Ireland) 1992(**10**).

(9) For the purposes of paragraph (6), "the local government district of the existing council" means a local government district established by the Local Government (Boundaries) Order (Northern Ireland) 1992.

(**10**) S.R. 1992 No. 303.

Application of the Northern Ireland Local Government Code of Conduct for Councillors during the transitional period

5.—(1) Part 9 of the 2014 Act shall, during the transitional period, apply to existing councils and councillors of existing councils as if any reference to "council" means "existing council" and any reference to "district of the council" means "district of the existing council".

(2) For the purposes of paragraph (1), "district of the existing council" means a local government district established by the Local Government (Boundaries) Order (Northern Ireland) 1992 and any reference to "councillor" shall include persons who are not councillors but who are appointed in accordance with section 18 of the 1972 Act.

(3) In so far as it relates to the application of Part 9 of the 2014 Act in respect of a councillor of an existing council, section 7 of the 1972 Act shall apply with the following modifications—

(a) in paragraphs (1) and (2), after "elected to", insert "or continuing in"; and

(b) in paragraph (2), for "the day of his election,", substitute "the day upon which the Northern Ireland Local Government Code of Conduct for Councillors issued by the Department in accordance with section 53 of the Local Government Act (Northern Ireland) 2014 comes into force,".

(4) In so far as it relates to the application of Part 9 of the 2014 Act in respect of a councillor of an existing council, section 16 of the 2014 Act shall apply with the following modifications—

(a) in subsection (1)(a), for "section 11 or 12", substitute "section 18 or 19 of the Local Government Act (Northern Ireland) 1972"; and

(b) in subsection (2), for "section 11 or 12", substitute "section 18 or 19 of the Local Government Act (Northern Ireland) 1972" in both instances.

(5) In so far as it relates to the application of Part 9 of the 2014 Act in respect of a councillor of an existing council, Schedule 1 to the 1972 Act shall apply as if, after the words "I take", there were inserted the words "or continue to take".

Positions of responsibility in new councils during the transitional period

6.—(1) A new council shall hold its first annual meeting within 21 days from the election day.

(2) At the meeting held under paragraph (1), Schedule 1 to the 2014 Act and paragraph (4) shall apply to the filling of positions of responsibility for the term ending 31st March 2015.

(3) A new council shall appoint a presiding councillor and deputy presiding councillor to chair council meetings during the transitional period.

(4) For the purposes of paragraphs (1) and (2) —

(a) references in local government legislation to the "chair of the council" and "deputy chair of the council" shall mean the "presiding councillor of the new council" and "deputy presiding councillor of the new council"; and

(b) section 6(1)(f) and section 6(4) of the 2014 Act shall not apply, except in relation to–

(i) nominations made in accordance with section 103(4) of the 2014 Act; and

(ii) appointments made in accordance with paragraph 3 of Schedule 1 paragraph 3 of Schedule 2 to the Justice Act (Northern Ireland) 2011(**11**); and

(iii) appointments made in accordance with paragraph 3 of Schedule 2 to the Justice Act (Northern Ireland) 2011.

(5) A new council shall hold a further annual meeting during the transitional period for the purposes of filling of positions of responsibility for the term beginning on 1st April 2015.

(**11**) 2011 c. 24 (N.I.).

(6) The meeting referred to at paragraph (5) shall be treated as if it were the first meeting after the election day.

(7) Paragraph 1(1) and (2) of Schedule 5 to the 2014 Act shall not apply during 2015 in respect of the annual meeting of a new council.

Incorporation of mandatory provisions in standing orders

7.—(1) A new council must incorporate each provision of Schedule 3 in its standing orders for regulating its proceedings and business.

(2) A council shall refrain from modifying its standing orders for regulating its proceedings and business to enable provisions incorporated under paragraph (1) in those standing orders to be amended or disapplied unless those provisions so permit.

Access by new councils to information held by Northern Ireland Departments

8.—(1) Subject to paragraph (2), where a new council requests information (which it reasonably requires for the discharge of its functions) from a Northern Ireland department or the Northern Ireland Housing Executive, the Northern Ireland department or the Northern Ireland Housing Executive shall furnish that information to the new council within such period as the parties may agree.

(2) Paragraph (1) shall have effect, subject to any statutory prohibition or restriction, rule of law or order of a Court.

Continuity of exercise of functions

9.—(1) The replacement of the existing councils with the new councils shall not affect the validity of anything done by any of the existing councils before 1st April 2015.

(2) Anything which immediately before 1st April 2015 is in the process of being done by or in relation to an existing council in the exercise of, or in connection with, any functions may be continued by or in relation to the new council by which those functions become exercisable or, as the case may be, become exercisable in respect of the district in question.

(3) Subject to paragraph (7), anything done by or in relation to an existing council before 1st April 2015 in the exercise of or in connection with any functions shall, so far as is required for continuing its effect on and after that date, have effect as if done by or in relation to the new council for the district of which it will form part.

(4) Paragraph (3) applies in particular to—

(a) any decision, determination, declaration, designation, agreement or instrument made by an existing council;

(b) any licence, permission, consent, approval, authorisation, exemption, dispensation or relaxation granted by or to an existing council;

(c) any notice, direction or certificate given by or to an existing council;

(d) any application, request, proposal or objection made by or to an existing council;

(e) any condition or requirement imposed by or on an existing council;

(f) any fee paid by or to an existing council;

(g) any appeal allowed by or in favour of or against an existing council;

(h) any proceedings instituted by or against an existing council.

(5) Any reference in this regulation to anything done by or in relation to an existing council includes a reference to anything which by virtue of any statutory provision is treated as having been done by or in relation to that council.