



STATUTORY INSTRUMENTS.

S.I. No. 228 of 2014



LOCAL GOVERNMENT ACT 1991 (REGIONAL AUTHORITIES)
(AMENDMENT) ORDER 2014

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The Minister for the Environment, Community and Local Government, in exercise of powers conferred on him by sections 3 and 43 (inserted by section 62 of the Local Government Reform Act 2014 (No. 1 of 2014)) of the Local Government Act 1991 (No. 11 of 1991) (as adapted by the Environment, Heritage and Local Government (Alteration of Name of Department and Title of Minister) Order 2011 (S.I. No. 193 of 2011)) and sections 4 and 62 of the Local Government Reform Act 2014 (No. 1 of 2014) and with the consent of the Minister for Public Expenditure and Reform, hereby orders as follows:—

1. This order may be cited as the Local Government Act 1991 (Regional Authorities) (Amendment) Order 2014.

2. In this order—

“Act” means the Local Government Act 1991 (No. 11 of 1991);

“Act of 2001” means the Local Government Act 2001 (No. 37 of 2001);

“appointed day” means the day on which this order comes into operation;

“Committee of the Regions” has the same meaning as it has in Article 4 of the Treaty Establishing the European Economic Community (as inserted by the Treaty on European Union);

“contract of employment” has the same meaning as it has in the Protection of Employees (Fixed-Term Work) Act 2003 (No. 29 of 2003);

“dissolved regional authority” means a regional authority dissolved by virtue of article 12 and shall be read in accordance with column (1) of the Schedule;

“fixed-term employee” has the same meaning as it has in the Protection of Employees (Fixed-Term Work) Act 2003 (No. 29 of 2003);

“Minister” means the Minister for the Environment, Community and Local Government;

“order of 1993” means the Local Government Act 1991 (Regional Authorities) (Establishment Order) 1993 (S.I. No. 394 of 1993);

“order of 1999” means the Local Government Act 1991 (Regional Authorities) (Establishment) Order 1999 (S.I. No. 226 of 1999);

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 30th May, 2014.*

“recognised trade union or staff association” means a trade union or staff association recognised by the Minister for the purpose of negotiations which are concerned with the remuneration or conditions of employment, or the working conditions of employees;

“regional assembly” has the same meaning as it has in the Local Government Act 1991 (Regional Authorities) (Establishment) Order 1999 (S.I. No. 226 of 1999) and “region” shall be construed accordingly;

“regional authority” means a regional authority established by the Local Government Act 1991 (Regional Authorities) (Establishment Order) 1993 (S.I. No. 394 of 1993);

“successor regional assembly” shall be read in accordance with column (2) of the Schedule.

3. This order shall come into operation on 1 June 2014.

4. Article 5 of the order of 1999 is amended—

(a) by deleting paragraph (3), and

(b) in paragraph (4) by substituting for subparagraphs (b) and (c) the following:

“(b) in the case of the council of the county of Cork, five,

(c) in the case of the councils of the counties of Donegal, Dun Laoghaire — Rathdown, Fingal, Galway, Kerry, Kildare, Mayo, Meath, South Dublin, Tipperary, Wexford and Wicklow and the council of the city and county of Limerick, three each,” and

(c) in paragraph (4) by substituting for subparagraphs (d) and (e) the following:

“(d) in every other case, 2 each.”.

5. The order of 1999 is amended by inserting after article 12 the following:

“12A (1) Where a member of a constituent local authority is appointed as a member of the Committee of the Regions but is not a member of the relevant regional assembly under the First Schedule then, by virtue of this article, on and from such appointment such person shall become, and be and hold office as, a member of the relevant regional assembly.

(2)A person who by virtue of paragraph (1) of this article becomes a member of a regional assembly shall hold office as such member subject to him or her remaining a member of the Committee of the Regions.

(3) The membership of each regional assembly concerned shall be increased in accordance with paragraph (1) of this article for so long, but only for so long,

as a person is a member pursuant to this article, and article 5 shall be construed and have effect accordingly.

(4) A person who is a member of a regional assembly and of the Committee of the Regions shall keep the assembly informed of the proceedings of the Committee and shall present an annual report to the assembly in that respect: that assembly may request such person to present a report to it on any matter of relevance to the assembly and the said person shall as far as is practicable comply with such request.

(5) The Minister in advising the Government in relation to the selection of persons (each being a member of a local authority) to be proposed for appointment to the Committee of the Regions or appointment as alternate members of the Committee, shall have regard to the objective that the Irish delegation taken as a whole should manifest an appropriate measure of gender and territorial balance.”.

6. Article 14 of the order of 1999 is amended—

(a) by substituting for paragraph (1) the following:

“(1) It shall be the general function of a regional assembly to co-ordinate, promote or support strategic planning and sustainable development, and promote effectiveness in local government and public services in the assembly’s region.”,

(b) in paragraph (2) by deleting subparagraph (e) and by substituting for subparagraph (d) the following:

“(d) to perform functions under Chapter I of Part II and Chapter III of Part II of the Planning and Development Act 2000 (as inserted by the Local Government Reform Act 2014);”.

7. Article 34 of the order of 1999 is amended by inserting after paragraph (4) the following:

“(5) A director may, after consultation with the regional assembly, and for the purposes of assisting the regional assembly in the performance of its functions, enter into an arrangement for—

(a) availing of shared services of the type referred to in section 149A of the Act of 2001, or

(b) the provision by a regional assembly of such services (including premises, equipment and services of members of the staff of the regional assembly) as are the subject of that arrangement on such terms and conditions (including terms and conditions relating to the making of payments by the local authority or public authority to the regional assembly in consideration of the provision of such services) as may be agreed by the director and the local authority or public authority.”.

8. Article 35 of the order of 1999 is amended by inserting after paragraph (2) the following paragraph:

“(2A) A regional assembly may, subject to and in accordance with directions given by the Minister, provide for a scheme to be operated by a regional assembly for the making of payments in respect of specified reasonable expenses to members of the Committee of the Regions, subject to and in accordance with the provisions of such scheme.”.

9. Article 37 of the order of 1999 is amended by inserting after paragraph (1) the following:

“(1A) A direction under this article may, without prejudice to the other provisions of the article, provide for the designation for such period as is specified of a chief executive of a constituent local authority as chief executive on whom shall stand conferred such functions in relation to the regional assembly as may be specified in the direction.”.

10. The First Schedule of the order of 1999 is amended—

(a) by substituting for column (2) as it relates to the Border, Midland and Western Region provided for in column (1) the following:

“The local government areas of the counties of Cavan, Donegal, Galway, Laois, Leitrim, Longford, Louth, Mayo, Monaghan, Offaly, Roscommon, Sligo and Westmeath and the city of Galway.”,

(b) by substituting for column (2) as it relates to the Southern and Eastern Region provided for in column (1) the following:

“The local government areas of the counties of Carlow, Clare, Cork, Dun-Laoghaire Rathdown, Fingal, Kerry, Kildare, Kilkenny, Meath, South Dublin, Tipperary, Wexford and Wicklow, the cities of Cork and Dublin and the cities and counties of Limerick and Waterford.”, and

(c) in column (4) by substituting “31” for “29” and “52” for “41”.

11. On the appointed day, a region mentioned in column (1) of the First Schedule of the order of 1993, consisting of the corresponding area listed in column (2) of that Schedule shall cease to constitute a region within the meaning of and for the purposes of section 43 of the Act.

12. On the appointed day, a regional authority mentioned in column (1) of the Schedule to this order shall be dissolved and cease to exist and any right, privilege, benefit or other entitlement of a dissolved regional authority not specifically transferred or distributed by this order shall be transferred to or vested in the corresponding successor regional assembly mentioned in column (2) of the Schedule.

13. The following provisions shall apply in relation to the dissolution of a regional authority provided for in article 12:

Transfer of assets.

(1) All assets, whether real or personal (including choses-in-action) which, immediately before the appointed day, were vested in or belonged to or were held in trust for a dissolved regional authority and all rights, powers, licences and privileges relating to or connected with any such assets shall, on the appointed day, without any conveyance or assignment, but subject where necessary to transfer in the books of any bank, corporation or company, be transferred to and become and be vested in or the property of or held in trust for (as the case may require) the successor regional assembly to such dissolved regional authority for all the estate, term or interest for which the same, immediately before its dissolution, was vested in or belonged to or was held in trust for such dissolved regional authority but subject to all trusts and equities affecting the same and then subsisting and capable of being performed.

(2) Any asset transferred by paragraph (1) which, immediately before the appointed day, was standing in the books of any bank or was registered on the books of any bank, corporation, or company in the name of a dissolved regional authority shall, upon the request of the successor regional assembly to which such asset was transferred, at any time on or after the appointed day, be transferred in such books by such bank, corporation or company into the name of the successor regional assembly.

(3) On and from the appointed day, every chose-in-action transferred in accordance with the provisions of paragraph (1) may be sued upon, recovered or enforced by the successor regional assembly to which it was transferred in its own name, and it shall not be necessary for that assembly to give notice to the person bound by such chose-in-action of the transfer effected by paragraph (1).

Transfer of liabilities.

(4) Every debt and other liability (including stock and mortgage debts, and unliquidated liabilities arising from torts or breaches of contract) which immediately before the appointed day was owing and unpaid or had been incurred and was undischarged by a dissolved regional authority, shall, on that day become and be the debt or liability of the successor regional assembly to such dissolved regional authority and shall be paid or discharged by and may be recovered from or enforced against the successor regional assembly.

(5) A dissolution under this order does not invalidate or otherwise affect any payable order or cheque issued by a dissolved regional authority and which is not presented for payment before the appointed day or any permission or other authority given by the dissolved regional authority for the payment of the amount of a paying order, and the successor regional assembly shall make arrangements for the payment of the amount of every such paying order upon due presentation within a reasonable time after the appointed day.

Transfer of staff.

(6) Subject to paragraph (7) every person who, immediately before the appointed day, was a member of the staff of a dissolved regional authority shall, on such day become and be a member of the staff of the relevant successor regional assembly.

(7) Every person who, immediately before the appointed day, was a fixed-term employee of a dissolved regional authority shall, on such day, become and be a fixed-term employee of the relevant successor regional assembly for the duration of his or her contract of employment.

(8) Nothing in paragraphs (6) and (7) shall be read as affecting the provisions of the Public Service Management (Recruitment and Appointments) Act 2004 (No.33 of 2004), as amended by the Public Service Management (Recruitment and Appointments) (Amendment) Act 2013 (No.47 of 2013) that relate to the redeployment of staff of a dissolved regional authority.

(9) (a) Except in accordance with a collective agreement negotiated with a recognised trade union or staff association concerned a person referred to in paragraph (6) shall not, on the appointed day, be brought to less beneficial terms and conditions of service (including those relating to tenure of office) or of remuneration than the terms and conditions of service (including those relating to tenure of office) or of remuneration to which he or she was subject immediately before such day, and

(b) The preceding reference to terms and conditions of remuneration does not include conditions in relation to superannuation.

(10) In relation to a person referred to in paragraph (6), previous service with the dissolved regional authority from which the person was transferred shall be reckonable for the purposes of, but subject to any exceptions or exclusions in, the following:

- (a) the Redundancy Payments Acts 1996 to 2011;
- (b) the Protection of Employees (Part-Time Work) Act 2001 (No. 45 of 2001);
- (c) the Protection of Employees (Fixed-Term Work) Act 2003 (No. 29 of 2003);
- (d) the Organisation of Working Time Act 1997 (No. 20 of 1997);
- (e) the Terms of Employment (Information) Acts 1994 to 2012;
- (f) the Minimum Notice and Terms of Employment Acts 1973 to 2005;
- (g) the Unfair Dismissals Acts 1977 to 2007;
- (h) the Maternity Protection Acts 1994 to 2004;
- (i) the Parental Leave Acts 1998 and 2006;
- (j) the Adoptive Leave Acts 1995 and 2005;
- (k) the Carer's Leave Act 2001 (No.19 of 2001).

(11) Any superannuation benefits awarded to or in respect of a person transferred in accordance with paragraph (6), and the terms and conditions relating to those benefits, shall be no less favourable than those applicable to or in respect of the person immediately before the coming into operation of this order.

Preservation of continuing contracts.

(12) Every bond, guarantee or other security of a continuing character made or given by a dissolved regional authority to another person or by any person to any dissolved regional authority and in force immediately before the appointed day and every contract or agreement in writing made between any dissolved regional authority and another person and not fully executed and completed before the appointed day shall, notwithstanding the dissolution of the regional authority concerned, continue in force on and after the appointed day but shall be construed and have effect as if the name of the successor regional assembly to the dissolved regional authority were substituted therein for the name of that dissolved regional authority, and such security, contract or agreement shall be enforceable by or against the successor regional assembly accordingly.

Saving for certain acts and resolutions.

(13) All acts duly done and decisions duly made before the appointed day by or on behalf of a dissolved regional authority shall, subject to the Local Government Reform Act 2014 and this order, continue to have all such force and effect as they had immediately before that day.

(14) Any reference in a document to a dissolved regional authority shall, on and after the appointed day, be construed as a reference to the successor regional assembly concerned. In this paragraph “a document” includes—

- (a) a written agreement or other instrument in writing or any scheme, plan, statement, policy, determination, declaration, undertaking, made or adopted by or on behalf of, or to be treated as having been made or adopted by or on behalf of, a dissolved regional authority,
- (b) any direction given, revocation made, or to be treated as having been made, by or to a dissolved regional authority,
- (c) any lease, licence, way-leave, permit, certificate, permission, consent, approval, authorisation, exemption, relaxation, acknowledgement or dispensation, whether (where appropriate) relating to land or otherwise granted or given, or to be treated as having been granted or given, by or to a dissolved regional authority,
- (d) any application, proposal or objection made, or to be treated as having been made, by or to a dissolved regional authority, and
- (e) any condition or requirement imposed, or to be treated as having been imposed, or any notice served or to be treated as having been served, by or on a dissolved regional authority.

Documents of dissolved regional authorities.

- (15) (a) All books and other documents directed or authorised by or under any statute or statutory instrument or contract to be kept by a dissolved regional authority shall be kept by the successor regional assembly, and
- (b) All such books and other documents which, immediately before the appointed day, would be receivable in evidence shall, notwithstanding the dissolution of a regional authority be admitted in evidence after the appointed day as fully as if the regional authority had not been dissolved.

Audit and Accounts.

(16) With effect from the appointed day, the accounts of a dissolved regional authority shall be amalgamated with the accounts of the successor regional assembly and maintained by the successor regional assembly as if the dissolved regional authority had been dissolved at the commencement of that year, and those accounts shall be so audited.

Continuance of pending legal proceedings.

(17) In any action, suit, prosecution or other legal proceeding which was pending immediately before the appointed day in any court or tribunal and to which a dissolved regional authority was a party, the successor regional assembly to that dissolved regional authority shall on the appointed day become and be a party in the place of the dissolved regional authority and that successor regional assembly shall accordingly be substituted for such dissolved regional authority and every such proceeding shall be continued between that successor regional assembly and the other parties to those proceedings, and no such proceeding shall abate or be discontinued or prejudicially affected by reason of the dissolution of the dissolved regional authority.

Money due.

- (18) (a) Without prejudice to subparagraph (b), all money which immediately before the appointed day is due and payable to a dissolved regional authority shall on and after that day become due and payable to the successor regional assembly concerned and any such money may be collected and recovered by or on behalf of that successor regional assembly in like manner as they could be collected or recovered by or on behalf of the dissolved regional authority if this order had not come into operation.
- (b) All money which immediately before the appointed day is accruing due to a dissolved regional authority shall on and after that day accrue and be deemed always to have accrued due to the successor regional assembly concerned, and where any such money becomes due and payable the same shall be due and payable to and may be collected and recovered by or on behalf of such successor regional assembly in like manner as it could have been collected or recovered by or on behalf of the dissolved regional authority if this order had not come into operation.

14. The following are revoked:

- (a) the Local Government Act 1991 (Regional Authorities) (Establishment Order) 1993 (No. 394 of 1993),
- (b) the Local Government Act 1991 (Regional Authorities) (Establishment Order) 1993, (Amendment) Order 1995 (No. 208 of 1995),
- (c) the Local Government Act 1991 (Regional Authorities) (Establishment Order) 1993, (Amendment) (No. 2) Order 1995 (No. 369 of 1995),
- (d) the Local Government Act 1991 (Regional Authorities) (Establishment Order) 1993, (Amendment) Order 1998 (No. 1 of 1998), and
- (e) the Local Government Act 1991 (Regional Authorities) (Establishment) Order 1993, (Amendment) Order 2006 (No. 691 of 2006).

SCHEDULE

Dissolved regional authority (1)	Successor regional assembly (2)
The Midland Regional Authority	The Border, Midland and Western Regional Assembly
The Border Regional Authority	The Border, Midland and Western Regional Assembly
The West Regional Authority	The Border, Midland and Western Regional Assembly
The Mid-West Regional Authority	The Southern and Eastern Regional Assembly
The South-West Regional Authority	The Southern and Eastern Regional Assembly
The South-East Regional Authority	The Southern and Eastern Regional Assembly
The Mid-East Regional Authority	The Southern and Eastern Regional Assembly
The Dublin Regional Authority	The Southern and Eastern Regional Assembly



GIVEN under the Official Seal of the Minister for the Environment,
Community and Local Government
28 May 2014.

PHIL HOGAN,
Minister for the Environment, Community and Local
Government.

The Minister for Public Expenditure and Reform hereby consents to the fore-
going order.



GIVEN under the Official Seal of the Minister for
Public Expenditure and Reform
29 May 2014.

BRENDAN HOWLIN,
Minister for Public Expenditure and Reform.

EXPLANATORY NOTE.

(This note is not part of the Instrument and does not purport to be a legal interpretation).

This order provides for the dissolution of the regional authorities, established by the Local Government Act 1991 (Regional Authorities) (Establishment Order) 1993 (No. 394 of 1993) and the appointment of the Border, Midlands and Western Regional Assembly and the Southern and Eastern Regional Assembly as their successors. The order makes a number of provisions to facilitate the transfer of staff, assets, and liabilities to the successor assemblies as well as addressing other matters related to the dissolution of the regional authorities. The order also makes provision for amendments to the Local Government Act 1991 (Regional Authorities) (Establishment) Order 1999 (No. 226 of 1999) to ensure that the regional assemblies may undertake fully the functions of the regional authorities. It also provides for an increase in the membership of the regional assemblies and for a Ministerial direction to designate a Chief Executive of a constituent local authority and confer upon him certain functions pertaining to the regional assembly.

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