

Explanatory Memorandum to the Preserved Counties of Powys and Mid Glamorgan (Changes in Area) Order 2010

This Explanatory Memorandum has been prepared by Local Government Policy Division and is laid before the National Assembly for Wales in accordance with Standing Order 24.1.

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of The Preserved Counties of Powys and Mid Glamorgan (Changes in Area) Order 2010.

Carl Sargeant

Minister for Social Justice and Local Government

11 January 2010

I. Description

This Order gives effect to the recommendations of the Local Government Boundary Commission for Wales (the Commission) to realign part of the boundary between the Preserved Counties of Mid Glamorgan and Powys in the area of Pontsticill.

II. Matters of special interest to the Subordinate Legislation Committee

None

III. Legislative Background

Section 56 (1)(c) of the Local Government Act 1972 (the 1972 Act) provides that the Secretary of State may direct the Commission to conduct a review of one or more preserved counties or parts of such counties. Section 54(1A) of the 1972 Act states that the Commission may make proposals to the Secretary of State with regard to areas reviewed.

Section 270 of the 1972 Act defines “preserved county” as any county in Wales as it stood immediately before the passing of the Local Government (Wales) Act 1994, subject to any boundary changes.

The purpose of the preserved counties in Wales is to define county areas for the purposes only of certain statutory ceremonial provisions, as listed in Schedule 2 of the Local Government (Wales) Act 1994.

The preserved counties in Wales are also used when determining Parliamentary constituency boundaries which are also the Assembly constituency boundaries. Legislation requires that Parliamentary constituency boundaries should not cross county boundaries

When reviewing and proposing changes to an area of a preserved county the Commission is to have regard to the purposes for which the preserved counties are retained.

Section 58(2) and 58 (4)(b) provides that the Secretary of State may give effect to recommendations made by the Commission by Order. These functions and those in section 54 were transferred to the Welsh Ministers by virtue of Schedule 11 to the Government of Wales Act 2006. In accordance with Section 58(4) this Order is made under the negative resolution procedure.

The preserved county of Mid Glamorgan comprise of the area of the County Boroughs of Bridgend, Merthyr Tydfil and Rhondda Cynon Taff.

The preserved county of Powys comprises of the former county of Powys, the community of Llanrhaedr-ym-Mochnant, Llansilin and Llangedwyn from the County of Clwyd.

IV. Purpose and Intended Effect of the Legislation

To realign part of the boundary between the preserved counties of Mid Glamorgan and Powys so that the preserved county boundary will be coterminous with the boundary between the unitary authorities of Merthyr Tydfil and Powys.

The Commission conducted a review of the boundary between the County of Powys and the County Borough of Merthyr Tydfil in the area of Pontsticill. They recommended that part of the area adjacent to the Pontsticill reservoir become part of the community of Vaynor in the County Borough of Merthyr Tydfil.

Welsh Ministers accepted and gave effect to the recommendation. An Order was made to realign the boundary between the County of Powys and the County Borough of Merthyr Tydfil. The Merthyr Tydfil and Powys (Areas) Order 2009 came into force on 1 May 2009.

When conducting the review the Commission did not consider the effect of the proposed change on the preserved counties of Powys and Mid Glamorgan. The alteration has resulted in the boundary of the preserved counties and the local authority boundary being out of alignment.

To rectify this anomaly the Commission conducted the review of the preserved county boundary in the area. They submitted proposals to the Welsh Ministers that the preserved county boundary in the area of Pontsticill be realigned so that it is coterminous with the boundary between the unitary authorities. Realigning the preserved county boundary will provide that the area will be within the same local authority region for all administrative purposes.

This Order gives effect to the Commission's proposals.

V. Implementation

Should this order be annulled the boundary between the preserved counties of Powys and Mid Glamorgan in the area of Pontsticill would be out of alignment with the boundary between the County of Powys and the County Borough of Merthyr Tydfil. This would contravene legislative requirements that county boundaries should not cross the boundary of preserved counties.

VI. Consultation

The Commission consulted all interested parties as part of the review process. The Commission formulates and consults on draft proposals before publishing its final report and recommendations. Following publication of the Commission's final report and recommendations there is a six week period for representations to be made to the Assembly Government. No representations were received in this case.

VII. Regulatory Impact Assessment

Options (for achieving the policy objective as set out in paragraph IV)

Option 1 Not to implement the proposals

This would result in the existing preserved county boundary remaining the same. The area affected would come under the administration of Merthyr Tydfil County Borough Council but for matters for which the preserved counties were retained the area would come under the administration of Powys County Council.

Option 2 implementing the proposals

This would achieve the policy aim of effective and convenient local government in Wales.

- a) benefits – the boundaries of the preserved counties and unitary authorities would be coterminous.
- b) costs- there are no direct costs for either the Welsh Assembly Government or the local authorities concerned as a result of the making of this order
- c) consultation –Powys County Council, Merthyr Tydfil County Borough Council and the Commission were asked for comments on the draft order. No comments were made.
- d) Post Implementation review -none
- e) Summary – The boundary between the preserved counties of Mid Glamorgan and Powys in the area of Pontsticill be realigned to be coterminous with the boundary between the unitary authorities to reflect the changes made between Merthyr Tydfil and Powys as set out in the Merthyr Tydfil and Powys (Areas) Order 2009.