

# LOCAL GOVERNMENT (WALES) ACT 2015

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### *Section 29(1) – Directions in relation to restricted activities*

64. Under section 29(1) the Welsh Ministers may direct a merging authority not to undertake a “restricted activity” without either considering the opinion, or obtaining the written consent, of a person specified in the direction. The persons that may be specified are such authorities or persons as the Welsh Ministers consider appropriate, which may include the Welsh Ministers themselves, transition committees and shadow authorities (section 30(3)).
65. [Section 29\(2\)](#), describes the restricted activities in respect of which opinion/consent directions can be issued:
- the selling or buying of land, interests in land, or granting an option to buy land or interests in land (threshold – above £150,000);
  - entering into contracts or agreements whose period extends, or could be extended, beyond the transfer date (threshold – above £500,000 if a capital contract; all other contracts £150,000);
  - making certain acquisitions of share or loan capital (threshold – above £500,000);
  - giving a grant or other financial assistance (threshold – above £150,000);
  - making a loan whose period extends, or could be extended, beyond the transfer date (threshold – above £150,000);
  - including an amount of reserves in the calculation of its budget;
  - starting the recruitment of a non-statutory chief officer or deputy chief officer.
66. ‘Relevant contract or agreement’ is defined as including a framework agreement under the [Public Contracts Regulations 2006 \(SI 2006/5\)](#); and a capital contract is one where the consideration payable by the authority in respect of the contract is capital expenditure for the purposes of the Local Government Act 2003 (section 34(3) and (4)).
67. Whilst section 34 sets out the minimum thresholds over and above which the Welsh Ministers may issue directions in relation to restricted activities, any direction issued by the Welsh Ministers will set the actual threshold; this could be different from the minimum. Section 35 sets out how to determine whether the financial thresholds have been exceeded and also enables the Welsh Ministers to amend the current thresholds.
68. [Section 29\(5\)](#) requires a merging authority to provide details of a restricted activity to the person specified in a direction, and [section 29\(6\)](#) requires a merging authority to publish its reasons for determining to proceed with a restricted activity when the person specified in a direction has given the opinion that it would not be appropriate for the merging authority to do so.

*These notes refer to the Local Government (Wales) Act 2015  
(c.6) which received Royal Assent on 25 November 2015*

69. **Section 30(2)** enables directions under section 29(1) to be issued in relation to a single merging authority, two or more specified authorities, or authorities of a specified description. Similarly, section 30(4) enables the Welsh Ministers to specify that different persons are to provide an opinion/consent in relation to different matters or in relation to different merging authorities or descriptions of authorities. Directions can also provide for different requirements in relation to the same restricted activities of differing values; for example, land purchases of a lower value may require the consent of a shadow authority whereas higher value purchases may require the consent of the Welsh Ministers.
70. In relation to reserves section 31 allows for a direction issued under section 29(1) to permit the inclusion of specified descriptions of reserves, or reserves of up to a specified threshold, in a calculation of the budget requirement without needing the opinion/consent of a specified person. This is intended to enable the Welsh Ministers to exercise control over the appropriate use of reserves, whilst stopping short of preventing merging authorities from using these monies.
71. The consequences of failing to comply with a direction issued in relation to a restricted activity are set out within section 33. A contract or agreement entered into will be unenforceable; a land transaction or capital acquisition will be void, any grant or other financial assistance or a relevant loan will be repayable, and the use of unauthorised reserves in setting a budget requirement will be treated as though the budget calculation had not been made thereby preventing the merging authority from setting and collecting its council tax.