



Local Government and Elections (Wales) Act 2021

2021 asc 1

PART 7

MERGERS AND RESTRUCTURING OF PRINCIPAL AREAS

CHAPTER 1

VOLUNTARY MERGERS OF PRINCIPAL AREAS

Applications for mergers

121 Merger applications

- (1) Any two or more principal councils may jointly make an application (“a merger application”) to the Welsh Ministers, asking them to consider making merger regulations under section 124(1) merging their principal areas into a new principal area.
- (2) Section 101 of the 1972 Act (arrangements for discharge of functions by local authorities) does not apply to the function of making a merger application.
- (3) The function of making a merger application is not to be the responsibility of an executive of the principal council under executive arrangements.
- (4) An elected mayor is to be treated as a councillor of the principal council for the purposes of the function of making a merger application.
- (5) If, following receipt of a merger application, the Welsh Ministers decide not to make merger regulations under section 124(1), they must notify the principal councils that made the application.

Changes to legislation: There are currently no known outstanding effects for the Local Government and Elections (Wales) Act 2021, PART 7. (See end of Document for details)

122 Consultation before making merger application

- (1) Before making a merger application the principal councils must consult—
- (a) local people in the principal councils' areas,
 - (b) each of the councils for communities in the principal councils' areas,
 - (c) the National Park authority for a National Park any part of which is in one or more of the principal councils' areas,
 - (d) the fire and rescue authority for an area any part of which is in one or more of the principal councils' areas,
 - (e) the public services board or boards for the principal councils' areas,
 - (f) the Local Health Board for an area any part of which is in one or more of the principal councils' areas,
 - (g) every trade union which is recognised (within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992 (c. 52)) by one or more of the principal councils,
 - [^{F1}(ga) each corporate joint committee—
 - (i) which includes at least one senior executive member (within the meaning given by section 77(4)) of the principal councils as a member of the corporate joint committee;
 - (ii) which is otherwise likely to be affected by the proposal for merger,]
 - (h) every other principal council for a principal area which is likely to be affected by the proposal for merger, and
 - (i) such other persons as the principal councils consider appropriate.
- (2) The requirement in subsection (1) may be satisfied by consultation undertaken before the coming into force of this section.

Textual Amendments

- F1** S. 122(1)(ga) inserted (3.12.2021) by [The Corporate Joint Committees \(General\) \(No. 2\) \(Wales\) Regulations 2021 \(S.I. 2021/1349\)](#), regs. 1(2), 33

123 Guidance about merger applications

- (1) Principal councils must have regard to any guidance issued by the Welsh Ministers about the making of a merger application.
- (2) The requirement in subsection (1) may be satisfied by having regard to any guidance issued by the Welsh Ministers before the coming into force of this section, and which was issued expressly for the purpose of this section.

Merger regulations

124 Merger regulations

- (1) If the Welsh Ministers receive a merger application they may make regulations which provide for the constitution of a new principal area on a date specified in the regulations (“the transfer date”) by—
- (a) abolishing the principal areas of the merging councils on the transfer date, and

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- (b) merging, to create a new principal area, the principal areas of the merging councils.
- (2) In this Part, regulations under subsection (1) are referred to as merger regulations.
- (3) Merger regulations must provide for—
- (a) the boundary of the new principal area,
 - (b) the name of the new principal area,
 - (c) whether the new principal area is to be a county or a county borough,
 - (d) the establishment of a council for the new principal area (in accordance with section 125),
 - (e) the transfer of functions of the merging councils to the new principal council, and
 - (f) the winding up and dissolution of the merging councils.
- (4) Where the new principal area is to be a county, merger regulations must provide for the new principal council to have the name of the county with the addition of the words “County Council” or the word “Council”.
- (5) Where the new principal area is to be a county borough, merger regulations must provide for the new principal council to have the name of the county borough with the addition of the words “County Borough Council” or the word “Council”.

125 Shadow councils and shadow executives

- (1) Merger regulations must provide for there to be a shadow council for the new principal area.
- (2) A shadow council must be an elected shadow council unless the Welsh Ministers consider it appropriate to provide for there to be a designated shadow council.
- (3) An elected shadow council—
- (a) consists of the councillors elected in the first ordinary election of councillors to the new principal council, and
 - (b) is established on the fourth day after that election, when those councillors assume office as shadow members.
- (4) A designated shadow council—
- (a) consists of all the members of the merging councils, and
 - (b) is established on the date specified in the merger regulations as the date on which those members assume office as shadow members.
- (5) The merger regulations must make provision—
- (a) for the appointment of a shadow executive by the shadow council, in the form of a leader and cabinet executive,
 - (b) in the case of a designated shadow council, specifying the composition of the shadow executive,
 - (c) specifying the functions of the shadow council and the shadow executive, and about the exercise of those functions, during the shadow period, and
 - (d) about the funding of the shadow council.

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- (6) Provision made in accordance with subsection (5)(d) may confer functions on a merging council, including in relation to the administration of the shadow council's finances.
- (7) In subsection (5)(c), “shadow period” means the period—
 - (a) beginning with the date on which the shadow council is first authorised or required to exercise any functions in accordance with the merger regulations, and
 - (b) ending immediately before the transfer date.
- (8) The merger regulations must provide that an elected shadow council is the shadow council for the new principal area until the transfer date (from when it is, and has all the functions of, the principal council for the new principal area; and the shadow executive is, and has all the functions of, the executive for the principal council).
- (9) In the case of a designated shadow council, the merger regulations must provide that—
 - (a) the designated shadow council is the shadow council for the new principal area until the pre-election period, and
 - (b) during the pre-election period the shadow council is, and has all the functions of, the principal council for the new principal area; and the shadow executive is, and has all the functions of, the executive for the principal council.
- (10) In subsection (9), “pre-election period” means the period—
 - (a) beginning with the transfer date, and
 - (b) ending immediately before the fourth day after the holding of the first ordinary election of councillors to the new principal council.

126 Voting system

- (1) Merger regulations must specify whether the voting system that applies to the first ordinary election of councillors to the principal council for the new principal area is to be—
 - (a) the simple majority system provided for by rules made, or having effect as if made, under section 36A of the 1983 Act, or
 - (b) the single transferable vote system provided for by rules made under section 36A of the 1983 Act.
- (2) The voting system specified in the merger regulations must be—
 - (a) the voting system agreed by the merging councils, or
 - (b) in the absence of agreement—
 - (i) the voting system used in both, or where there are three or more merging councils, all or the majority of, the merging councils immediately before the application date, or
 - (ii) if neither of the merging councils used, or (where there are three or more merging councils) the majority of the merging councils did not use, the same voting system immediately before the application date, the voting system determined by the Welsh Ministers after consulting the merging councils.
- (3) In subsection (2)(b), “application date” means the date on which the merger application is made.

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- (4) If a merger application is made before section 7 comes into force—
- (a) subsections (1) and (2) of this section do not apply in relation to the merger regulations relating to the application, and
 - (b) those regulations must provide that if section 7 is in force on the day of the first ordinary election of councillors to the principal council for the new principal area, the simple majority system applies to that election.

127 Elections

- (1) Merger regulations must set—
- (a) the date of the first ordinary election of councillors to the principal council for the new principal area, and
 - (b) the terms of office of councillors returned at that election.
- (2) Merger regulations may include provision—
- (a) cancelling an ordinary election of councillors to one or more of the merging councils and extending the existing terms of office of councillors;
 - (b) cancelling an election of an elected mayor to one or more of the merging councils and extending the existing terms of office of elected mayors;
 - (c) relating to requirements to fill casual vacancies in the office of councillor, vice-chair or chair, and the holding of elections in any of the merging councils or the shadow council to fill casual vacancies;
 - (d) postponing an ordinary election of councillors to community councils in the new principal area and the extension of the existing terms of office of councillors.
- (3) Merger regulations may also include provision about—
- (a) the appointment of a returning officer at the first ordinary election of councillors to the principal council for the new principal area;
 - (b) meeting expenditure incurred in holding that election, including provision for the making of determinations by the Welsh Ministers about how expenditure is to be met;
 - (c) declarations of acceptance of the office of councillor of the new principal council;
 - (d) the holding of the first meeting of the new principal council.
- (4) Provision made under subsection (3)(a) may include provision for the Welsh Ministers to give directions to a principal council as to the appointment of a returning officer, and for the enforcement of such directions.

Facilitating mergers

128 Duties of merging councils to facilitate transfer

- (1) A merging council must—
- (a) for the purposes of the merger, co-operate with the Welsh Ministers, the other merging council or councils and any other person exercising functions in relation to the merger, and
 - (b) take all reasonable steps to—

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- (i) facilitate the economic, effective and efficient transfer of its functions, staff, property, rights and liabilities to the new principal council, and
 - (ii) ensure that the new principal council and its staff are in a position to perform the new principal council's functions effectively.
- (2) The Welsh Ministers may direct a merging council to take, or not to take, any action the Welsh Ministers consider appropriate for the purpose of discharging the council's duty under this section.

CHAPTER 2

RESTRUCTURING OF PRINCIPAL AREAS

Conditions to be met

129 Conditions to be met before making restructuring regulations

- (1) If the conditions set out in this section are satisfied, the Welsh Ministers may make restructuring regulations (as to which, see section 131).
- (2) The first condition is that the Welsh Ministers have received—
 - (a) a report of a special inspection of a principal council by the Auditor General for Wales under section 95(7), or
 - (b) an abolition request under section 130 from a principal council.
- (3) The second condition is that the Welsh Ministers have—
 - (a) given notice to the affected councils that the Welsh Ministers have received the report or abolition request, and
 - (b) published the notice.
- (4) The third condition is that the Welsh Ministers have consulted—
 - (a) the council which was the subject of the report mentioned in subsection (2) (a) or which made the abolition request mentioned in subsection (2)(b) (“the council under consideration”),
 - (b) every other principal council whose area will be, or is likely to be, affected by any restructuring regulations made in respect of the council under consideration, and
 - (c) such other persons as the Welsh Ministers consider appropriate,
 about the steps that the Welsh Ministers are considering taking as a consequence of receipt of the report or request.
- (5) The fourth condition is that, following consultation in accordance with subsection (4), the Welsh Ministers are satisfied that, unless restructuring regulations are made, effective and convenient local government is not likely to be achieved in the area of the council under consideration.
- (6) The fifth condition is that, if each of the conditions in subsections (2) to (5) are satisfied and the Welsh Ministers propose to make restructuring regulations, they have given notice of their proposals to the council under consideration and—
 - (a) if the transfer of a part or parts of the area of the council under consideration is proposed, the principal council for the principal area which is (or the principal

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- councils for the principal areas which are) to include a part of the area of the council under consideration;
- (b) if the creation of a new principal area is proposed, the principal council for a principal area which is (or the principal councils for principal areas which are) to be merged with all or part of the area of the council under consideration into a new principal area;
 - (c) every other principal council consulted as described in subsection (4)(b).

Commencement Information

I1 S. 129 in force at 1.4.2021 by [S.I. 2021/297](#), [art. 2\(d\)](#)

Abolition requests

130 Abolition requests

- (1) A principal council may, by notice in writing (“an abolition request”), ask the Welsh Ministers to consider abolishing the council and its principal area.
- (2) An abolition request must set out the principal council's reasons for seeking abolition.
- (3) The principal council must publish the abolition request as soon as reasonably practicable after making the request.
- (4) Section 101 of the 1972 Act (arrangements for discharge of functions by local authorities) does not apply to the function of making an abolition request.
- (5) The function of making an abolition request is not to be the responsibility of an executive of the principal council under executive arrangements.
- (6) An elected mayor is to be treated as a councillor of the principal council for the purposes of the function of making an abolition request.

Commencement Information

I2 S. 130 in force at 1.4.2021 by [S.I. 2021/297](#), [art. 2\(d\)](#)

Restructuring regulations

131 Restructuring regulations

Restructuring regulations are regulations which provide for the abolition of the principal area of a council under consideration on a date specified in the regulations (“the transfer date”), and either or both of the following—

- (a) for a part or parts of the principal area being abolished to become, on the transfer date, part of another existing principal area or parts of other existing principal areas;
- (b) for the constitution of a new principal area on the transfer date by—
 - (i) abolishing the principal area of one or more other principal councils (as well as the area of the council under consideration), and

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- (ii) merging, to create a new principal area, all or part of the area of the council under consideration with the area of the other principal council or councils (whether or not the other council or councils are also councils under consideration).

Commencement Information

I3 S. 131 in force at 1.4.2021 by [S.I. 2021/297](#), [art. 2\(d\)](#)

132 Restructuring regulations which provide for part of a principal area to become part of another existing principal area

- (1) Restructuring regulations which include provision under section 131(a) must—
- (a) specify, by reference to each part of the area being abolished which is transferred to an existing principal area, the new area of that principal area,
 - (b) provide for the transfer of functions from the council under consideration to another principal council,
 - (c) provide for the winding up and dissolution of the council under consideration, and
 - (d) provide for the voting system (see section 134(4)) which applies in relation to a part of the area of the council under consideration which is transferred to another principal area (“principal area A”) to be, at the first ordinary election of councillors after the transfer date, the voting system applying in the rest of principal area A.
- (2) Restructuring regulations may, for the purposes of providing for part of the area of the council under consideration to become part of another principal area, make provision about—
- (a) the assignment of councillors of the council under consideration to another principal council;
 - (b) the election and terms of office of councillors of a restructuring council;
 - (c) the voting system which is to apply, in relation to a part of the area of the council under consideration which is transferred to another principal area, at an election to fill a casual vacancy held after the transfer date and before the first ordinary election of councillors to the council after the transfer date;
 - (d) the election and terms of office of councillors to community councils in the area of a restructuring council;
 - (e) the executive arrangements of a restructuring council;
 - (f) the form of executive operated by a restructuring council;
 - (g) the area, term of office and election of an elected mayor of a restructuring council;
 - (h) the arrangements for the remuneration of members of a restructuring council, including provision conferring functions on the Independent Remuneration Panel for Wales;
 - (i) a change to the name of a restructuring council;
 - (j) whether the principal area of a restructuring council is a county or county borough.

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Commencement Information

I4 S. 132 in force at 1.4.2021 by [S.I. 2021/297](#), [art. 2\(d\)](#)

133 Restructuring regulations which constitute a new principal area

- (1) Restructuring regulations which include provision as described in section 131(b) must provide for—
- (a) the boundary of the new principal area,
 - (b) the name of the new principal area,
 - (c) whether the new principal area is to be a county or a county borough,
 - (d) the establishment of a council for the new principal area (in accordance with paragraph (e) or subsections (4) to (7)),
 - (e) (subject to subsection (4)) there to be an elected shadow council for the new principal area until the transfer date (from when it is, and has all the functions of, the principal council for the new principal area),
 - (f) the functions of the shadow council,
 - (g) the funding of the shadow council,
 - (h) the appointment of a shadow executive by the shadow council, in the form of a leader and cabinet executive (which, from the transfer date, is and has all the functions of, the executive for the principal council),
 - (i) the functions of the shadow executive,
 - (j) the transfer of functions to the new principal council from the restructuring councils whose areas are to be merged to create the new principal area,
 - (k) the winding up and dissolution of the restructuring councils whose areas are to be merged to create the new principal area,
 - (l) which of the voting systems (see section 134(4)) is to apply to the first ordinary election of councillors to the new principal council,
 - (m) the date of the first ordinary election of councillors to the new principal council, and
 - (n) the terms of office of councillors returned at that election.
- (2) Where a new principal area constituted by restructuring regulations is to be a county, the regulations must provide for the new principal council to have the name of the county with the addition of the words “County Council” or the word “Council”.
- (3) Where a new principal area constituted by restructuring regulations is to be a county borough, the regulations must provide for the new principal council to have the name of the county borough with the addition of the words “County Borough Council” or the word “Council”.
- (4) The Welsh Ministers may, if they consider it appropriate, make provision in the restructuring regulations for the shadow council to be a designated shadow council until the pre-election period.
- (5) If the Welsh Ministers make such provision, they must also, in the restructuring regulations—
- (a) make provision specifying the composition of the shadow executive to be appointed by the shadow council;

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- (b) provide that during the pre-election period the shadow council is, and has all the functions of, the principal council for the new principal area; and the shadow executive is, and has all the functions of, the executive for the principal council.
- (6) In subsections (4) and (5), “pre-election period” means the period—
- (a) beginning with the transfer date, and
 - (b) ending immediately before the fourth day after the holding of the first ordinary election of councillors to the new principal council.
- (7) For the purposes of this section—
- (a) an elected shadow council—
 - (i) consists of the councillors elected in the first ordinary election of councillors to the new principal council, and
 - (ii) is established on the fourth day after that election, when those councillors assume office as shadow members;
 - (b) a designated shadow council—
 - (i) consists of such members of the restructuring councils as are specified in the restructuring regulations, appointed in accordance with the regulations, and
 - (ii) is established on the date specified in the restructuring regulations as the date on which those members assume office as shadow members.

Commencement Information

I5 S. 133 in force at 1.4.2021 by [S.I. 2021/297](#), [art. 2\(d\)](#)

134 Restructuring regulations: supplementary

- (1) Restructuring regulations may make provision that corresponds to, or applies (with or without modifications) provision made by or under, or that may or must be made under—
- (a) Chapter 4 (remuneration arrangements), where the regulations make provision in accordance with section 131(b);
 - (b) section 127 (elections);
 - (c) paragraphs 2 and 3 of Schedule 11 (transition committees).
- (2) Restructuring regulations may provide for—
- (a) the establishment of a committee or other body to provide advice and recommendations to persons specified in the regulations about the transfer of functions, liabilities and property, and about staffing matters;
 - (b) the establishment of a body corporate for the purpose of taking over, and disposing of, any property, rights or liabilities of a principal council which is to be abolished under the regulations, and exercising any related functions of such a council; and restructuring regulations may—
 - (i) provide for such a body to acquire property, make levies, borrow and lend money, and
 - (ii) make provision about the winding up of such a body;
 - (c) the provision of information or documents by a restructuring council to persons specified in the regulations;

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- (d) the giving of directions by the Welsh Ministers to persons specified in the regulations for purposes connected to a restructuring, and for their enforcement;
 - (e) the Welsh Ministers to determine, in circumstances specified in the regulations, matters connected to the restructuring.
- (3) If the Welsh Ministers decide not to make restructuring regulations after—
- (a) having received a report of a special inspection of a principal council by the Auditor General for Wales under section 95(7) and having consulted as described in section 129(4), or
 - (b) having received an abolition request,
- they must notify the council under consideration and any other principal council they have given notice or consulted as described in section 129.
- (4) For the purposes of sections 132 and 133, the voting systems are—
- (a) the simple majority system provided for by rules made, or having effect as if made, under section 36A of the 1983 Act;
 - (b) the single transferable vote system provided for by rules made under section 36A of the 1983 Act.
- (5) If, before section 7 comes into force, notice is given as described in section 129(6) and the creation of a new principal area is proposed—
- (a) section 133(1) does not apply in relation to the restructuring regulations relating to the notice, and
 - (b) those regulations must provide that if section 7 is in force on the day of the first ordinary election of councillors to the principal council for the new principal area, the simple majority system applies to that election.

Commencement Information

I6 S. 134 in force at 1.4.2021 by [S.I. 2021/297](#), [art. 2\(d\)](#)

Facilitating restructuring

135 Duties of restructuring councils to facilitate transfer

- (1) A restructuring council must, for the purposes of the restructuring, co-operate with the Welsh Ministers, the other restructuring council or councils and any other person exercising functions in relation to the restructuring.
- (2) A restructuring council whose area is to be abolished must take all reasonable steps to—
 - (a) facilitate the economic, effective and efficient transfer of its functions, staff, property, rights and liabilities to the other restructuring councils and any new principal councils, and
 - (b) ensure that the other restructuring councils and any new principal councils, and their staff, are in a position to perform their functions effectively.
- (3) A restructuring council other than one whose area is to be abolished must take all reasonable steps to—

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- (a) facilitate the economic, effective and efficient transfer to it of the functions, staff, property, rights and liabilities of the council under consideration, and
 - (b) ensure that it and its staff are in a position to perform their functions effectively.
- (4) The Welsh Ministers may direct a restructuring council to take, or not to take, any action the Welsh Ministers consider appropriate for the purpose of discharging the council's duty under this section.

Commencement Information

I7 S. 135 in force at 1.4.2021 by [S.I. 2021/297](#), [art. 2\(d\)](#)

CHAPTER 3

FUNCTIONS RELATING TO MERGERS AND RESTRUCTURING

136 Transition committees

Schedule 11 makes provision about the establishment of transition committees.

137 Restraint of transactions and recruitment

Schedule 12 makes provision about restraints on transactions and recruitment.

138 Reviews of electoral arrangements

- (1) The Welsh Ministers may direct the Local Democracy and Boundary Commission for Wales to conduct an initial review of electoral arrangements after the Welsh Ministers—
- (a) receive a merger application, or
 - (b) give notice as described in section 129(6).
- (2) Before giving a direction under subsection (1) the Welsh Ministers must consult—
- (a) the Local Democracy and Boundary Commission for Wales, and
 - (b) such persons representing principal councils as the Welsh Ministers consider appropriate.
- (3) A direction under subsection (1) to conduct an initial review in relation to a proposal to transfer part of a principal area to be abolished to another principal area, or in relation to restructuring regulations which provide for such a transfer—
- (a) must specify the area (which may be all or part of a principal area) that is to be subject to the initial review, and
 - (b) may specify that one or more matters of a kind described in sub-paragraph (i) or (ii) are not to be considered in the initial review; and those matters are—
 - (i) matters set out in the definition of “electoral arrangements” in paragraph 3(1) of Schedule 1;
 - (ii) matters set out in the definition of “relevant consequential changes” in that paragraph.

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- (4) A direction under subsection (1) must specify the voting system in relation to which the electoral arrangements are to be reviewed.
- (5) Schedule 1 makes provision in relation to initial reviews conducted by virtue of this section.
- (6) The Welsh Ministers may by regulations amend subsection (3) of section 29 of the 2013 Act (periodic reviews of electoral arrangements for principal areas).

Commencement Information

- I8** S. 138(1)(a)(2) in force at 21.1.2021, see s. 175(1)(f)
I9 S. 138(4)-(6) in force at 21.1.2021, see s. 175(1)(f)
I10 S. 138(1)(b)(3) in force at 1.4.2021 by S.I. 2021/297, art. 2(d)

139 Prohibition of changes to executive arrangements

- (1) After receiving a merger application the Welsh Ministers may direct a merging council that—
 - (a) until merger regulations applying to the council come into force, or
 - (b) until it receives notice under section 121(5),it must not take any steps (including the holding of a referendum) to change its form of executive.
- (2) After giving notice as described in section 129(6), the Welsh Ministers may direct a restructuring council that—
 - (a) until restructuring regulations applying to the council come into force, or
 - (b) until it receives notice under section 134(3),it must not take any steps (including the holding of a referendum) to change its form of executive.
- (3) While a direction under subsection (1) or (2) has effect in relation to a council, the council is not subject to any duty imposed by or under an enactment to take steps to change its form of executive.

Commencement Information

- I11** S. 139(1) in force at 21.1.2021, see s. 175(1)(f)(2)
I12 S. 139(3) in force at 21.1.2021 for specified purposes, see s. 175(1)(f)(2)(d)(ii)(7)
I13 S. 139(2) in force at 1.4.2021 by S.I. 2021/297, art. 2(d)
I14 S. 139(3) in force at 1.4.2021 in so far as not already in force by S.I. 2021/297, art. 2(d)

140 Requirement on principal councils to provide information etc. to the Welsh Ministers

- (1) The Welsh Ministers may direct a principal council (“council A”) to provide them with any information or documents they consider appropriate—
 - (a) for the purposes of considering whether to transfer the functions of council A to another principal council (“council B”) or to a new principal council,
 - (b) for the purposes of giving effect to such a transfer, or

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- (c) otherwise in connection with such a transfer.
- (2) The Welsh Ministers may also direct council B to provide the Welsh Ministers with any information or documents which they consider appropriate as mentioned in subsection (1)(a), (b) or (c).

Commencement Information

- I15** S. 140(1)(a) in force at 21.1.2021 for specified purposes, see s. 175(1)(f)(2)(e)(i)(7)
- I16** S. 140(1)(b)(c) in force at 21.1.2021, see s. 175(1)(f)(2)
- I17** S. 140(1)(a) in force at 1.4.2021 in so far as not already in force by S.I. 2021/297, art. 2(d)
- I18** S. 140(2) in force at 1.4.2021 by S.I. 2021/297, art. 2(d)

141 Requirement on principal councils to provide information etc. to other bodies

- (1) The Welsh Ministers may direct a principal council (“council A”) to provide a relevant body with any information or documents which the Welsh Ministers consider appropriate—
- (a) for the purposes of considering whether to transfer the functions of council A to another principal council (“council B”) or to a new principal council,
 - (b) for the purposes of giving effect to such a transfer, or
 - (c) otherwise in connection with such a transfer.
- (2) The following are relevant bodies—
- (a) any other principal council (including council B) whose area will be, or is likely to be, affected by any merger regulations or restructuring regulations made in respect of council A;
 - (b) any transition committee established by council A (see Schedule 11);
 - (c) if a new principal area containing all or part of council A's area is to be constituted, the shadow council for the new principal area.
- (3) The Welsh Ministers may also direct council B to provide another relevant body or council A with any information or documents which the Welsh Ministers consider appropriate as mentioned in subsection (1)(a), (b) or (c).

Commencement Information

- I19** S. 141(1)(2) in force at 21.1.2021 for specified purposes, see s. 175(1)(f)(i)-(iii)(2)(7)
- I20** S. 141(1)(2) in force at 1.4.2021 in so far as not already in force by S.I. 2021/297, art. 2(d)
- I21** S. 141(3) in force at 1.4.2021 by S.I. 2021/297, art. 2(d)

CHAPTER 4

REMUNERATION ARRANGEMENTS FOR NEW PRINCIPAL COUNCILS

142 Directions to Independent Remuneration Panel for Wales

- (1) The Welsh Ministers may direct the Independent Remuneration Panel for Wales (“the Panel”) that it must perform its payment and pension functions in relation to—

Changes to legislation: There are currently no known outstanding effects for the Local Government and Elections (Wales) Act 2021, PART 7. (See end of Document for details)

- (a) the shadow council for a new principal area established under merger regulations or restructuring regulations, and
 - (b) the principal council for that area, for the financial year in which the transfer date falls.
- (2) For the purposes of subsection (1), the Panel's payment and pension functions are the functions under the following sections in Part 8 of the 2011 Measure—
 - (a) section 142 (payments to members), and
 - (b) section 143 (members' pensions).
- (3) Accordingly Part 8 of the 2011 Measure applies in the case of a council to which a direction under subsection (1) relates; but in its application by virtue of this subsection Part 8 is subject to—
 - (a) subsection (4), and
 - (b) section 143.
- (4) Where Part 8 of the 2011 Measure applies by virtue of subsection (3)—
 - (a) the shadow council is a relevant authority for the purposes of that Part,
 - (b) the Panel may exercise its functions under Part 8 of the 2011 Measure in relation to the principal council for the new principal area before the council has been established (including by way of imposing a requirement to which the council will be subject once it is established); accordingly, for those purposes that Part is to be read as if the council is, before it is established, a relevant authority,
 - (c) where the transfer date does not fall on 1 April, the references in section 142 to a financial year include a reference to part of the financial year in which the transfer date falls,
 - (d) section 143A (functions of the Independent Remuneration Panel for Wales in respect of remuneration of chief executives) does not apply by virtue of subsection (3) (but see section 145(6) in this Chapter, which applies section 143A in any event), and
 - (e) section 146 (first annual report of Panel) does not apply (but see section 143(9) in this Chapter).
- (5) In exercising functions by virtue of this section in relation to a principal council for an area which has or had a designated shadow council, the Panel may, in relation to times before and after the council will consist of councillors elected at the first ordinary election—
 - (a) make different decisions under section 142(1) of the 2011 Measure;
 - (b) set different amounts under subsection (3) of that section;
 - (c) make different determinations under subsection (4) of that section;
 - (d) set different percentages or other rates or indices under subsection (6) of that section;
 - (e) make different decisions under section 143(2) and (3) of the 2011 Measure.

Commencement Information

I22 S. 142(1) in force at 21.1.2021 for specified purposes, see s. 175(1)(f)(2)(b)(i)(7)

I23 S. 142(2)-(5) in force at 21.1.2021, see s. 175(1)(f)

I24 S. 142(1) in force at 1.4.2021 in so far as not already in force by S.I. 2021/297, art. 2(d)

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143 Reports of Panel relating to shadow councils and new principal councils

- (1) This section applies where Part 8 of the 2011 Measure applies in the case of a council by virtue of a direction under section 142.
- (2) The first report under Part 8 of the 2011 Measure that relates (wholly or partly) to the shadow council for the new principal area (“the first report”)—
 - (a) must be published no later than the date specified in the direction under section 142 for that purpose, and
 - (b) may be an annual report or a supplementary report, subject to the requirement imposed by virtue of paragraph (a) and the requirements under sections 147(2) and 148(1) and (1A)(a) of the 2011 Measure.
- (3) Section 148(1A)(b) of the 2011 Measure (time limit on publication) does not apply in relation to the first report if it is a supplementary report.
- (4) Where any annual report or supplementary report relates (wholly or partly) to—
 - (a) the shadow council, or
 - (b) the principal council for the new principal area and that council will not be established at the time of publication of the report,
 the Panel must take the step set out in subsection (5).
- (5) The Panel must, before publishing the report under section 147 of the 2011 Measure, send a draft of the report to the following (if the Panel is not already required to do so under section 147(8)(a) of the 2011 Measure)—
 - (a) the merging councils or restructuring councils whose areas are to be merged to create the new principal area;
 - (b) the shadow council (if established);
 - (c) the persons (if any) specified for that purpose in the direction under section 142.
- (6) A supplementary report may impose on the merging councils or restructuring councils whose areas are to be merged to create the new principal area, or on the shadow council—
 - (a) requirements of a kind specified in section 150(1) or (3) of the 2011 Measure;
 - (b) requirements of a kind specified in section 151(1) of that Measure.
- (7) Where a supplementary report relates (wholly or partly) to the shadow council, section 150(2) of the 2011 Measure applies in relation to that report (to the extent that it requires a payment to be made to or by the shadow council) as it applies in relation to an annual report.
- (8) The references in sections 153, 154 and 157 of the 2011 Measure to requirements imposed by an annual report include a reference to requirements imposed by a supplementary report by virtue of this section.
- (9) An annual or supplementary report must specify in relation to the council for the new principal area (whether it is a shadow council or a principal council at the time of publication) the information mentioned in section 146(3) of the 2011 Measure.
- (10) The matters required by virtue of this section and section 142 to be included in a report of the Panel in relation to the financial year in which the transfer date falls must be included in the annual report for that financial year.

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- (11) But, if the Panel considers it appropriate to do so, it may at any time before the transfer date publish a supplementary report in relation to so much of that first financial year as falls on or after that date.

Commencement Information

- I25** S. 143(1)-(4)(5)(b)(c) in force at 21.1.2021, see s. 175(1)(f)
I26 S. 143(5)(a)(6) in force at 21.1.2021 for specified purposes, see s. 175(1)(f)(2)(b)(ii)(7)
I27 S. 143(7)-(11) in force at 21.1.2021 for specified purposes, see s. 175(1)(f)
I28 S. 143(5)(a)(6) in force at 1.4.2021 in so far as not already in force by S.I. 2021/297, art. 2(d)

144 Guidance to Panel

The Panel must have regard to any guidance issued by the Welsh Ministers about the exercise of its functions in accordance with sections 142 and 143.

145 Pay policy statements

- (1) A transition committee must publish recommendations as to the pay policy statement to be prepared by the shadow council for the new principal area.
- (2) The recommendations must be published no later than six weeks before—
- (a) where the shadow council is an elected shadow council, the date on which elections to the shadow council are to take place, or
 - (b) where the shadow council is a designated shadow council, the date on which the shadow council is to be established.
- (3) A shadow council must prepare and approve (and may amend) a pay policy statement in accordance with sections 38(2) to (5) and 39(1), (4) and (5) of the Localism Act 2011 (c. 20)—
- (a) for the period beginning with the approval of the pay policy statement and ending immediately before the transfer date, and
 - (b) for the first financial year in which there will be a principal council for the new principal area.
- (4) Accordingly, sections 38(2) to (5) and 39(1), (4) and (5), 41(1) and (2) and 42(1) and (2) of the Localism Act 2011 apply; and where those provisions apply by virtue of this subsection—
- (a) the shadow council is, for the purposes of those provisions, a relevant authority within the meaning of Chapter 8 of Part 1 of that Act,
 - (b) the period mentioned in subsection (3)(a) is to be treated for the purposes of those provisions as a financial year, and
 - (c) section 39(5) of that Act is to be read as if for “on the authority's website” there were substituted “on a website”.
- (5) No chief officer (within the meaning of section 43(2) of the Localism Act 2011) may be appointed or designated by the shadow council until the pay policy statement under subsection (3) has been prepared and approved.
- (6) Section 143A of the 2011 Measure (functions of the Independent Remuneration Panel for Wales in respect of remuneration of chief executives) applies in relation to a

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shadow council, subject to paragraph 1(7) of Schedule 12; and accordingly a shadow council is a qualifying relevant authority for the purposes of that section.

- (7) In this section, “transition committee” means a transition committee established under Schedule 11—
- (a) in relation to merger regulations, or
 - (b) in relation to restructuring regulations which make provision for there to be a shadow council.

Commencement Information

- I29** S. 145(1)-(7)(a) in force at 21.1.2021 for, see s. 175(1)(f)
I30 S. 145(7)(b) in force at 1.4.2021 by S.I. 2021/297, art. 2(d)

CHAPTER 5

SUPPLEMENTARY

146 Guidance

The following must have regard to any guidance issued by the Welsh Ministers for the purposes of this Part (and see section 123 in relation to guidance on merger applications)—

- (a) a principal council (including a shadow council and a shadow executive);
- (b) a transition committee (as to which, see Schedule 11);
- (c) a committee or body established under section 134(2)(a) or (b);
- (d) a public body—
 - (i) established by provision included in regulations under section 147(6)(a) or (b);
 - (ii) to which provision included in regulations under section 147(6)(a) or (b) relates.

147 Other consequential etc. provision

- (1) Merger regulations and restructuring regulations may include supplementary, incidental, consequential, transitional, transitory or saving provision.
- (2) The Welsh Ministers may by regulations make supplementary, incidental, consequential, transitional, transitory or saving provision in relation to particular merger regulations or particular restructuring regulations—
 - (a) for the purposes of or in consequence of those regulations, or
 - (b) for giving full effect to those regulations.
- (3) The Welsh Ministers may by regulations of general application make supplementary, incidental, consequential, transitional, transitory or saving provision—
 - (a) for the purposes of or in consequence of merger regulations or restructuring regulations, or
 - (b) for giving full effect to merger regulations or restructuring regulations.

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- (4) Regulations under subsection (3) have effect subject to any provision included in merger regulations or restructuring regulations.
- (5) In this section references to supplementary, incidental, consequential, transitional, transitory or saving provision include provision—
- (a) for the transfer of property (real or personal), rights or liabilities (including criminal liabilities, and rights and liabilities in relation to a contract of employment) from one principal council to another principal council;
 - (b) with respect to the management or custody of property transferred to a principal council;
 - (c) for civil or criminal proceedings commenced by or against one principal council to be continued by or against another principal council;
 - (d) for the transfer of staff (subject to subsection (8)), and about other staffing matters (including remuneration, allowances, expenses, pensions or compensation for loss of office);
 - (e) for treating one principal council for some or all purposes as the same person in law as another principal council;
 - (f) with respect to charter trustees;
 - (g) in relation to preserved counties (within the meaning of section 270(1) of the 1972 Act).
- (6) In this section references to supplementary, incidental, consequential, transitional, transitory or saving provision also include provision with respect to—
- (a) the establishment or membership of public bodies in any area affected by merger regulations or restructuring regulations and the election or appointment of members of the public bodies, or
 - (b) the abolition or establishment, or the restriction or extension, of the jurisdiction of any public body in or over any part of any area affected by merger regulations or restructuring regulations.
- (7) Supplementary, incidental, consequential, transitional, transitory or saving provision in merger regulations, restructuring regulations or regulations under this section may take the form of provision—
- (a) amending, modifying, applying (with or without modifications) or disapplying any enactment, or
 - (b) repealing or revoking any enactment (with or without savings).
- (8) Merger regulations, restructuring regulations or regulations under this section containing provision for the transfer of staff must apply the provisions of the Transfer of Undertakings (Protection of Employment) Regulations 2006 (S.I. 2006/246), apart from regulations 4(6) and 10, to transfers made under the regulations under this Part (whether or not the transfer is a relevant transfer for the purposes of the Transfer of Undertakings (Protection of Employment) Regulations 2006).
- (9) “Enactment” in subsection (7) includes any charter, whenever granted.
- (10) The Welsh Ministers may—
- (a) by regulations amend or revoke regulations made under subsection (2) or (3) or regulations made under this paragraph;
 - (b) by regulations amend merger regulations, restructuring regulations or regulations made under this paragraph;

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- (c) by merger regulations or restructuring regulations amend or revoke merger regulations, restructuring regulations or regulations under this section, and regulations made under this subsection may make supplementary, incidental, consequential, transitional, transitory or saving provision.

Commencement Information

- I31** S. 147(1)-(4)(6)-(8)(10) in force at 21.1.2021 for specified purposes, see s. 175(1)(f)(2)(b)(i)(7)
I32 S. 147(5)(9) in force at 21.1.2021, see s. 175(1)(f)
I33 S. 147(1)-(4)(6)-(8)(10) in force at 1.4.2021 in so far as not already in force by [S.I. 2021/297](#), [art. 2\(d\)](#)

148 Initial procedure for restructuring regulations

- (1) The Welsh Ministers may not lay a draft of a statutory instrument containing restructuring regulations before Senedd Cymru in accordance with section 174(4) unless—
- (a) they have laid the required documents before Senedd Cymru, and
 - (b) at least 60 days have passed since the day on which the required documents were laid.
- (2) In subsection (1), “the required documents” means—
- (a) a proposed draft of the restructuring regulations, and
 - (b) a statement that—
 - (i) gives details of the consultation described in section 129(4), and
 - (ii) explains why the Welsh Ministers are satisfied as to the matter in section 129(5).
- (3) In calculating whether 60 days have passed for the purposes of subsection (1)(b), no account is to be taken of any time during which Senedd Cymru is dissolved or is in recess for more than four days.
- (4) If, having complied with subsection (1), the Welsh Ministers lay the draft statutory instrument containing the restructuring regulations before Senedd Cymru in accordance with section 174(4), the instrument must be accompanied by a statement giving details of—
- (a) any representations they received after the proposed draft of the regulations was laid before Senedd Cymru, and
 - (b) any differences between the proposed draft of the regulations and the regulations in the draft statutory instrument.
- (5) Nothing in this section applies in relation to regulations which are made only for the purpose of amending restructuring regulations.

Commencement Information

- I34** S. 148 in force at 1.4.2021 by [S.I. 2021/297](#), [art. 2\(d\)](#)

149 Terms used in this Part

In this Part (including Schedule 1)—

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“abolition request” (“*cais i ddiddymu*”) has the meaning given in section 130(1);

“council under consideration” (“*cyngor sydd o dan ystyriaeth*”) has the meaning given by section 129(4)(a);

“documents” (“*dogfennau*”) includes information recorded in any form (other than in section 148);

“form of executive” (“*ffurf y weithrediaeth*”) is to be interpreted in accordance with section 11 of the 2000 Act;

“merger application” (“*cais i uno*”) has the meaning given in section 121(1);

“merger regulations” (“*rheoliadau uno*”) has the meaning given in section 124(2);

“merging council” (“*cyngor sy'n uno*”) means a principal council that has made a merger application and whose area is to be merged into a new principal area;

“principal area” (“*prif ardal*”) means—

- (a) a county in Wales;
- (b) a county borough (in Wales);

“restructuring council” (“*cyngor sy'n cael ei ailstrwythuro*”) means a principal council that has been given notice as described in section 129(6) of the Welsh Ministers' proposals to make restructuring regulations in relation to it;

“restructuring regulations” (“*rheoliadau ailstrwythuro*”) has the meaning given in section 131;

“shadow council” (“*cyngor cysgodol*”) (including “elected shadow council” and “designated shadow council”) means a council established as a shadow council in accordance with provision included in—

- (a) merger regulations under section 125;
- (b) restructuring regulations under section 133;

“transfer date” (“*dyddiad trosglwyddo*”)—

- (a) in relation to merger regulations, has the meaning given in section 124(1);
- (b) in relation to restructuring regulations, has the meaning given in section 131.

Commencement Information

I35 S. 149 in force at 21.1.2021 for specified purposes, see s. 175(1)(f)(2)(i)(i)

I36 S. 149 in force at 1.4.2021 in so far as not already in force by [S.I. 2021/297](#), [art. 2\(d\)](#)

150 Repeals of other enactments

(1) In the 2011 Measure—

- (a) omit Chapter 2 of Part 9 (amalgamation);
- (b) in section 172 (orders and regulations)—
 - (i) in subsection (2)(a) for “, Part 2, section 140, 165 or 166(2)” substitute “ or 140 or 165 or 166(2) or Part 2 ”;
 - (ii) in subsection (2)(a) omit “or 165 or 166(2)”;
 - (iii) in subsection (2)(b) for “, 158,” substitute “ or 158 or ”;
 - (iv) in subsection (2)(b) omit “or 162 or 170”;
 - (v) omit subsection (2)(c);

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(vi) omit subsection (3).

(2) In the 2013 Act—

- (a) in section 23 (review of principal area boundaries), in subsection (4)(e) omit sub-paragraphs (ii) and (iii);
- (b) in section 44(1) (transitional agreements as to property and finance), omit “or by an order under section 162 of the 2011 Measure (power to make amalgamation order)”;
- (c) in section 48(2) (directions and guidance), omit paragraph (c);
- (d) in section 71 (orders and regulations), in subsection (2)(b) omit “or which abolishes a principal area”.

(3) In the Local Government (Wales) Act 2015 (anaw 6) omit—

- (a) section 1(1) and (2)(a);
- (b) sections 2 to 39;
- (c) sections 44 and 45.

Commencement Information

I37 S. 150(1)(b)(i)(iii)(vi) in force at 21.1.2021, see s. 175(1)(f)(2)

I38 S. 150(2)(a)(d)(3) in force at 21.1.2021, see s. 175(1)(f)

I39 S. 150(1)(a)(b)(ii)(iv)(v)(2)(b)(c) in force at 1.4.2021 by S.I. 2021/297, art. 2(d)

Changes to legislation:

There are currently no known outstanding effects for the Local Government and Elections (Wales) Act 2021, PART 7.