



# Local Government (Wales) Act 2015

2015 anaw 6

An Act of the National Assembly for Wales to make provision for and in connection with a reduction in the number of principal local authorities in Wales and to make other amendments of local government law as it applies in relation to Wales. [25 November 2015]

**Having been passed by the National Assembly for Wales and having received the assent of Her Majesty, it is enacted as follows:**

## *Introductory*

### **1 Overview**

- (1) This Act makes provision for, and in connection with, the merger of 2 or more existing principal areas into a single new principal area, with a new principal local authority; and more specifically—
  - (a) sections 3 to 10 make provision enabling the Welsh Ministers to make regulations merging existing principal areas into a new principal area, with a new principal local authority, in response to an application made by the existing principal local authorities;
  - (b) sections 11 to 15 make provision for transition committees to be established by principal local authorities for existing principal areas which are proposed to be merged into a new principal area (whether by regulations or by a Bill introduced in the National Assembly for Wales by the Welsh Ministers);
  - (c) sections 16 to 24 make provision for electoral arrangements and related matters in relation to new principal areas;
  - (d) sections 25 to 28 make provision for and in connection with the remuneration of members of principal local authorities for new principal areas and their senior officials;
  - (e) sections 29 to 36 make provision enabling the Welsh Ministers to impose restraints on transactions by, and other activities of, principal local authorities for principal areas which are proposed to be merged into a new principal area;

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*Status: This is the original version (as it was originally enacted).*

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- (f) sections 37 and 38 provide for the imposition of requirements on those principal local authorities to provide information.
- (2) This Act also makes other amendments to local government law; and more specifically—
  - (a) section 39 makes provision for controls on the salaries of heads of paid service of principal local authorities to apply to other chief officers for a temporary period;
  - (b) section 40 makes changes to the duty of certain local authorities to have regard to recommendations of the Independent Remuneration Panel for Wales;
  - (c) section 41 makes provision about the membership of the Independent Remuneration Panel for Wales;
  - (d) section 42 amends the provisions relating to surveys of councillors and unsuccessful candidates for election as councillors;
  - (e) section 43 provides for the saving of electoral proposals submitted to the Welsh Ministers before the commencement of Part 3 of the Local Government (Democracy) (Wales) Act 2013 came into force.

## 2 Main definitions

- (1) The following definitions have effect for the purposes of this Act.
- (2) “Merger regulations” means regulations under section 6.
- (3) “Merging authority” means—
  - (a) a principal local authority for a principal area which is to be merged into a new principal area by virtue of merger regulations, or
  - (b) (except where the context otherwise provides) a principal local authority for a principal area which is to be merged into a new principal area by virtue of provisions of a Bill introduced in the National Assembly for Wales by the Welsh Ministers or an Act of the National Assembly for Wales.
- (4) “Principal area” means a county or county borough in Wales.
- (5) “Principal local authority” means the local authority for a principal area.
- (6) “Proposed principal area” means an area specified as a new principal area—
  - (a) in an application under section 3(1) or in merger regulations, or
  - (b) in proposals published by the Welsh Ministers (whether or not in a draft Bill), in a Bill introduced in the National Assembly for Wales by the Welsh Ministers or in an Act of the National Assembly for Wales.
- (7) “Shadow authority” means—
  - (a) an authority which has been established as a shadow authority in accordance with provision included in merger regulations under section 7, or
  - (b) an authority which has been elected as a shadow authority for a new principal area specified in an Act of the National Assembly for Wales in accordance with provision made by the Act.
- (8) “Transfer date” means—
  - (a) in relation to a case in which the areas of principal local authorities are (or are to be) merged into a new principal area by virtue of merger regulations, 1 April 2018;

- (b) in relation to a case in which the areas of principal local authorities are (or are to be) merged into a new principal area by virtue of an Act of the National Assembly for Wales, 1 April 2020.
- (9) “Transition committee” means a transition committee established in accordance with regulations under section 11.

### *Voluntary mergers of local authorities*

## **3 Proposals for merger**

- (1) Any 2 or more principal local authorities may, no later than 30 November 2015 or such later date as the Welsh Ministers may by regulations specify, jointly make to the Welsh Ministers an application proposing the merger of their principal areas into a new principal area.
- (2) Section 101 of the Local Government Act 1972 (arrangements for discharge of functions by local authorities) does not apply to the function of making an application under subsection (1).
- (3) The function of making an application under subsection (1) by a principal local authority is not to be the responsibility of an executive of the principal local authority under executive arrangements (within the meaning of Part 2 of the Local Government Act 2000).
- (4) References in this Act to making of an application under subsection (1) include making, before the coming into force of this section, an application to the Welsh Ministers jointly by 2 or more principal local authorities proposing the merger of their principal areas into a new principal area.

## **4 Consultation before making merger application**

- (1) Before an application is made by principal local authorities under section 3(1) the principal local authorities must consult—
  - (a) members of the public in any principal area likely to be affected by the proposal for merger (an “affected area”),
  - (b) the principal local authorities for affected areas and councils for communities in any affected area,
  - (c) the National Park authority for any area falling wholly or partly within any affected area,
  - (d) the chief officer of police and the police and crime commissioner for any police area falling wholly or partly within any affected area,
  - (e) the fire and rescue authority for any area falling wholly or partly within any affected area,
  - (f) the local health board for any area falling wholly or partly within any affected area,
  - (g) every trade union which is recognised (within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992) by one or more of the principal local authorities, and
  - (h) any other persons which the principal local authorities consider appropriate.

- (2) Subsection (1) must be satisfied in relation to an application made before the coming into force of this section (as well as to one made afterwards); and any consultation undertaken before the coming into force of this section may satisfy the requirements of that subsection.

## **5 Guidance about merger applications**

- (1) The Welsh Ministers may issue guidance—
- (a) as to the objectives which a proposal contained in an application under section 3(1) should be intended to achieve,
  - (b) about matters that should be taken into account in formulating the proposal contained in an application under section 3(1),
  - (c) about how the consultation required by section 4(1) is to be conducted, and
  - (d) otherwise in relation to the making of applications under section 3(1).
- (2) Principal local authorities must have regard to any guidance issued under subsection (1).
- (3) The requirement in subsection (2) may be complied with by having regard to any guidance in relation to any of the matters referred to in subsection (1) which was issued by the Welsh Ministers before the coming into force of this section.

## **6 Power to make merger regulations**

- (1) Where an application is made to the Welsh Ministers under section 3(1), the Welsh Ministers may, if they consider it appropriate to do so, make regulations for the constitution of a new principal area by merging, to create a new principal area, the principal areas of the principal local authorities by which the application was made.
- (2) Merger regulations must provide for—
- (a) the establishment of the new principal area and the abolition of the existing principal areas,
  - (b) the boundary of the new principal area,
  - (c) the English language name and Welsh language name of the new principal area,
  - (d) whether the new principal area is to be a county or a county borough,
  - (e) the establishment, as a county council or a county borough council, of a local authority for the new principal area,
  - (f) the English language name and Welsh language name of the new principal local authority,
  - (g) the transfer of functions of the merging authorities to the new principal local authority, and
  - (h) the winding up and dissolution of the merging authorities.
- (3) Where the new principal area is to be a county, the merger regulations must provide for the new principal local authority to have the name of the county with the addition—
- (a) in the case of the English language name, of the words “County Council” or the word “Council”, and
  - (b) in the case of the Welsh language name, of the words “Cyngor Sir” or the word “Cyngor”.

- (4) Where the new principal area is to be a county borough, the merger regulations must provide for the new principal local authority to have the name of the county borough with the addition—
- (a) in the case of the English language name, of the words “County Borough Council” or the word “Council”, and
  - (b) in the case of the Welsh language name, of the words “Cyngor Bwrdeistref Sirol” or the word “Cyngor”.

## **7 Shadow authorities**

- (1) Merger regulations must—
- (a) make provision for there to be established from a specified date a shadow authority consisting of all the members of the merging authorities,
  - (b) make provision for the appointment of a shadow executive by the shadow authority,
  - (c) specify the composition of the shadow executive,
  - (d) make provision specifying the functions of the shadow authority and the shadow executive, and about the exercise of those functions, during the shadow period,
  - (e) make provision about the funding of the shadow authority, and
  - (f) make provision for the shadow authority and the shadow executive to become the principal local authority for the new principal area, and the executive for that principal local authority, for the pre-election period.
- (2) In subsection (1) “shadow period” means the period—
- (a) beginning with the date on which the shadow authority or shadow executive is first authorised or required to exercise any functions in accordance with the merger regulations, and
  - (b) ending immediately before the transfer date.
- (3) In subsection (1) “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 local authority.
- (4) The Welsh Ministers may issue guidance in relation to the exercise of functions by shadow authorities and shadow executives established or appointed pursuant to merger regulations; and shadow authorities and shadow executives must have regard to guidance issued under this subsection in the exercise of their functions.

## **8 Elections and councillors**

- Merger regulations may include provision—
- (a) cancelling an ordinary election of councillors to the merging authorities and extending the existing terms of office of councillors;
  - (b) disapplying for a specified period provisions requiring the filling of casual vacancies in the office of councillor for any of the merging authorities;
  - (c) setting the date of the first ordinary election of councillors to the principal local authority for the new principal area and the terms of office of councillors returned at that election;

- (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.

## **9 Mayor and cabinet executive model authorities**

- (1) If one or more of the merging authorities is operating, or has made proposals to operate, a mayor and cabinet executive, the merger regulations may include provision requiring the shadow authority to hold a referendum on whether the new principal local authority should operate a mayor and cabinet executive (within the meaning of Part 2 of the Local Government Act 2000).
- (2) Merger regulations may include provision preventing a merging authority drawing up and approving proposals to operate such a mayor and cabinet executive.

## **10 Other consequential etc. provision**

- (1) Merger regulations may include any supplementary, incidental, consequential, transitional or saving provision which the Welsh Ministers consider appropriate.
- (2) The Welsh Ministers may by regulations of general application make supplementary, incidental, consequential, transitional or saving provision—
  - (a) for the purposes of or in consequence of merger regulations, or
  - (b) for giving full effect to merger regulations.
- (3) Regulations under subsection (2) have effect subject to any provision included in merger regulations.
- (4) In this section references to supplementary, incidental, consequential, transitional or saving provision include provision—
  - (a) for the transfer of functions and property, rights or liabilities (including criminal liabilities) from a merging authority to a new principal local authority;
  - (b) for civil or criminal proceedings commenced by or against a merging authority to be continued by or against a new principal local authority;
  - (c) for the transfer of staff, compensation for loss of office, or with respect to pensions and other staffing matters;
  - (d) for treating a new principal local authority for some or all purposes as the same person in law as a merging authority;
  - (e) with respect to the management or custody of property (real or personal) transferred to a new principal local authority;
  - (f) about the holding of a referendum required by virtue of section 9;
  - (g) with respect to charter trustees;
  - (h) in relation to preserved counties (within the meaning given by section 270(1) of the Local Government Act 1972).
- (5) The rights and liabilities which may be transferred in accordance with merger regulations or regulations under subsection (2) include rights and liabilities in relation to a contract of employment.
- (6) The provisions of the [Transfer of Undertakings \(Protection of Employment\) Regulations 2006 \(S.I. 2006/246\)](#), apart from regulations 4(6) and 10, apply to a transfer made in accordance with merger regulations or regulations under

- subsection (2) (whether or not the transfer is a relevant transfer for the purposes of those Regulations).
- (7) In this section references to supplementary, incidental, consequential, transitional or saving provision also include provision with respect to—
- (a) the establishment or membership of public bodies in any area affected by merger 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.
- (8) Supplementary, incidental, consequential, transitional or saving provision in merger regulations or regulations under subsection (2) may take the form of provision—
- (a) modifying, excluding or applying (with or without modifications) any enactment, or
  - (b) repealing or revoking any enactment (with or without savings).
- (9) “Enactment” in subsection (8) includes any charter, whenever granted.
- (10) The Welsh Ministers are not required to cause an inquiry to be held under subsection (6) of section 4 of the Fire and Rescue Services Act 2004 (combined authorities) in respect of an order under subsection (4) of that section made in consequence of merger regulations or regulations under subsection (2).
- (11) The Welsh Ministers—
- (a) may by regulations vary merger regulations (or regulations under this paragraph), and
  - (b) may by regulations vary or revoke regulations under subsection (2) (or this paragraph).

### *Transition committees*

## **11 Transition committees**

The Welsh Ministers must by regulations require merging authorities whose principal areas are to be merged into a new principal area to establish a transition committee.

## **12 Composition of transition committees**

- (1) A transition committee is to consist of an equal number of members, not being less than 5, of each of the merging authorities.
- (2) The members of a merging authority who are to be members of the transition committee must be appointed by the merging authority.
- (3) The number of members to be appointed by each of the merging authorities is the number agreed by the merging authorities or, in default of agreement, determined by the Welsh Ministers.
- (4) One of the members appointed by a merging authority must be its executive leader.

- (5) If the executive member of a merging authority with responsibility for finance is not also the executive leader of the merging authority, that executive member must also be appointed as a member.
- (6) A transition committee may co-opt additional persons to serve as members of the committee but they may not vote.
- (7) A transition committee is to be treated for the purposes of paragraph 1 of Schedule 1 to the Local Government and Housing Act 1989 (political balance on local authority committees) as a committee to which paragraph 2 of that Schedule applies.

### **13 Functions of transition committees**

- (1) A transition committee must provide to the merging authorities by which it is established, and to the shadow authority for the new principal area, advice and recommendations for—
  - (a) facilitating the economic, effective and efficient transfer of functions, staff and property rights and liabilities from the merging authorities to the new principal local authority,
  - (b) ensuring that the new principal local authority and its staff are in a position to perform the new principal local authority’s functions effectively as from the time when it assumes them, and
  - (c) any other purposes that the Welsh Ministers may specify by directions.
- (2) The Welsh Ministers may give a direction requiring—
  - (a) a particular transition committee,
  - (b) every transition committee of a description specified in the direction, or
  - (c) every transition committee,
 to exercise its functions in accordance with the direction.
- (3) A direction under this section may at any time be varied or revoked by a subsequent direction.
- (4) A transition committee must comply with a direction given to it under this section.
- (5) The Welsh Ministers may issue guidance as to the exercise of the functions of transition committees and a transition committee must have regard to any guidance issued under this subsection.
- (6) Neither an audit committee nor an overview and scrutiny committee of a merging authority may exercise any of its functions in relation to anything done by a transition committee; and for this purpose—
  - “audit committee” (*“pwyllgor archwilio”*) has the meaning given by section 81 of the Local Government (Wales) Measure 2011;
  - “overview and scrutiny committee” (*“pwyllgor trosolwg a chraffu”*) has the meaning given by section 21(1) of the Local Government Act 2000.

### **14 Sub-committees of transition committees**

- (1) A transition committee may establish one or more sub-committees.
- (2) The membership of a sub-committee of a transition committee is to be determined by the transition committee.



- (3) If a transition committee appoints as a member of a sub-committee a person who is not a member of one of the merging authorities, that person may not vote.
- (4) The function of a sub-committee of a transition committee is to advise the transition committee on matters referred to the sub-committee by the transition committee.

## **15 Provision of funding, facilities and information to transition committees**

- (1) The merging authorities must meet the costs of the transition committee.
- (2) The transition committee's costs must be met by the merging authorities in the proportions which they agree or, in default of agreement, which are determined by the Welsh Ministers.
- (3) The merging authorities must provide to the transition committee the facilities and resources (including staff) and information reasonably requested by the transition committee (or any sub-committee of the transition committee) in order to enable it to exercise its functions.

*Electoral arrangements etc. for new principal areas*

## **16 Directions to conduct initial review**

- (1) The Welsh Ministers may by direction require the Local Democracy and Boundary Commission for Wales ("the Commission") to conduct an initial review of a proposed principal area.
- (2) In this Act "initial review", in relation to a proposed principal area, means a review which is conducted for the purpose of recommending electoral arrangements for the proposed principal area but which may also include any relevant consequential changes that the Commission may consider appropriate.
- (3) In this Act "relevant consequential changes", in relation to electoral arrangements recommended for a proposed principal area, means changes in—
  - (a) the boundaries of communities in the proposed principal area,
  - (b) the constitution of councils for communities, or common councils for groups of communities, in the proposed principal area, or
  - (c) electoral arrangements for communities in the proposed principal area.
- (4) In this Act "electoral arrangements", in relation to a principal area or a community, means—
  - (a) the number of members of the council for the principal area or community,
  - (b) its division into electoral wards in the case of the principal area, and (if appropriate) into community wards in the case of a community, for the election of members,
  - (c) the number, type and boundaries of the electoral wards, and any community wards, into which the principal area or any community in the principal area is to be divided for the purpose of the election of members,
  - (d) the number of members to be elected for any electoral ward or community ward, and
  - (e) the name of any electoral ward or community ward.

- (5) In subsection (4)(c) the reference to the type of an electoral ward or community ward is to whether the electoral ward or community ward is a single member ward or a multiple member ward; and for this purpose—
- “multiple member ward” (“*ward amlaelod*”) means a ward in respect of which a specified number (greater than one) of members are to be elected for the ward;
- “single member ward” (“*ward un aelod*”) means a ward in respect of which only one member is to be elected.

## 17 Directions and guidance to Commission

- (1) A direction under section 16 requiring the Commission to conduct an initial review of a proposed principal area must specify the date by which the Commission must submit to the Welsh Ministers under subsection (4)(a) of section 21 its report prepared under that section.
- (2) A direction under section 16 may require the Commission to have regard to particular matters specified in the direction when conducting the initial review required by the direction.
- (3) The Welsh Ministers may give general directions about the carrying out of initial reviews, including—
  - (a) provision as to the order in which different initial reviews required by directions under section 16 are to be carried out, and
  - (b) provision specifying matters to which the Commission is to have regard in carrying out initial reviews.
- (4) Before giving a direction under subsection (3) the Welsh Ministers must consult the Commission and any association appearing to them to be representative of local authorities.
- (5) A direction under section 16 or this section may at any time be varied or revoked by a subsequent direction.
- (6) A direction under section 16 in relation to a proposed principal area may (in particular) be given after the publication of the Commission’s recommendation on an initial review conducted in relation to the proposed principal area pursuant to a previous direction under that section.
- (7) The Commission must comply with a direction given to it under section 16 or this section.
- (8) The Welsh Ministers may issue guidance about the conduct of initial reviews by the Commission and in conducting an initial review the Commission must have regard to any guidance issued under this subsection.

## 18 Conduct of initial review

- (1) In conducting an initial review the Commission must seek to ensure effective and convenient local government.
- (2) Directions given and guidance issued under section 17 may specify what constitutes effective and convenient local government for the purposes of subsection (1).

- (3) The Commission, in considering the electoral arrangements for a proposed principal area on an initial review, must—
  - (a) seek to ensure that the ratio of local government electors to the number of members of the principal local authority to be elected is, as nearly as may be, the same in every electoral ward of the proposed principal area, and
  - (b) have regard to—
    - (i) the desirability of setting boundaries for electoral wards which are and will remain easily identifiable, and
    - (ii) the desirability of not breaking local ties when setting boundaries for electoral wards.
- (4) For the purposes of subsection (3)(a) account is to be taken of—
  - (a) any discrepancy between the number of local government electors and the number of persons who are eligible to be local government electors (as indicated by relevant official statistics), and
  - (b) any change in the number or distribution of local government electors in the proposed principal area which is likely to take place in the period of five years immediately after recommendations are made.
- (5) In considering on an initial review whether, as part of any relevant consequential changes, a community should be divided into community wards in consequence of the electoral arrangements being recommended for the proposed principal area, regard is to be had to—
  - (a) whether the number or distribution of the local government electors in the community makes a single election of community councillors impractical or inconvenient, and
  - (b) whether it is desirable that any area of the community should be separately represented on the community council.
- (6) Where it is decided on an initial review that, as part of any relevant consequential changes, a community should be divided into community wards, in considering the size and boundaries of the wards and in setting the number of community councillors to be elected for each ward, regard is to be had to—
  - (a) any change in the number or distribution of local government electors in the community which is likely to take place within the period of five years immediately after any recommendation is made,
  - (b) the desirability of setting boundaries which are and will remain easily identifiable, and
  - (c) any local ties which will be broken by the setting of any particular boundaries.
- (7) Where it is decided on an initial review, as part of any relevant consequential changes, that a community should not be divided into community wards, in setting the number of councillors to be elected for each community, regard is to be had to—
  - (a) the number and distribution of local government electors in the community, and
  - (b) any change in the number or distribution of local government electors in the community which is likely to take place within the period of five years immediately after the number of community councillors is set.
- (8) For the purposes of subsections (5) to (7) account is to be taken of any discrepancy between the number of local government electors and number of persons who are eligible to be local government electors (as indicated by relevant official statistics).

(9) In this section—

“relevant official statistics” (“*ystadegau swyddogol perthnasol*”) means the official statistics within the meaning of section 6 of the Statistics and Registration Service Act 2007 which the Commission considers appropriate;

“local government elector” (“*etholwr llywodraeth leol*”) means a person registered as a local government elector in the register of electors in accordance with the provisions of the Representation of the People Acts.

## 19 Pre-review procedure

(1) Before conducting an initial review of a proposed principal area, the Commission must take the steps which it considers appropriate—

- (a) to bring the review to the attention of the mandatory consultees and any other persons it considers likely to be interested in the review, and
- (b) to make the mandatory consultees and other interested persons aware of the direction to conduct the review and any other directions given by the Welsh Ministers which are relevant to the review.

(2) Before conducting an initial review, the Commission must also consult the mandatory consultees on its intended procedure and methodology for the initial review and, in particular, on how it proposes to determine the appropriate number of members of the principal local authority for the proposed principal area.

(3) In this Act “the mandatory consultees” means—

- (a) the principal local authorities whose principal areas are to be merged into the proposed principal area and the councils for any existing community or existing communities in the proposed principal area, and
- (b) any other persons specified by the Welsh Ministers in the direction to conduct the review.

## 20 Consultation and investigation

(1) In conducting an initial review, the Commission must conduct the investigations considered appropriate by the Commission.

(2) After carrying out the investigations under subsection (1), the Commission must prepare a report containing—

- (a) the proposals which it considers appropriate for the electoral arrangements for the proposed principal area and any proposals which it may consider appropriate for relevant consequential changes, and
- (b) details of the review it conducted.

(3) The Commission must—

- (a) publish the report on a website,
- (b) secure that the report is available for inspection (without charge) at the offices of the principal local authorities whose principal areas are to be merged into the proposed principal area for the duration of the period for representations,
- (c) send copies of the report to the Welsh Ministers and the mandatory consultees,
- (d) inform any persons considered appropriate by the Commission how to obtain a copy of the report, and

- (e) invite representations and notify the Welsh Ministers, the mandatory consultees and any persons considered appropriate by the Commission of the period for representations.
- (4) For the purposes of subsection (3) “the period for representations” is a period of not less than 6, nor more than 12, weeks (as determined by the Commission) beginning no earlier than one week after notice of the period is given.

## **21 Reporting on initial review**

- (1) The Commission must, after the period for representations under section 20(3) has ended, consider its proposals having regard to any representations received by it during the period.
- (2) The Commission must then prepare a further report.
- (3) The report must contain—
- (a) the recommendations which the Commission considers appropriate for the electoral arrangements for the proposed principal area and any recommendations which the Commission may consider appropriate for relevant consequential changes,
  - (b) details of the review conducted and the consultation carried out in respect of the proposals, and
  - (c) details of any changes to the proposals made in light of the representations received and an explanation of why those changes have been made.
- (4) The Commission must—
- (a) submit the report and its recommendations to the Welsh Ministers,
  - (b) publish the report on a website and secure that it is available for inspection (without charge) at the offices of the principal local authorities whose principal areas are to be merged into the proposed principal area for a period of at least 6 weeks beginning with the date of publication,
  - (c) send a copy of the report to the mandatory consultees and Ordnance Survey, and
  - (d) inform any other person who submitted evidence or made representations in relation to the report published under section 20 how to obtain a copy of the report.
- (5) Section 29(8) of the Local Government (Democracy) (Wales) Act 2013 (no recommendations to be made or published in 9 months before ordinary election) does not apply in the case of recommendations under this section.

## **22 Implementation by Welsh Ministers**

- (1) The Welsh Ministers may, after receiving a report containing recommendations from the Commission in relation to an initial review, by regulations implement any recommendation contained in the report, with or without modification.
- (2) But the Welsh Ministers may only implement a recommendation with modification if they have considered the matters described in section 18 and are satisfied that it is appropriate to make the modification.

- (3) No regulations may be made under subsection (1) until the end of the period of 6 weeks beginning with the date on which the report under section 21 is published by the Commission.
- (4) The Commission must provide the Welsh Ministers with any further information in relation to its recommendations which the Welsh Ministers may reasonably require.
- (5) The Welsh Ministers may by regulations vary or revoke regulations under subsection (1) (or this subsection).

### **23 Electoral regulations if no recommendations made**

- (1) If the Commission has not submitted to the Welsh Ministers a report containing recommendations from the Commission in relation to an initial review relating to a proposed principal area by the date specified in the direction requiring it to be conducted, the Welsh Ministers may make regulations under subsection (2).
- (2) The Welsh Ministers may by regulations make the provision they consider appropriate for the electoral arrangements for the proposed principal area and any provision they consider appropriate for relevant consequential changes.
- (3) The Commission must provide the Welsh Ministers with any information relating to any matters which have come to its attention in consequence of—
  - (a) any consultation under section 19,
  - (b) any investigation under section 20,
  - (c) the preparation of a report under section 20 or 21, or
  - (d) anything else done in the conduct of the initial review,
 as the Welsh Ministers may reasonably require.
- (4) If the Welsh Ministers make regulations under subsection (2) in relation to a proposed principal area, the Commission must conduct its first review of the principal area under section 29 of the Local Government (Democracy) (Wales) Act 2013 as soon as possible after the day of the first ordinary election of councillors to the principal local authority for the principal area and, in any event, before the day of the next one.
- (5) The Welsh Ministers may by regulations vary or revoke regulations under subsection (2) (or this subsection).

### **24 Future review periods**

The Welsh Ministers may by regulations amend subsection (3) of section 29 of the Local Government (Democracy) (Wales) Act 2013 (10-yearly review periods).

*Remuneration etc. arrangements for new principal local authorities*

### **25 Directions to Independent Remuneration Panel for Wales to perform relevant functions**

- (1) The Welsh Ministers may direct the Independent Remuneration Panel for Wales (“the Panel”) that it must perform the relevant functions—
  - (a) in relation to a shadow authority, and

- (b) in relation to a principal local authority for the first financial year in which it will be a principal local authority by virtue of merger regulations or provisions of an Act of the National Assembly for Wales.
- (2) The relevant functions are the functions under—
- (a) section 142 (powers and duties relating to payments to members), and
  - (b) section 143 (functions relating to members' pensions),
- of the Local Government (Wales) Measure 2011.
- (3) Accordingly Part 8 of that Measure applies in the case of a shadow authority in relation to which a direction has been given under subsection (1)(a) (for so long as the direction has effect) as if it were a relevant authority within the meaning of that Part of that Measure; but in its application by virtue of this subsection Part 8 has effect subject to—
- (a) the modifications in subsection (4), and
  - (b) section 26.
- (4) The modifications are that—
- (a) in section 142(8) (account to be taken of financial impact on relevant authorities) the reference to “relevant authorities” is to include shadow authorities, and
  - (b) the power for an annual report to impose requirements under section 150(1) (avoidance of duplication of payments etc.) is to be a duty for an annual report or supplementary report to impose those requirements.
- (5) In exercising functions by virtue of this section in relation to the first financial year in which an authority is a principal local authority by virtue of merger regulations, the Panel may—
- (a) make different decisions under section 142(1),
  - (b) set different amounts under section 142(3),
  - (c) make different determinations under section 142(4),
  - (d) set different percentages or other rates or indices under section 142(6), and
  - (e) make different decisions under section 143(2) and (3),
- in relation to times before and after the principal local authority will consist of councillors elected at the first ordinary election of councillors.

## **26 Reports of Panel**

- (1) The Panel must include in the first report under Part 8 of the Local Government (Wales) Measure 2011 that relates to an authority specified in a direction under section 25(1) the information relating to the authority which is specified in section 146(3) of that Measure.
- (2) The matters required to be included in a report of the Panel in relation to a shadow authority may be included in an annual report or a supplementary report.
- (3) If the first report that relates to a shadow authority is a supplementary report, it must be published at least 6 weeks before the shadow authority is established or elected.
- (4) The matters required to be included in a report of the Panel in relation to the first financial year in which an authority will be a principal local authority must be included in the annual report of the Panel for that financial year.

- (5) But, if the Panel considers it appropriate to do so, it may, at any time before the date on which an authority which is a principal local authority by virtue of merger regulations first consists of councillors elected to the new principal authority, publish a supplementary report in relation to so much of that first financial year as falls on or after that date.

## **27 Directions and guidance to Panel**

- (1) A direction under section 25 may at any time be varied or revoked by a subsequent direction.
- (2) The Panel must comply with a direction given to it under section 25.
- (3) The Welsh Ministers may issue guidance about the exercise by the Panel of its functions in accordance with sections 25 and 26; and the Panel must, when so exercising its functions, have regard to any guidance issued under this subsection.

## **28 Pay policy statements**

- (1) A transition committee established by merging authorities must publish recommendations as to the pay policy statements to be prepared by the shadow authority for the principal area into which their principal areas are to be merged.
- (2) The recommendations must be published no later than 42 days before the date on which the shadow authority is established or on which elections to the shadow authority take place.
- (3) A shadow authority 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—
- (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 local authority for the new principal area.
- (4) No chief officer (within the meaning of section 43(2) of the Localism Act 2011) may be appointed or designated by the shadow authority until the pay policy statement under subsection (3)(a) has been prepared and approved.
- (5) 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 accordingly but as if the shadow authority were a relevant authority and the period mentioned in subsection (3)(a) were a financial year.
- (6) The Welsh Ministers may issue guidance about the performance of duties imposed by this section and transition committees and shadow authorities must, when performing duties imposed by this section, have regard to any such guidance issued.

*Restraints on transactions and recruitment etc. by merging authorities*

## **29 Restraining transactions and recruitment etc. by direction**

- (1) The Welsh Ministers may direct that—



- (a) a merging authority must not carry out a restricted activity unless it has considered the opinion of a specified person or persons on the appropriateness of carrying out the activity;
  - (b) a merging authority must not carry out a restricted activity unless the written consent of a specified person or persons has been given for the activity to be carried out.
- (2) The restricted activities are—
  - (a) making a relevant land acquisition or disposal;
  - (b) entering into a relevant contract or agreement;
  - (c) making a relevant capital acquisition;
  - (d) giving a relevant grant or other financial assistance;
  - (e) making a relevant loan;
  - (f) including an amount of financial reserves in a calculation under section 32 of the Local Government Finance Act 1992;
  - (g) starting the process of recruiting (including by way of internal recruitment)—
    - (i) a non-statutory chief officer mentioned in section 2(7) of the Local Government and Housing Act 1989;
    - (ii) a deputy chief officer mentioned in section 2(8) of that Act.
- (3) The Welsh Ministers may direct that a merging authority seeking to appoint or designate a person to a restricted post (including from among its existing officers) must comply with specified requirements about the appointment or designation.
- (4) “Restricted post”, in relation to a merging authority, means—
  - (a) the head of its paid service designated under section 4(1) of the Local Government and Housing Act 1989;
  - (b) its monitoring officer designated under section 5(1) of that Act;
  - (c) a statutory chief officer mentioned in section 2(6) of that Act.
- (5) A merging authority must—
  - (a) provide details of a proposal to carry out a restricted activity to any person specified for the purpose of subsection (1)(a) or (b) in respect of that activity;
  - (b) provide the Welsh Ministers with details of a proposal to appoint or designate a person to a restricted post where any requirements apply in relation to the appointment or designation by virtue of a direction under subsection (3).
- (6) If an opinion given for the purposes of subsection (1)(a) is that it would not be appropriate for a merging authority to carry out a restricted activity but the authority decides to carry it out, the authority must publish its reasons for making that decision.
- (7) Section 143A(1)(b) and (3) of the Local Government (Wales) Measure 2011 (recommendations of Independent Remuneration Panel for Wales on salary) does not apply—
  - (a) where a direction has been given under subsection (1)(b) in relation to the recruitment of a non-statutory chief officer or deputy chief officer, to a proposal to pay the recruited person a salary which is different to that paid to that person’s predecessor;
  - (b) where a direction has been given under subsection (3), to a proposal to pay the appointed or designated person a salary which is different to that paid to that person’s predecessor.

- (8) The reference in subsection (7) to section 143A of the Local Government (Wales) Measure 2011 includes a reference to that section as it has effect under section 39 of this Act.
- (9) A direction given under this section takes effect from the date specified in the direction.

### **30 Directions under section 29(1): supplementary**

- (1) This section applies in relation to a direction under section 29(1).
- (2) A direction may be given in respect of—
  - (a) a single merging authority;
  - (b) two or more specified authorities;
  - (c) authorities of a specified description.
- (3) A person specified as a person whose opinion or consent is required may be such authority or person as the Welsh Ministers consider appropriate, and this may include the Welsh Ministers, any transition committee and any shadow authority.
- (4) A direction may specify different persons—
  - (a) in relation to different matters for which an opinion or consent is required;
  - (b) in relation to different merging authorities or descriptions of authority.
- (5) A direction may specify, in relation to the same restricted activity, different requirements in respect of transactions of different values.
- (6) A direction may specify, in relation to the recruitment of a non-statutory chief officer or deputy chief officer—
  - (a) different requirements in respect of different levels of proposed remuneration;
  - (b) different requirements in respect of different descriptions of officer.
- (7) An opinion or consent for the purposes of a direction may be given in respect of a particular transaction or transactions of any description.
- (8) Any consent for the purposes of a direction may be given unconditionally or subject to conditions.
- (9) For the purposes of a direction relating to the recruitment of a non-statutory chief officer or deputy chief officer, an opinion given, or conditions to which a consent is subject, may in particular relate to—
  - (a) the remuneration to be payable to a recruited person;
  - (b) the duration of an appointment.
- (10) Any enactments relating to acquisitions or disposals, entering into contracts or agreements, giving grants or other financial assistance, making loans, or the recruitment or appointment of persons by merging authorities have effect subject to any direction.
- (11) Consent required by a direction is in addition to any consent required by any of those enactments.

### **31 Directions under section 29(1): further provision about reserves**

- (1) A direction under section 29(1)—

- (a) may provide that the opinion or consent of the person or persons specified in the direction is not required for the inclusion, in a calculation under section 32 of the Local Government Finance Act 1992, of financial reserves of a description specified in the direction;
  - (b) may, in relation to any merging authority or description of merging authority, provide that an opinion or consent is not required for the inclusion in such a calculation of an amount of financial reserves not exceeding an amount specified in or determined under the direction.
- (2) If a direction contains provision by virtue of subsection (1), the reference in section 29(2)(f) to an amount of financial reserves is to be read as a reference to an amount of financial reserves other than an amount permitted by the direction.

### **32 Directions under section 29(3): supplementary**

- (1) This section applies in relation to a direction under section 29(3).
- (2) A direction may be given in respect of—
- (a) a single merging authority;
  - (b) two or more specified authorities;
  - (c) authorities of a specified description.
- (3) A direction may specify different requirements for different descriptions of post.
- (4) Requirements imposed on a merging authority by a direction may, in particular, relate to—
- (a) the remuneration to be payable to an appointed or designated person;
  - (b) the duration of an appointment or designation.
- (5) Any enactments relating to the recruitment, designation or appointment of persons by merging authorities have effect subject to any direction.

### **33 Directions: consequences of contravention**

- (1) An acquisition or disposal made in contravention of a direction given under section 29 is void.
- (2) A contract (including a contract for employment) or agreement entered into in contravention of a direction given under section 29 is unenforceable.
- (3) A grant or other financial assistance given, or a loan made, in contravention of a direction given under section 29 is repayable.
- (4) If a merging authority includes financial reserves in a calculation under section 32 of the Local Government Finance Act 1992 in contravention of a direction given under section 29, the authority is to be treated for the purposes of section 30(8) of that Act as not having made the calculations required by Chapter 3 of Part 1 of that Act.

### **34 Interpretation of sections 29 to 36**

- (1) In sections 29 and 35, “relevant land acquisition or disposal” means the acquisition or disposal of land if the consideration for the acquisition or disposal exceeds £150,000.
- (2) In subsection (1) the reference to the acquisition or disposal of land includes—

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*Status: This is the original version (as it was originally enacted).*

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- (a) the acquisition or grant or disposal of any interest in land,
  - (b) entering into a contract to acquire or dispose of land or to acquire or grant or dispose of any interest in land, and
  - (c) acquiring or granting an option to acquire any land or any interest in land.
- (3) In sections 29 and 35, “relevant contract or agreement” means—
- (a) any contract, other than a capital contract, under which the consideration exceeds £150,000 where—
    - (i) the period of the contract extends beyond the transfer date, or
    - (ii) under the terms of the contract, that period may be extended beyond the transfer date,
  - (b) any capital contract under which the consideration exceeds £500,000, or
  - (c) any framework agreement within the meaning of regulation 2(1) of the [Public Contracts Regulations 2006 \(S.I. 2006/5\)](#) where—
    - (i) the period of the framework agreement extends beyond the transfer date, or
    - (ii) under the terms of the framework agreement, that period may be extended beyond the transfer date.
- (4) In subsection (3) “capital contract” means a contract in respect of which the consideration payable by the merging authority is expenditure which is capital expenditure for the purposes of Chapter 1 of Part 1 of the Local Government Act 2003 (capital finance).
- (5) In sections 29 and 35, “relevant capital acquisition” means an acquisition of share capital or loan capital in any body corporate in respect of which the consideration exceeds £500,000, other than an acquisition of loan capital where—
- (a) the acquisition of the loan capital is an investment for the purposes of the prudent management of the merging authority’s financial affairs, and
  - (b) the investment is admitted to an official list maintained by a competent authority in an EEA State.
- (6) In subsection (5) (and this subsection)—
- “competent authority” (“*awdurdod cymwys*”) means an authority which is responsible for maintaining the official list in an EEA State;
- “official list” (“*rhestr swyddogol*”)—
- (a) in relation to the United Kingdom, has the meaning given by section 103(1) of the Financial Services and Markets Act 2000, and
  - (b) in relation to any other EEA State means the equivalent list maintained by the competent authority of that State.
- (7) In sections 29 and 35, “relevant grant or other financial assistance” means a grant or other financial assistance (other than a loan) of more than £150,000.
- (8) In sections 29 and 35, “relevant loan” means a loan of more than £150,000 where—
- (a) the period of the loan extends beyond the transfer date, or
  - (b) under the terms of the loan, that period may be extended beyond the transfer date.
- (9) In sections 29 to 32 and 36, “specified” means specified in a direction given under section 29.

### **35 Determining whether financial limits have been exceeded**

- (1) For the purpose of making a determination as to whether a financial limit set out in section 34 is exceeded—
  - (a) in the case of a relevant land acquisition or disposal, the consideration for any other acquisition or disposal of land relating to the same or a similar description of matter made by the merging authority after 26 January 2015 (which was the day on which the Bill for this Act was introduced in the National Assembly for Wales) is to form part of the determination;
  - (b) in the case of a relevant contract or agreement, the consideration under any other contract or agreement relating to the same or a similar description of matter entered into by the merging authority after 26 January 2015 is to form part of the determination;
  - (c) in the case of a relevant capital acquisition, the consideration in respect of the acquisition of share capital or loan capital in the same body corporate made by the merging authority after 26 January 2015 (other than an acquisition where the conditions set out in paragraphs (a) and (b) of section 34(5) are met) is to form part of the determination;
  - (d) in the case of a relevant grant or other financial assistance, the amount of any grant or other financial assistance (other than a loan) given by the merging authority to the same person after 26 January 2015 is to form part of the determination;
  - (e) in the case of a relevant loan, the amount of any loan made by the merging authority to the same person after 26 January 2015 is to form part of the determination.
- (2) Where the consideration or any of the consideration in respect of a transaction is not in money, the limits set out in section 34 apply to the value of the consideration.
- (3) Where, in determining whether a limit set out in section 34 is exceeded, a question arises as to the value of the consideration in relation to a transaction and the persons concerned fail to reach agreement, for the purposes of the determination the question is to be decided by the Welsh Ministers.
- (4) The Welsh Ministers may by regulations substitute a different figure for that for the time being set out in subsection (1), (3)(a) or (b), (5), (7) or (8) of section 34.

### **36 Guidance in relation to transactions, recruitment etc.**

- (1) The Welsh Ministers may issue guidance—
  - (a) as to the operation of sections 29 to 35;
  - (b) in relation to any direction given under section 29;
  - (c) on carrying out restricted activities;
  - (d) on appointing and designating persons to restricted posts.
- (2) Merging authorities and any specified persons must have regard to any guidance issued under subsection (1).
- (3) In subsection (1), “restricted activity” and “restricted post” each have the meaning given in section 29.

*Information requirements***37 Requirement on merging authority to provide information to Welsh Ministers**

The Welsh Ministers may require a merging authority to provide to the Welsh Ministers any information which the Welsh Ministers consider it appropriate to require to be provided to them for the purposes of giving effect to, or otherwise in connection with, the transfer of the functions of the merging authority to the new principal local authority for the new principal area into which the merging authority's area is to be merged.

**38 Requirement on merging authority to provide information to other authorities**

- (1) The Welsh Ministers may require a merging authority to provide to a relevant body any information which the Welsh Ministers consider it appropriate to require to be provided by it to the relevant body for the purposes of giving effect to, or otherwise in connection with, the transfer of the functions of the merging authority to the new principal local authority for the new principal area into which the merging authority's area is to be merged.
- (2) The following are relevant bodies—
  - (a) any other merging authority whose area is to be merged into the same new principal area;
  - (b) the transition committee established by the merging authority and another merging authority or authorities;
  - (c) the shadow authority for the new principal area.

*Other provisions relating to Independent Remuneration Panel for Wales***39 Temporary extension of functions of Panel relating to heads of paid service to chief officers**

- (1) Section 143A of the Local Government (Wales) Measure 2011 (functions of Panel in relation to salaries of heads of paid service) has effect in relation to salary for service or services during the relevant period paid to a chief officer of a principal local authority other than the head of paid service as in relation to salary paid to that head of paid service.
- (2) In subsection (1)—
  - “chief officer” (“*prif swyddog*”), in relation to a principal local authority, has the same meaning as in section 43(2) of the Localism Act 2011;
  - “head of paid service” (“*pennaeth gwasanaeth cyflogedig*”) and “salary” (“*cyflog*”) have the meanings given by section 143A(7) of the Local Government (Wales) Measure 2011;
  - “the relevant period” (“*y cyfnod perthnasol*”) means the period beginning with the day on which this section comes into force and ending with 31 March 2020.
- (3) The Welsh Ministers may issue guidance about the exercise of its functions under section 143A of the Local Government (Wales) Measure 2011 in accordance with subsection (1); and in exercising those functions in accordance with that subsection the Panel must have regard to any guidance issued under this subsection.

#### **40 Changes to duty to have regard to Panel recommendations about salaries**

(1) Section 143A of the Local Government (Wales) Measure 2011 (functions of Panel in relation to salaries of heads of paid service) is amended as follows.

(2) After subsection (3) insert—

“(3A) But a qualifying relevant authority that has consulted the Panel about a proposed reduction in salary may make the reduction before receiving a recommendation from the Panel if the contract under which the salary is payable does not prevent the authority from changing the salary after receiving a recommendation.

(3B) A qualifying relevant authority that makes a change to the salary of its head of paid service in accordance with subsection (3A) and subsequently receives a recommendation from the Panel about the change—

- (a) must reconsider the salary, and
- (b) when doing so, must have regard to the recommendation.”

(3) After subsection (4) insert—

“(4A) The Panel must notify the Welsh Ministers of every recommendation it makes under this section.”

(4) After subsection (5) insert—

“(5A) A qualifying relevant authority—

- (a) must notify the Panel and the Welsh Ministers of its response to a recommendation made by the Panel about a change to the salary of its head of paid service before the end of the period of 14 days starting with the day on which the authority determines the response, and
- (b) must not make a change to the salary before—
  - (i) the end of the period of eight weeks starting with the day on which the authority notifies the Welsh Ministers under paragraph (a), or
  - (ii) if, before the end of that period, the Welsh Ministers notify the authority that they will not be giving the authority a direction under subsection (5B), the day on which that notice is received.

(5B) If the Welsh Ministers consider that a qualifying relevant authority’s response to a recommendation made by the Panel about a change of salary means that the authority will pay (or, under subsection (3A), is paying) a salary which is inconsistent with the recommendation, the Welsh Ministers—

- (a) may direct the authority to reconsider the salary, and
- (b) may specify in the direction the time by which the authority must do so.”

#### **41 Panel membership**

(1) Paragraph 1 of Schedule 2 to the Local Government (Wales) Measure 2011 (membership of Panel) is amended as follows.

(2) In sub-paragraph (1), for “five” substitute “not fewer than 3, and not more than 7”.

- (3) Omit sub-paragraph (5) (employees of local authorities etc. not disqualified from membership).

*Miscellaneous*

**42 Survey of councillors and unsuccessful candidates for election as councillors**

- (1) Section 1 of the Local Government (Wales) Measure 2011 (duty to conduct survey of councillors and unsuccessful candidates for election as councillors) is amended as follows.
- (2) In subsection (2) (local authority to conduct survey after each ordinary election), for “after” substitute “, or arrange for the conduct of a survey, in relation to”.
- (3) After subsection (3) insert—
- “(3A) A survey in the case of an ordinary election may be conducted—
- (a) entirely after the ordinary election, or
- (b) by asking the candidates for election to the office of councillor to answer the prescribed questions before the ordinary election and collating the information provided afterwards.”
- (4) In subsection (5) (no duty to provide information) for “a councillor or an unsuccessful candidate for election to the office of councillor” substitute “any individual”.
- (5) Omit subsection (6) (local authority to arrange for information to be provided anonymously).

**43 Proposals submitted before commencement of Part 3 of Local Government (Democracy) (Wales) Act 2013**

In section 74(2) of the Local Government (Democracy) (Wales) Act 2013 (reviews under Part 4 of Local Government Act 1972 ongoing at commencement of Part 3 of Local Government (Democracy) (Wales) Act 2013), insert at the end “and for the purposes of proposals submitted to the Welsh Ministers before that time.”

*Supplementary*

**44 Regulations**

- (1) Any power of the Welsh Ministers to make regulations under this Act is exercisable by statutory instrument.
- (2) Merger regulations and regulations under section 10 or 11 may not be made unless a draft of the statutory instrument containing the regulations has been laid before, and approved by a resolution of, the National Assembly for Wales.
- (3) A statutory instrument containing regulations under section 24 or 35(4) is subject to annulment in pursuance of a resolution of the National Assembly for Wales.



## 45 Interpretation

In this Act—

“the Commission” (“*y Comisiwn*”) means the Local Democracy and Boundary Commission for Wales;

“electoral arrangements” (“*trefniadau etholiadol*”) has the meaning given by section 16(4);

“initial review” (“*adolygiad cychwynnol*”) has the meaning given by section 16(2);

“the mandatory consultees” (“*yr ymgynghoreion mandadol*”) has the meaning given by section 19(3);

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

“merging authority” (“*awdurdod sy’n uno*”) has the meaning given by section 2(3);

“the Panel” (“*y Panel*”) means the Independent Remuneration Panel for Wales;

“principal area” (“*prif ardal*”) has the meaning given by section 2(4);

“principal local authority” (“*prif awdurdod lleol*”) has the meaning given by section 2(5);

“proposed principal area” (“*prif ardal arfaethedig*”) has the meaning given by section 2(6);

“relevant consequential changes” (“*newidiadau canlyniadol perthnasol*”) has the meaning given by section 16(3);

“shadow authority” (“*awdurdod cysgodol*”) has the meaning given by section 2(7);

“transfer date” (“*dyddiad trosglwyddo*”) has the meaning given by section 2(8);

“transition committee” (“*pwyllgor pontio*”) has the meaning given by section 2(9).

## 46 Commencement

- (1) Sections 25 to 28 and 37 to 43 come into force at the end of the period of 2 months beginning with the day on which this Act receives Royal Assent.
- (2) Subject to that, this Act comes into force on the day following that on which this Act receives Royal Assent.

## 47 Short title

The short title of this Act is the Local Government (Wales) Act 2015.