



# Local Government (Wales) Measure 2011

2011 nawm 4

## PART 9

### COLLABORATION AND AMALGAMATION

#### CHAPTER 1

##### COLLABORATION

#### **161 Guidance about collaboration between Welsh improvement authorities**

After section 12 of the Local Government (Wales) Measure 2009 insert the following—

#### **“12A Guidance about collaboration between Welsh improvement authorities**

In deciding whether and how to exercise its functions under sections 9(1) and 12, a Welsh improvement authority must have regard to any guidance issued by the Welsh Ministers.”.

#### CHAPTER 2

##### AMALGAMATION

#### **162 Power to make amalgamation order**

- (1) The Welsh Ministers may, if they are satisfied that it is necessary to achieve effective local government, make an order (“an amalgamation order”) for the constitution of a new local government area by amalgamating two or three local government areas.

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- (2) Before making an amalgamation order, the Welsh Ministers must be satisfied that effective local government is not likely to be achieved in a local government area to be amalgamated by the order by—
- (a) the exercise by any of the local authorities concerned of their powers under section 9 (Powers to collaborate etc) of the Local Government (Wales) Measure 2009, or
  - (b) the exercise by the Welsh Ministers of their powers under—
    - (i) section 28 (Welsh Ministers: support for Welsh improvement authorities),
    - (ii) section 29 (Welsh Ministers: powers of direction etc),
    - (iii) section 30 (Powers of direction: collaboration arrangements), or
    - (iv) section 31 (Powers of Welsh Ministers to modify enactments and confer new powers)
 of that Measure.
- (3) An amalgamation order must provide for—
- (a) whether the new local government area is to be a county or a county borough,
  - (b) the English name and Welsh name of the new local government area,
  - (c) the establishment of a local authority for the new local government area,
  - (d) whether the new local authority is to be a county council or county borough council,
  - (e) the English name and Welsh name of the new local authority,
  - (f) the abolition of the existing local government areas,
  - (g) the boundary of the new local government area, and
  - (h) the winding up and dissolution of the local authorities for the existing local government areas.
- (4) Where the new local government area is to be a county, the amalgamation order must provide for the new local authority to have the name of the county with the addition—
- (a) in the case of their English name, of the words “County Council” or the word “Council” (as in “Pembrokeshire County Council” or “Pembrokeshire Council”); and
  - (b) in the case of their Welsh name, of the word “Cyngor” (as in “Cyngor Sir Penfro”).
- (5) Where the new local government area is to be a county borough, the amalgamation order must provide for the new local authority to have the name of the county borough with the addition—
- (a) in the case of their English name, of the words “County Borough Council” or the word “Council” (as in “Caerphilly County Borough Council” or “Caerphilly Council”); and
  - (b) in the case of their Welsh name, of the words “Cyngor Bwrdeistref Sirol” or the word “Cyngor” (as in “Cyngor Bwrdeistref Sirol Caerffili” or “Cyngor Caerffili”).

## 163 Electoral matters

- (1) The provision that may be made in an amalgamation order includes (but is not limited to) provision for or in respect of any of the following matters—
- (a) the total number of members of any local authority (“councillors”);

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- (b) the number and boundaries of electoral areas for the purposes of the election of councillors;
- (c) the number of councillors to be returned by any electoral area;
- (d) the name of any electoral area;
- (e) the election of councillors for any electoral areas;
- (f) the cancellation of elections of councillors for any electoral area;
- (g) the election of community councillors for any community;
- (h) the cancellation of community council elections;
- (i) the election of a mayor of a local authority;
- (j) the appointment by the Welsh Ministers of members of an existing local authority to be members of a shadow authority for a shadow period;
- (k) the appointment for a shadow period of an executive of the shadow authority;
- (l) the functions of a shadow authority, and the discharge of those functions, during a shadow period.

#### **164 Requirement to hold a referendum involving an elected mayor**

- (1) Where one or more of the existing local authorities is operating a mayor and cabinet executive, the amalgamation order must require the shadow authority to hold a referendum on whether the new local authority should operate a mayor and cabinet executive.
- (2) Where subsection (1) applies, the provision which may be made in an amalgamation order includes (but is not limited to) provision—
  - (a) as to the date on which, or the time by which, a referendum must be held;
  - (b) as to the action which may, or may not or must be taken by a shadow authority before or in connection with a referendum;
  - (c) as to the action which may, or may not or must be taken by a shadow authority after a referendum;
  - (d) for or in connection with enabling the Welsh Ministers, in the event of any failure by the shadow authority to take any action permitted or required by virtue of the order, to take that action.
- (3) The provision which may be made by virtue of subsection (2) includes provision which applies or reproduces (with or without modifications) any provisions of section 25, 27, 28, 29 or 33 of the Local Government Act 2000 or Part 4 of this Measure.

#### **165 Power to direct a referendum involving an elected mayor**

- (1) The Welsh Ministers may by regulations make provision for or in connection with enabling them, in such circumstances as may be prescribed in the regulations, to direct a shadow authority to hold a referendum on whether the new local authority should operate a mayor and cabinet executive.
- (2) The provision which may be made by regulations under this section includes (but is not limited to) provision—
  - (a) as to the date on which, or the time by which, a referendum must be held;
  - (b) as to the action which may, or may not or must be taken by a shadow authority before or in connection with a referendum;

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- (c) as to the action which may, or may not or must be taken by a shadow authority after a referendum;
  - (d) for or in connection with enabling the Welsh Ministers, in the event of any failure by the shadow authority to take any action permitted or required by virtue of the regulations, to take that action.
- (3) The provision which may be made by virtue of subsection (2) includes provision which applies or reproduces (with or without modifications) any provisions of section 25, 27, 28, 29 or 33 of the Local Government Act 2000 or Part 4 of this Measure.

### **166 Supplementary, incidental, consequential, transitional and saving provision**

- (1) The provision that may be made in an amalgamation order includes (but is not limited to) supplementary, incidental, consequential, transitional and saving provision.
- (2) The Welsh Ministers may by regulations of general application make supplementary, incidental, consequential, transitional and saving provision—
  - (a) for the purposes of or in consequence of amalgamation orders; or
  - (b) for giving full effect to amalgamation orders.
- (3) Regulations under subsection (2) have effect subject to any provision included in an amalgamation order.
- (4) In this section, references to supplementary, incidental, consequential, transitional, or saving provision include (but are not limited to) provision—
  - (a) for the transfer of property, rights or liabilities from an existing local authority to a new local authority;
  - (b) for legal proceedings commenced by or against an existing local authority to be continued by or against a new 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 local authority for some or all purposes as the same person in law as an existing local authority ;
  - (e) with respect to the management or custody of transferred property (real or personal);
  - (f) equivalent to any provision that could be contained in an agreement under section 68 of the Local Government Act 1972 (transitional agreements as to property and finance).
- (5) The rights and liabilities which may be transferred in accordance with an order under this section include rights and liabilities in relation to a contract of employment.
- (6) The Transfer of Undertakings (Protection of Employment) Regulations 2006 ([SI 2006/246](#)) apply to a transfer made in accordance with an order under this section (whether or not the transfer is a relevant transfer for the purposes of those regulations).
- (7) In subsection (1), the reference to supplementary, incidental, consequential, transitional or saving provision also includes (but is not limited to) provision with respect to—
  - (a) the establishment or membership of public bodies in any area affected by the amalgamation order and the election or appointment of members of such bodies;

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- (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 the amalgamation order.
- (8) Supplementary, incidental, consequential, transitional or saving provision in an amalgamation order or in regulations under this section 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).

### **167 Review of electoral arrangements**

- (1) The Welsh Ministers may direct the Welsh Commission to undertake a review of the electoral arrangements for a new local government area.
- (2) The Welsh Commission may in consequence of such a review make proposals to the Welsh Ministers for effecting changes to the electoral arrangements as appear to the Welsh Commission to be desirable in the interests of effective and convenient local government.
- (3) In considering the electoral arrangements for a new local government area for the purposes of this section, the Welsh Commission shall so far as reasonably practicable comply with the rules set out in Schedule 11 to the Local Government Act 1972.
- (4) For the purposes of this section “electoral arrangements” has the same meaning as in section 78 of the Local Government Act 1972.!

### **168 Amendments to the Local Government Act 1972**

- (1) The Local Government Act 1972 is amended as follows.
- (2) In section 58 (Commission’s reports and their implementation), in subsection (1)(b) after “section 57 above” insert “or in accordance with a direction under section 167 of the Local Government (Wales) Measure 2011”.
- (3) In section 59 (directions about reviews), in subsection (1) after “57 above” insert “or in accordance with a direction under section 167 of the Local Government (Wales) Measure 2011”.
- (4) In section 60 (procedure for reviews), in subsection (1) after “this Act” insert “or in accordance with a direction under section 167 of the Local Government (Wales) Measure 2011”.
- (5) In section 68 (transitional agreements as to property and finance), in subsection (1) after “this Act” insert “or by an order under section 162 of the Local Government (Wales) Measure 2011”.

### **169 Procedure applicable to an amalgamation order**

- (1) The Welsh Ministers must comply with this section before making an amalgamation order to give effect to proposals to constitute a new local government area by amalgamating two or three existing local government areas (“the proposals”).
- (2) The Welsh Ministers must consult –

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- (a) the local authorities for the local government areas affected by the proposals,
  - (b) the community councils in the local government areas affected by the proposals, and
  - (c) such other persons (if any) as appear to the Welsh Ministers to be likely to be affected by the proposals.
- (3) If, following that consultation, the Welsh Ministers wish to proceed with the proposals, they must lay before the National Assembly for Wales a document which—
- (a) explains the proposals,
  - (b) sets them out in the form of a draft order, and
  - (c) gives details of the consultation under subsection (2).
- (4) No draft of an amalgamation order to give effect to the proposals (“the final draft order”) may be laid before the Assembly in accordance with section 172(2)(b) until after the expiry of the period of 60 days beginning with the day on which the document relating to the proposals was laid before the National Assembly for Wales under subsection (3).
- (5) In calculating the period mentioned in subsection (4) no account shall be taken of any time during which the National Assembly for Wales is dissolved or is in recess for more than four days.
- (6) In preparing the final draft order, the Welsh Ministers must consider any representations made during the period mentioned in subsection (4).
- (7) If the final draft order is laid before the National Assembly for Wales in accordance with section 172(2)(b), the order must be accompanied by a statement of the Welsh Ministers giving details of—
- (a) any representations considered in accordance with subsection (6), and
  - (b) any changes to the proposals contained in the document laid before the National Assembly for Wales under subsection (3) which are given effect to in the final draft order.
- (8) Nothing in this section applies to an order under section 162 which is made only for the purpose of amending an earlier order under that section.

## **170 Correction of orders**

- (1) Where—
- (a) there is a mistake in an amalgamation order, and
  - (b) the mistake cannot be rectified by a subsequent order made under section 162, the Welsh Ministers may, by order, rectify the mistake.
- (2) For the purposes of this section, a “mistake” in an order includes a provision contained in or omitted from the order in reliance on inaccurate or incomplete information supplied by a community council or any other public body.

## **171 Interpretation of this Chapter**

In this Chapter—

“amalgamation order” (*“gorchymyn cyfuno”*) means an order under section 162;

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“electoral area” (“*ardal etholiadol*”) means any area for which councillors are elected to a local authority;

“existing local authority” (“*awdurdod lleol presennol*”) means the local authority for an existing local government area;

“existing local government area” (“*ardal llywodraeth leol bresennol*”) means a local government area abolished by an amalgamation order;

“local government area” (“*ardal llywodraeth leol*”) means an area for which a local authority is established;

“member of a local authority” (“*aelod o awdurdod lleol*”) includes an elected mayor (within the meaning of section 39(1) of the Local Government Act 2000) or elected executive member (within the meaning of section 39(4) of that Act) of the authority;

“new local authority” (“*awdurdod lleol newydd*”) means a local authority established by an amalgamation order;

“new local government area” (“*ardal llywodraeth leol newydd*”) means a local government area constituted by an amalgamation order;

“public body” (“*corf cyhoeddus*”) includes—

- (a) a local authority;
- (b) a joint board, or a joint committee, on which a local authority is represented;

“shadow authority” (“*awdurdod cysgodol*”) means an authority which has been appointed or elected to carry out functions prescribed by an amalgamation order and will become a new local authority at the end of the shadow period;

“shadow period” (“*cyfnod cysgodol*”) means a period before the coming into office of members of the new local authority;

“staff” (“*staff*”) includes officers and employees;

“Welsh Commission” (“*Comisiwn Cymru*”) means the Local Government Boundary Commission for Wales established by section 53 of the Local Government Act 1972;.