



Local Government (Wales) Act 1994

1994 CHAPTER 19

PART VI

TRANSITIONAL PROVISIONS

46 Committees of existing councils for consideration of certain matters

- (1) The councils of each of the old authorities whose areas will be wholly or partly included in the area of a new principal council shall, as soon as is practicable after the passing of this Act, establish a joint committee (“a transition committee”) to consider and advise on transitional matters.
- (2) Each transition committee shall consist of such number of representatives of the authorities by whom it is established as may be agreed between them or, in default of agreement, as may be determined by the Secretary of State.
- (3) In making any determination under subsection (2), the Secretary of State shall secure that the number of persons who represent county councils is equal to the number who represent district councils.
- (4) A transition committee may co-opt additional persons to serve as members of the committee.
- (5) For the purposes of this section a matter is a transitional matter in relation to a new principal council if, in the opinion of the transition committee for that council, it is one which it is expedient for the committee to consider in order to ensure that the council will be able to function effectively as from 1st April 1996.
- (6) The Secretary of State may give a direction requiring—
 - (a) a particular transition committee,
 - (b) every transition committee falling within a class specified in the direction, or
 - (c) every transition committee,to consider any such matter as may be specified in the direction.

- (7) Any expenses incurred by a committee established under this section shall be defrayed by the authorities by whom the committee was established in such proportions as may be agreed between them or, in default of agreement, as may be determined by the Secretary of State.

47 Old and new principal areas with the same name

- (1) Where a local government area established by this Act (“the new area”) has the same name as a local government area (“the old area”) in existence at any time before the commencement of section 1(1), references in any enactment passed before this Act to the old area by name are not to be read as references to the new area.
- (2) This section is subject to any provision to the contrary made by or under this Act.

48 Groups of communities

- (1) Where, as a result of the creation of new principal areas by this Act, the communities within an existing group of communities will not all be within the same new principal area, the district council concerned shall, before 1st April 1996 make an order—
- (a) dissolving the group; or
 - (b) separating one or more of the communities from the group in order to secure that the remaining members of the group will all be within the same new principal area.
- (2) Any order under subsection (1) shall make such provision as appears to the district council necessary for the election, in accordance with the 1972 Act and Part I of the Representation of the People Act 1983, of a community council for any community which, as a result of the order, is no longer a member of the group.
- (3) Section 31 of the 1972 Act (provisions supplementary to sections 27 to 29 of that Act), applies in relation to an order made under this section as it applies to one made under section 29 of that Act.

49 Charities

- (1) Where, immediately before the commencement of this section, any property is held exclusively for charitable purposes by any of the old authorities, as sole trustee, that property shall vest on the same trusts in the appropriate council.
- (2) Where, immediately before the commencement of this section, any power with respect to a charity was vested in the proper officer of an old authority or in the holder of any other office of an old authority that power shall vest in the corresponding officer of the appropriate council.
- (3) Where, immediately before the commencement of this section, an old authority or any officer of an old authority is included among the charity trustees of a charity, those trustees shall include instead the appropriate council or (as the case may be) the corresponding officer of that council.
- (4) Where subsection (1) applies and the property in question is held for the benefit of—
- (a) a specified area,
 - (b) the inhabitants of a specified area, or
 - (c) any particular class or body of persons in a specified area,

the appropriate council is the new principal council whose area comprises the whole, or the greater part, of the specified area.

- (5) In any other case falling within this section, the appropriate council is the new principal council whose area comprises the whole, or the greater part, of the area of the old authority in question.
- (6) The Secretary of State may by order make provision with respect to any of the matters dealt with by this section, either in substitution for the provision made by this section or by way of supplementing or modifying that provision, and either generally or in relation to prescribed cases or classes of case.
- (7) Nothing in this section—
 - (a) affects any power of Her Majesty, the court or any other person to alter the trusts of any charity; or
 - (b) applies in a case to which section 50 applies.
- (8) In this section “charity”, “charitable purposes”, “charity trustees”, “court” and “trusts” have the same meaning as in the Charities Act 1993.

50 Welsh Church funds

- (1) The Secretary of State shall by order designate such new principal councils in relation to such areas in Wales as he considers appropriate for the purposes of this section.
- (2) Any property which, immediately before the commencement of this section, is vested in an old authority and is required to be applied in accordance with a scheme shall be vested in such designated new principal council as the Secretary of State may by order specify.
- (3) Where, by virtue of this section, property is vested in a designated council whose designated area does not comprise the whole of the area of the old authority in question, the designated council shall transfer an apportioned part of the property to any other designated council whose designated area includes part of the area of the old authority.
- (4) The terms of any apportionment made for the purposes of subsection (3)—
 - (a) shall be agreed between the designated councils concerned, or
 - (b) if they fail to agree, shall be determined by arbitration before a single arbitrator appointed—
 - (i) by agreement between those councils, or
 - (ii) if they fail to agree, by the Secretary of State.
- (5) The vesting or transfer of any property by virtue of this section shall not affect—
 - (a) the application of the property in accordance with the scheme which is applicable to it immediately before the commencement of this section, or
 - (b) the amendment or revocation of any scheme by a further scheme.
- (6) In this section—

“designated” means designated by order under subsection (1); and

“scheme” means a scheme under section 19 of the Welsh Church Act 1914 (application of Welsh Church funds for charitable or eleemosynary purposes).

51 Control of disposals and contracts

- (1) On and after the operative date no old authority may, without the appropriate consent—
- (a) dispose of any land or building if the consideration for the disposal exceeds £100,000;
 - (b) enter into any contract, other than a capital contract, in respect of which the consideration exceeds £100,000 where—
 - (i) the period of the contract extends beyond 31st March 1996; or
 - (ii) under the terms of the contract, that period may be extended beyond that date; or
 - (c) enter into any capital contract in respect of which the consideration exceeds £1,000,000.

- (2) In this section—

“appropriate consent” means the written consent of the successor to the old authority or, where there is more than one successor, the written consent of each successor;

“capital contract” means a contract in respect of which the consideration payable by the old authority concerned is expenditure for capital purposes;

“expenditure for capital purposes” has the same meaning as it has for the purposes of Part IV of the Local Government and Housing Act 1989 (revenue accounts and capital finance of local authorities), by virtue of section 40 of that Act, and includes any expenditure which the authority concerned may (by virtue of a direction given under subsection (6) of that section) treat as expenditure for capital purposes;

“operative date” means the date fixed by order of the Secretary of State under paragraph 1 of Schedule 5 to the 1972 Act (as substituted by this Act); and

“successor”, in relation to an old authority, means any new authority whose area includes the whole, or any part, of the area of the old authority.

- (3) Any disposal made in contravention of this section shall be void.
- (4) No contract entered into in contravention of this section shall be enforceable against a successor.
- (5) Any consent for the purposes of this section may be given—
- (a) in respect of a particular disposal or contract, or in respect of disposals or contracts of any class or description; and
 - (b) unconditionally or subject to conditions.
- (6) The provisions of section 123 of the 1972 Act (power to dispose of land), and of any other enactment relating to the disposal of land by local authorities, shall have effect subject to this section.
- (7) The consent required by this section is in addition to any consent required by any of those provisions.
- (8) In this section references to disposing of land include references to—
- (a) granting or disposing of any interest in land;
 - (b) entering into a contract to dispose of land or to grant or dispose of any such interest; and
 - (c) granting an option to acquire any land or any such interest.

- (9) For the purpose of determining whether a limit specified in subsection (1) is exceeded in any case, there shall be taken into account the consideration—
- (a) with respect to any other disposal of land or any building effected by the old authority after 30th November 1993, or
 - (b) under any other contract entered into by the old authority after that date, so far as the disposal or contract relates to the same or a similar description of matter as that to which the case under consideration relates.
- (10) Where the consideration or any of the consideration under a contract is not in money, the limits specified in subsection (1) shall apply to the value of the consideration.
- (11) Where a question arises under this section as to the value of any consideration and the authorities concerned fail to reach agreement, it shall be determined by the Secretary of State.

52 Application of Part I of the Local Government Act 1988 during transitional period

- (1) Sections 9 to 16 of the Local Government Act 1988 (accounts, reports and other information in relation to defined activities) shall apply in relation to work—
- (a) carried out by a Welsh authority in the transitional period (whether or not before the passing of this Act), and
 - (b) falling within an exempt activity,
- even though (as a result of its falling within that activity) sections 4 to 8 of that Act (restrictions in relation to works contracts and functional work) do not apply.
- (2) An activity is an exempt activity if—
- (a) on 31st March 1994, it was a defined activity for the purposes of the Act of 1988 and not the subject of an order under section 2(9) of the Act of 1988; and
 - (b) it is treated, by an exempting order having effect in relation to a period beginning after that date, as not being a defined activity.
- (3) In this section—
- “exempting order” means an order under section 2(9) of the Act of 1988 which specifies, as the period during which an activity is to be treated as not being a defined activity, a period ending on a date earlier than 1st April 1997;
 - “transitional period”, in relation to an exempt activity, means the period specified in the exempting order; and
 - “Welsh authority” means a county or district council, a new principal council or a combined fire authority for an area in Wales.
- (4) The Secretary of State may by order (an “extension order”) provide that, in relation to a particular order under section 2(9) of the Act of 1988, subsection (3) is to have effect as if the date mentioned in the definition of “exempting order” were such date later than 1st April 1997 as may be specified in the extension order.
- (5) Where sections 9 to 16 of the Act of 1988 apply by virtue of this section they shall be read with the following omissions—
- (a) in section 9 (keeping of accounts), subsection (4), and the references to subsection (4) in subsections (5) and (6);
 - (b) in section 11 (reporting for financial year), subsections (2)(c) and (e);

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

- (c) in section 12 (providing information), subsections (1) and (2); and
 - (d) in section 13 (serving of notices for purpose of getting information), paragraphs (a), (b) and (ba) of subsection (1).
- (6) In the application of section 9, 10 or 11 of the Act of 1988 by virtue of this section, any condition which is required to have been fulfilled for that section to apply shall be taken to have been fulfilled.

53 Continuity of exercise of functions

- (1) The abolition of the old authorities shall not affect the validity of anything done by any of those authorities before their abolition.
- (2) Anything which at 1st April 1996 is in the process of being done by or in relation to an old authority in the exercise of, or in connection with, any relevant functions may be continued by or in relation to the authority (“the successor authority”) by which those functions become exercisable or, as the case may be, become exercisable in respect of the area in question.
- (3) Where immediately before 1st April 1996 any relevant functions exercisable by an old authority are exercisable concurrently by another such authority, or by other such authorities in respect of their respective areas, subsection (2) shall have effect as if those functions had by virtue of this Act become functions of that other authority or of those other authorities in respect of their respective areas.
- (4) Anything done by or in relation to an old authority before 1st April 1996 in the exercise of or in connection with any relevant functions shall, so far as is required for continuing its effect on and after that date, have effect as if done by or in relation to the successor authority.
- (5) Subsection (4) applies in particular to—
 - (a) any decision, determination, declaration, designation, agreement or instrument made by an old authority;
 - (b) any regulations or byelaws made by an old authority;
 - (c) any licence, permission, consent, approval, authorisation, exemption, dispensation or relaxation granted by or to an old authority;
 - (d) any notice, direction or certificate given by or to an old authority;
 - (e) any application, request, proposal or objection made by or to an old authority;
 - (f) any condition or requirement imposed by or on an old authority;
 - (g) any fee paid by or to an old authority;
 - (h) any appeal allowed by or in favour of or against an old authority;
 - (i) any proceedings instituted by or against an old authority.
- (6) Any reference in this section to anything done by or in relation to an old authority includes a reference to anything which by virtue of any enactment is treated as having been done by or in relation to that authority.
- (7) Any reference (however framed) to an old authority in any document constituting, or relating to, anything to which the provisions of this section apply shall, so far as is required for giving effect to those provisions, be construed as a reference to the successor authority.

- (8) The provisions of this section are without prejudice to any provision made by or under this Act in relation to any particular functions and shall not be construed as continuing in force any contract of employment made by any of the old authorities.
- (9) The Secretary of State may, in relation to any particular functions, by order exclude, modify or supplement any of the provisions of this section or make such other transitional provision as he thinks necessary or expedient.
- (10) In this section “relevant functions” means statutory functions which by virtue of any provision made by or under this Act become functions of another authority, or of other authorities in respect of their respective areas.

54 Consequential and supplementary provision

- (1) The Secretary of State may by order make such incidental, consequential, transitional or supplemental provision as he thinks necessary or expedient—
 - (a) for the general purposes, or any particular purpose, of this Act or in consequence of any of its provisions or for giving full effect to it; or
 - (b) in consequence of such of the provisions of any other Act passed in the same Session as this Act as apply to any area or authority affected by this Act.
- (2) An order under subsection (1) may, in particular, make provision—
 - (a) for enabling any authority or body by whom any powers will become exercisable, on a date specified by or under this Act, by virtue of any provision made by or under this Act to take before that date any steps which are necessary as a preliminary to the exercise of those powers;
 - (b) for the making before any date specified by or under this Act of arrangements for securing the satisfactory operation from that date of any provision made by or under this Act and for defraying the cost of any such arrangements;
 - (c) for the transfer of property, rights or liabilities, and of related functions, from an abolished body or the Residuary Body to a new principal council or other public body or to the Residuary Body;
 - (d) for the management or custody of transferred property (whether real or personal);
 - (e) for applying (with or without modifications) or amending, repealing or revoking (with or without savings) any provision of an Act passed before this Act or in the same Session, or an instrument made under such an Act before 1st April 1996;
 - (f) for making savings, or additional savings, from the effect of any repeal made by this Act;
 - (g) with respect to the membership of any body, so far as that membership consists of persons elected by or appointed by or on the nomination of—
 - (i) any authority affected by this Act; or
 - (ii) any group of bodies which includes such an authority;
 - (h) dissolving any body corporate established by any Act passed, or any instrument made, before 1st April 1996;
 - (i) with respect to the functions or jurisdiction of any public body or of—
 - (i) any coroner, lord-lieutenant, lieutenant or high sheriff; or
 - (ii) any other officers (including police officers) within the area of any local authority affected by any provision of or made under this Act,

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

and the costs and expenses of such public bodies and persons.

- (3) In subsection (2)(c) “abolished body” means an old authority or any joint board which ceases to exist as a result of section 59.
- (4) Any transfer made in accordance with any provision made by virtue of subsection (2)(c)—
 - (a) may be made subject to terms, including financial terms; and
 - (b) may impose new rights or liabilities in respect of the property transferred.
- (5) The amendments that may be made under this section shall be in addition, and without prejudice, to those made by or under any other provision of this Act.
- (6) Any question arising under this Act as to which is the successor authority in respect of any particular functions may be determined by a direction given by the Secretary of State.
- (7) No other provision of this Act shall be taken to restrict the powers conferred by this section.

55 Magistrates' courts, justices of the peace etc

- (1) The Lord Chancellor may by order make, with respect to any matters mentioned in subsection (2), such incidental, consequential, transitional or supplemental provision as he thinks necessary or expedient in consequence of any of the provisions of this Act.
- (2) The matters are—
 - (a) the functions or areas of jurisdiction of any justice of the peace, stipendiary magistrate, magistrates' court or keeper of the rolls for a commission area (within the meaning of the Justices of the Peace Act 1979); and
 - (b) commission areas, petty sessions areas and areas to which magistrates' courts committees relate.
- (3) The Lord Chancellor may by order alter, in such manner as appears to him expedient in connection with the alteration in any local government area made by this Act, any of—
 - (a) the commission areas in Wales specified in section 1 of the Act of 1979,
 - (b) the areas in Wales which constitute petty sessions areas under section 4 of that Act, or
 - (c) the areas in Wales to which magistrates' courts committees relate under section 19 of that Act.
- (4) Any order under this section may, in particular—
 - (a) make provision with respect to the costs and expenses of any persons with respect to whom provision is made by the order;
 - (b) apply (with or without modifications) or amend or repeal or revoke (with or without savings) any provision of an Act passed before this Act or in the same Session, or an instrument made under such an Act before 1st April 1996.
- (5) Subsections (5) and (7) of section 54 apply in relation to this section as they apply in relation to that section.

56 Transitional agreements as to property and finance

- (1) Any public bodies affected by the alteration, abolition or constitution of any area by this Act may make agreements with respect to any property, income, rights, liabilities or expenses (so far as affected by the alteration, abolition or constitution) of, and any financial relations between, the parties to the agreement.
- (2) In subsection (1) “public body” does not include an old authority but does include a new principal council.
- (3) Any such agreement may provide—
 - (a) for the transfer or retention of any property, rights or liabilities, with or without conditions, and for the joint use of any property;
 - (b) for the making of payments by either party to the agreement in respect of property, rights or liabilities so transferred or retained, or of such joint use, and in respect of the remuneration or compensation payable to any person; and
 - (c) for the making of any such payment either by way of a capital sum or of a terminable annuity.
- (4) In default of agreement as to any disputed matter, the matter shall be referred to the arbitration of a single arbitrator—
 - (a) agreed on by the parties; or
 - (b) in default of agreement, appointed by the Secretary of State.
- (5) The award of the arbitrator may make any provision which may be included in an agreement under this section.
- (6) In subsection (4) “disputed matter” means any matter—
 - (a) which might be dealt with in an agreement under this section;
 - (b) which is the subject of an unresolved dispute between two or more public bodies; and
 - (c) for the resolution of which no provision is otherwise made.

57 Local Acts and instruments

- (1) Any local statutory provision to which this section applies and which is not continued in force by any other provision of this Act shall continue to apply on and after 1st April 1996 to the area, things or persons to which or to whom it applies before that date, but subject to the modifications made by subsections (3) to (5) and to any other necessary modifications.
- (2) The continuation by subsection (1) of an instrument made under any enactment shall not be taken to affect any power to vary or revoke the instrument which is exercisable apart from that subsection.
- (3) Subsection (1) has effect subject to the provisions of—
 - (a) this Act;
 - (b) any Act passed after this Act but before 1st April 1996; and
 - (c) any order made under section 54 or 55 or this section.
- (4) Any local statutory provision to which this section applies and which relates to functions exercisable by an old authority of any description, by virtue of any public general enactment, shall have effect as if for any reference to the authority by whom

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

the functions are exercisable immediately before 1st April 1996 or to their area there were substituted a reference to—

- (a) the authority by whom those functions are exercisable on and after that date; or
 - (b) (as the case may be) to so much of the area of the latter authority as comprises the area of the former authority or any part of that area.
- (5) In any local statutory provision to which this section applies but which does not fall within subsection (4), for any reference to the area of an old authority or to an old authority there shall be substituted a reference to so much of the new principal area as comprises the area of the old authority or any part thereof or, as the case may be, the council of that new principal area.
- (6) Subsections (4) and (5) have effect subject to any provision to the contrary made by, or by any instrument made under, this Act.
- (7) The Secretary of State may by order provide for the exercise of functions conferred by any local statutory provision to which this section applies and exclude the operation of any provision of this section where it would otherwise conflict with any provision of the order.
- (8) This section applies to any local statutory provision which is in force in Wales immediately before 1st April 1996 and is not expressly repealed or revoked by this Act.
- (9) In this section “local statutory provision” means a provision of—
- (a) a local Act (including an Act confirming a provisional order);
 - (b) a public general Act passed with respect only to the whole or part of a local government area in Wales as it existed immediately before the passing of this Act;
 - (c) an instrument made under any such local or public general Act; or
 - (d) an instrument in the nature of a local enactment made under any other Act.

58 Modification etc. of local Acts and instruments

- (1) This section applies where any local statutory provision (“the relevant provision”) is—
- (a) continued in force in any area by section 57, or
 - (b) amended or modified in its application to any area by an order under section 54 or 55 (a “modifying order”).
- (2) The Secretary of State may by order or (as the case may be) the modifying order may—
- (a) extend the relevant provision throughout the new principal area in which it is continued in force;
 - (b) provide that the relevant provision as so continued, amended, modified or extended shall have effect in that area to the exclusion of any enactment for corresponding purposes, including any enactment contained in or applied by this Act;
 - (c) make such modifications of any such enactment as will secure that the enactment and the relevant provision will operate harmoniously in that area;
 - (d) repeal or revoke any local statutory provision to which this section applies and which appears to the Minister to have become spent, obsolete or unnecessary or to have been substantially superseded by any enactment or instrument which applies or may be applied to the area, persons or things to which or to whom the relevant provision applies;

- (e) transfer to any authority appearing to the Minister to be appropriate any functions of an old authority under any local statutory provision to which this section applies which are not to become functions of some other authority under any provision of this Act (except section 54, 55, 57 or this section) or under any other instrument made under this Act;
 - (f) without prejudice to paragraph (e), make such modifications of any local statutory provision to which this section applies in its application to any new local government area as appear to the Minister to be expedient.
- (3) An order under this section which extends the area for which any local statutory provision is in force shall be provisional only.
- (4) In this section “the Minister” means—
- (a) in relation to an order made by the Secretary of State under subsection (2), the Secretary of State; and
 - (b) in relation to a modifying order containing provision made by virtue of subsection (2) of this section, the Minister making that order.

59 Existing joint boards and committees and port health districts

- (1) Where an existing joint board was constituted by or under any enactment for exercising functions for any area (including any united district), the board shall continue in existence on and after 1st April 1996 and to exercise for that area the same functions as before that date (to the exclusion of new principal councils).
- (2) In subsection (1)—
- “joint board” means a joint board every constituent member of which is a local authority in Wales; and
 - “area” does not include a port health district.
- (3) Subsection (1) does not apply to a joint board constituted for an area which on 1st April 1996 will be wholly within the area of a single new principal council if the board was constituted for the purpose of exercising functions which on and after that date would (apart from the existence of the board) be exercisable by that council.
- (4) Subsection (3) applies whether or not the board has additional functions which, apart from this section, would not be exercisable by the new principal council.
- (5) In a case to which subsection (3) applies—
- (a) the functions of the board shall on 1st April 1996 become functions of the new principal council; and
 - (b) the joint board shall cease to exist on that date.
- (6) This subsection applies where—
- (a) a port health district was constituted by an order under any enactment relating to public health; and
 - (b) a local authority or joint board, every constituent member of which is a local authority, is the port health authority for that district.
- (7) Where subsection (6) applies, the district shall continue to exist as a port health district on and after 1st April 1996.
- (8) Where, on 1st April 1996, a single new principal council will become the riparian authority in relation to a port health district continued in existence by subsection (7)—

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

- (a) that authority shall, on that date, become the port health authority for that district; and
 - (b) any existing joint board constituted for that district shall cease to exist.
- (9) Where, on 1st April 1996, two or more new principal councils will become riparian authorities in relation to a port health district continued in existence by subsection (7), the port health authority for the district shall be—
 - (a) the existing port health authority, if that authority is a joint board; and
 - (b) the new principal council whose area comprises or abuts on the greater part of the district, in any other case.
- (10) Any question as to which new principal council's area comprises or abuts on the greater part of a port health district shall be determined by the Secretary of State.
- (11) This subsection applies to any existing joint committee constituted under any enactment for the purpose of exercising functions for an area which on 1st April 1996 will lie within the areas of two or more new principal councils by whom those functions would apart from this subsection become exercisable on that date.
- (12) A joint committee to which subsection (11) applies—
 - (a) shall continue to exist on and after 1st April 1996 as if duly appointed by or in connection with those new principal councils; and
 - (b) shall exercise those functions for the area for which the committee exercised them before that date.
- (13) Nothing in subsection (12) is to be taken as preventing new principal councils from making different arrangements for the discharge of functions.
- (14) The continuation in existence of any area or body by this section does not prejudice any power conferred by any enactment to amend or revoke the order constituting the area or body or the power to make provision with respect to the body conferred by section 54.
- (15) Subsections (1) and (3) do not apply to a joint planning board for a National Park in Wales.
- (16) The following provisions shall have effect for the construction of references to a local statutory provision to which section 57 applies—
 - (a) any reference to an existing joint board which ceases to exist by virtue of this section, or any reference which is to be construed as such a reference, shall be construed as a reference to the new principal council by whom the functions of that board will become exercisable by virtue of this section;
 - (b) any reference to a united district or other area the existing joint board for which ceases to exist by virtue of subsection (3), or any reference which is to be construed as such a reference, shall be construed as a reference to so much of the area of the new principal council by whom the functions formerly exercisable by the existing joint board become exercisable on 1st April 1996, as comprises the united district or other area for which the board acted; and
 - (c) any reference to an existing local authority whose functions as port health authority become exercisable on 1st April 1996 by virtue of this section by a new principal council, or any reference which is to be construed as such a reference, shall be construed as a reference to that council.
- (17) In this section “existing” means existing immediately before 1st April 1996.

(18) This section has effect subject to any provision made by or under this Act.