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WELSH STATUTORY INSTRUMENTS

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**2021 No. 297 (W. 74) (C. 9)**

**LOCAL GOVERNMENT, WALES**

**The Local Government and Elections (Wales) Act 2021  
(Commencement No. 2 and Saving Provisions) Order 2021**

*Made - - - - 11 March 2021*

The Welsh Ministers make the following Order in exercise of the power conferred on them by section 175(7) and (8) of the Local Government and Elections (Wales) Act 2021<sup>(1)</sup>.

**Title and interpretation**

1.—(1) The title of this Order is the Local Government and Elections (Wales) Act 2021 (Commencement No. 2 and Saving Provisions) Order 2021.

(2) In this Order—

“the 2009 Measure” (“*Mesur 2009*”) means the Local Government (Wales) Measure 2009<sup>(2)</sup>;

“the 2021 Act” (“*Deddf 2021*”) means the Local Government and Elections (Wales) Act 2021;

“collaboration arrangement” (“*trefniant cydlafurio*”) means an arrangement, transaction, or any other agreement made pursuant to any of the powers listed in section 9(2) of the 2009 Measure;

“National Park authority” (“*awdurdod Parc Cenedlaethol*”) means a National Park authority for a National Park in Wales;

“principal council” (“*prifgyngor*”) has the same meaning as in section 171(1) of the 2021 Act;

“special inspection” (“*arolygiad arbennig*”) has the same meaning as in section 21(10) of the 2009 Measure.

(3) For the purposes of articles 4 and 6, a special inspection is commenced—

(a) at the time the Auditor General for Wales notifies a principal council under section 21(7) (a) of the 2009 Measure, or

(b) in cases where the Welsh Ministers have requested that the Auditor General for Wales carry out an inspection in accordance with section 21(4) of the 2009 Measure, at the time such a request is made.

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(1) 2021 asc 1.  
(2) 2009 nawm 2.

**Provisions coming into force on 1 April 2021**

2. The following provisions of the 2021 Act come into force on 1 April 2021, so far as those provisions are not already in force—

- (a) sections 89 to 91;
- (b) sections 95 to 115;
- (c) Chapter 3 of Part 6;
- (d) Part 7;
- (e) section 159;
- (f) section 169;
- (g) Schedule 1, other than the provisions which are to come into force on 6 May 2022 in accordance with section 175(6)(b) of the 2021 Act;
- (h) Schedule 10;
- (i) Schedule 11;
- (j) Schedule 12.

**Provisions coming into force on 5 May 2022**

3. The following provisions of the 2021 Act come into force on 5 May 2022—

- (a) sections 92 and 93;
- (b) Chapter 2 of Part 6.

**Savings: continuing application of the 2009 Measure in relation to principal councils**

4.—(1) Despite the coming into force of section 113 of the 2021 Act (by virtue of article 2(b)), the amendments made by that provision have no effect (and the 2009 Measure continues to apply as if section 113 had not come into force) in relation to—

- (a) a collaboration arrangement entered into, or agreed, before 1 April 2021, where at least one of the parties is a principal council;
- (b) the duty of a principal council to make arrangements in accordance with section 15 of the 2009 Measure for the publication of—
  - (i) the information described in subsection (2) of that section in so far as it relates to the financial year beginning on 1 April 2020;
  - (ii) a summary of any report referred to in subsection (4) of that section in respect of a special inspection of the authority that commenced before 1 April 2021 (whether or not the report was issued before that date);
- (c) the duty of the Auditor General for Wales to carry out an audit under section 17 of the 2009 Measure for the purpose of determining whether a principal council has, during the financial year beginning on 1 April 2020, discharged its duties under section 15(1) to (5) of the 2009 Measure, and the extent to which the authority has, during that year, acted in accordance with any guidance issued under section 15(8);
- (d) the duty of the Auditor General for Wales to issue, during the financial year beginning on 1 April 2021, a report or reports under section 19(1) of the 2009 Measure in respect of each principal council—
  - (i) certifying, in accordance with subsection (1)(a) of that section, that the Auditor General has carried out an audit under section 17 in respect of the financial year beginning on 1 April 2020;

- (ii) stating, in accordance with subsection (1)(b) of that section, whether as a result of that audit, the Auditor General believes—
  - (aa) that the authority has discharged its duties under section 15(1) to (5) of the 2009 Measure, and
  - (bb) that the authority has acted in accordance with any guidance issued under section 15(8);
- (iii) if the Auditor General thinks it appropriate in the light of that audit, recommending any of the matters set out in section 19(1)(f), (g) or (h)(3) of the 2009 Measure;
- (e) the duty of the Auditor General for Wales to send a copy of a report mentioned in sub-paragraph (d) in accordance with section 19(2) and (3) of the 2009 Measure and any order made by the Welsh Ministers under subsection (3)(b) of that section;
- (f) the power of the Welsh Ministers to issue a direction under section 19(4) of the 2009 Measure in relation to a report mentioned in sub-paragraph (d);
- (g) the duty of a principal council to respond to a report mentioned in sub-paragraph (d) in accordance with section 20(1) to (3) and (5) of the 2009 Measure (and subsection (6) of that section continues to have effect for those purposes);
- (h) the powers and duties of the Auditor General for Wales under section 21 of the 2009 Measure in respect of a special inspection of a principal council that commenced before 1 April 2021;
- (i) the powers and duties of the Auditor General for Wales to issue, publish, and send copies of, a report under section 22 of the 2009 Measure in respect of a special inspection of a principal council that commenced before 1 April 2021, in accordance with subsections (2), (3) and (5) of that section;
- (j) scales of fees prescribed by the Wales Audit Office under section 27 of the 2009 Measure in respect of—
  - (i) a special inspection of a principal council that commenced before 1 April 2021, or
  - (ii) an audit of a principal council conducted under section 17 of the 2009 Measure in relation to the financial year beginning on 1 April 2020;
- (k) the powers and duties of a principal council and of the Wales Audit Office under section 27(3), (4) and (4A) in respect of—
  - (i) a special inspection of a principal council that commenced before 1 April 2021, or
  - (ii) an audit of a principal council conducted under section 17 of the 2009 Measure in relation to the financial year beginning on 1 April 2020;
- (l) any support or assistance being provided to a principal council under section 28 of the 2009 Measure on 1 April 2021, and section 28 continues to have effect in respect of any such support or assistance after 1 April 2021;
- (m) any direction given to a principal council under section 29 of the 2009 Measure before 1 April 2021, and section 29 continues to have effect in respect of any such direction after 1 April 2021;
- (n) any direction given to a principal council under section 30 of the 2009 Measure before 1 April 2021, and section 30 continues to have effect in relation to any such direction after 1 April 2021.

(2) Despite the coming into force of section 113 of the 2021 Act (by virtue of article 2(b)), the definition of “powers of collaboration” contained in section 11 of the 2009 Measure continues to have effect for the purpose of article 4(1)(b), as if section 113 had not come into force.

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(3) But sections 21, 28, and 29 of the 2009 Measure are not saved for those purposes.

### **Savings: information sharing**

5.—(1) Despite the coming into force of section 113 of the 2021 Act (by virtue of article 2(b)), sections 33 and 34 of the 2009 Measure continue to have effect, as if section 113 had not come into force, for the purpose of sharing information and documents—

- (a) obtained by or produced to the Auditor General for Wales in the course of the exercise of functions under sections 17 and 19 of the 2009 Measure in relation to the financial year beginning on 1 April 2020, or
- (b) for the purpose of the exercise by the Auditor General for Wales of those functions in relation to that financial year.

(2) For the purpose described in paragraph (1), the following provisions continue to have effect as if section 113 of the 2021 Act had not come into force—

- (a) the definitions of “relevant regulators” and “relevant functions” contained in section 16 of the 2009 Measure;
- (b) the functions of the Auditor General for Wales mentioned in section 23(7)(b) of the 2009 Measure.

### **Savings: continuing application of the 2009 Measure in relation to National Park authorities**

6.—(1) Despite the coming into force of section 169 of the 2021 Act (by virtue of article 2(f)), the amendments made by that provision have no effect (and the 2009 Measure continues to apply as if section 169 had not come into force) in relation to—

- (a) a collaboration arrangement entered into, or agreed, before 1 April 2021, where at least one of the parties is a National Park authority;
- (b) the duty of a National Park authority to make arrangements in accordance with section 15 of the 2009 Measure for the publication of—
  - (i) the information described in subsection (2) of that section in so far as it relates to the financial year beginning on 1 April 2020;
  - (ii) a summary of any report referred to in subsection (4) of that section in respect of a special inspection of the authority that commenced before 1 April 2021 (whether or not the report was issued before that date);
- (c) the duty of the Auditor General for Wales to carry out an audit under section 17 of the 2009 Measure for the purpose of determining whether a National Park authority has, during the financial year beginning on 1 April 2020, discharged its duties under section 15(1) to (5) of the 2009 Measure, and the extent to which the authority has, during that year, acted in accordance with any guidance issued under section 15(8);
- (d) the duty of the Auditor General for Wales to issue, during the financial year beginning on 1 April 2021, a report or reports under section 19(1) of the 2009 Measure in respect of each National Park authority—
  - (i) certifying, in accordance with subsection (1)(a) of that section, that the Auditor General has carried out an audit under section 17 in respect of the financial year beginning on 1 April 2020;
  - (ii) stating, in accordance with subsection (1)(b) of that section, whether as a result of that audit, the Auditor General believes—
    - (aa) that the authority has discharged its duties under section 15(1) to (5) of the 2009 Measure, and
    - (bb) that the authority has acted in accordance with any guidance issued under section 15(8);

- (iii) if the Auditor General thinks it appropriate in the light of that audit, recommending any of the matters set out in section 19(1)(f), (g) or (h)(4) of the 2009 Measure;
- (e) the duty of the Auditor General for Wales to send a copy of a report mentioned in sub-paragraph (d) in accordance with section 19(2) and (3) of the 2009 Measure and any order made by the Welsh Ministers under subsection (3)(b) of that section;
- (f) the power of the Welsh Ministers to issue a direction under section 19(4) of the 2009 Measure in relation to a report mentioned in sub-paragraph (d);
- (g) the duty of a National Park authority to respond to a report mentioned in sub-paragraph (d) in accordance with section 20(1) to (3) and (5) of the 2009 Measure (and subsection (6) of that section continues to have effect for those purposes);
- (h) the powers and duties of the Auditor General for Wales under section 21 of the 2009 Measure in respect of a special inspection of a National Park authority that commenced before 1 April 2021;
- (i) the powers and duties of the Auditor General for Wales to issue, publish, and send copies of, a report under section 22 of the 2009 Measure in respect of a special inspection of a National Park authority that commenced before 1 April 2021, in accordance with subsections (2) and (3) of that section;
- (j) scales of fees prescribed by the Wales Audit Office under section 27 of the 2009 Measure in respect of—
  - (i) a special inspection of a National Park authority that commenced before 1 April 2021, or
  - (ii) an audit of a National Park authority conducted under section 17 of the 2009 Measure in relation to the financial year beginning on 1 April 2020;
- (k) the powers and duties of a National Park authority and of the Wales Audit Office under section 27(3), (4) and (4A) in respect of—
  - (i) a special inspection of a National Park authority that commenced before 1 April 2021, or
  - (ii) an audit of a National Park authority conducted under section 17 of the 2009 Measure in relation to the financial year beginning on 1 April 2020;
- (l) any support or assistance being provided to a National Park authority under section 28 of the 2009 Measure on 1 April 2021, and section 28 continues to have effect in respect of any such support or assistance after 1 April 2021;
- (m) any direction given to a National Park authority under section 29 of the 2009 Measure before 1 April 2021, and section 29 continues to have effect in respect of any such direction after 1 April 2021;
- (n) any direction given to a National Park authority under section 30 of the 2009 Measure before 1 April 2021, and section 30 continues to have effect in relation to any such direction after 1 April 2021.

(2) Despite the coming into force of section 169 of the 2021 Act (by virtue of article 2(f)), the definition of “powers of collaboration” contained in section 11 of the 2009 Measure continues to have effect for the purpose of article 6(1)(b), as if section 169 had not come into force.

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(4) But sections 21, 28, and 29 of the 2009 Measure are not saved for those purposes.

**Savings: inspectors' powers and duties**

7. Despite the coming into force of sections 113 and 169 of the 2021 Act (by virtue of article 2(b) and (f)), section 26 of the 2009 Measure continues to have effect, as if sections 113 and 169 had not come into force, for the purpose of—

- (a) a special inspection of a principal council or a National Park authority that commenced before 1 April 2021, or
- (b) an audit of a principal council or a National Park authority conducted under section 17 of the 2009 Measure in relation to the financial year beginning on 1 April 2020.

**Savings: guidance**

8. Despite the coming into force of sections 113 and 169 of the 2021 Act (by virtue of article 2(b) and (f))—

- (a) principal councils and National Park authorities must continue to have regard to any guidance issued under section 15(8) of the 2009 Measure when discharging their duty under section 15 to make arrangements for the publication of the information described in articles 4(1)(b) and 6(1)(b);
- (b) the Auditor General for Wales must continue to have regard to any guidance issued under section 21(9) of the 2009 Measure when carrying out a special inspection described in articles 4(1)(h) and 6(1)(h).

**Savings: criminal proceedings**

9. The coming into force of sections 113 and 169 of the 2021 Act (by virtue of article 2(b) and (f)) has no effect in relation to any offence committed, or alleged to have been committed, under section 26(9) of the 2009 Measure before 1 April 2021.

11 March 2021

*Julie James*  
Minister for Housing and Local Government,  
one of the Welsh Ministers

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This is the second commencement Order made by the Welsh Ministers under the Local Government and Elections (Wales) Act 2021 (“the 2021 Act”).

Article 2 of this Order brings the following provisions of the 2021 Act into force on 1 April 2021, so far as they are not already in force—

- (a) sections 89 to 91 and 95 to 115 (performance of principal councils), including Schedule 10 (consequential amendments relating to governance and audit committees);
- (b) Chapter 3 of Part 6 (coordination between regulators);
- (c) Part 7 (mergers and restructuring of principal areas), including Schedule 1 (initial review of electoral arrangements), except for the provisions which are to come into force on 6 May 2022 in accordance with section 175(6)(b) of the 2021 Act, Schedule 11 (transition committees of merging and restructuring councils) and Schedule 12 (restraints on transactions and recruitment etc. by merging and restructuring councils);
- (d) section 159 (information sharing between regulators, the Auditor General for Wales and the Welsh Ministers);
- (e) section 169 (disapplication of the Local Government (Wales) Measure 2009 (“the 2009 Measure”) in relation to National Park authorities).

Article 3 brings the following provisions of the 2021 Act into force on 5 May 2022—

- (a) sections 92 and 93 (panel performance assessments);
- (b) Chapter 2 of Part 6 (membership and proceedings of governance and audit committees).

Articles 4 to 9 contain saving provisions relating to the commencement of sections 113 (disapplication of the 2009 Measure to principal councils) and 169 of the 2021 Act.

Article 4 includes saving provisions relating to the disapplication of the 2009 Measure to principal councils, so that the exercise of certain functions and other things done under the 2009 Measure continue to have effect following the commencement of section 113 of the 2021 Act.

Article 5 includes saving provisions relating to sections 33 (information sharing) and 34 (use of information by regulators) of the 2009 Measure.

Article 6 includes saving provisions relating to the disapplication of the 2009 Measure to National Park authorities, so that the exercise of certain functions and other things done under the 2009 Measure continue to have effect following the commencement of section 169 of the 2021 Act.

Article 7 includes saving provisions relating to section 26 (inspectors’ powers and duties) of the 2009 Measure.

Article 8 includes saving provisions relating to guidance issued by the Welsh Ministers under sections 15(8) (publication of improvement information) and 21(9) (special inspections) of the 2009 Measure.

Article 9 provides that the commencement of sections 113 and 169 of the 2021 Act has no effect in relation to an offence committed under section 26(9) (where a person, without reasonable excuse, obstructs the exercise of any power of an inspector or fails to comply with a requirement of an inspector) before 1 April 2021.

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

## NOTE AS TO EARLIER COMMENCEMENT ORDERS

*(This note is not part of the Order)*

The following provisions of the Local Government and Elections (Wales) Act 2021 (“the 2021 Act”) have been brought into force by a commencement order made before the date of this Order.

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Section 24	1 November 2021	2021/231 (W. 57) (C. 6)
Section 25	1 November 2021	2021/231 (W. 57) (C. 6)
Section 26	1 November 2021	2021/231 (W. 57) (C. 6)
Section 27	1 November 2021	2021/231 (W. 57) (C. 6)
Section 28	4 March 2021	2021/231 (W. 57) (C. 6)
Section 29	1 November 2021	2021/231 (W. 57) (C. 6)
Section 30(3)	4 March 2021	2021/231 (W. 57) (C. 6)
Sections 30 (remainder)	5 May 2022	2021/231 (W. 57) (C. 6)
Section 31	5 May 2022	2021/231 (W. 57) (C. 6)
Section 32	5 May 2022	2021/231 (W. 57) (C. 6)
Section 33	5 May 2022	2021/231 (W. 57) (C. 6)
Section 34	5 May 2022	2021/231 (W. 57) (C. 6)
Section 35	4 March 2021	2021/231 (W. 57) (C. 6)
Section 36	5 May 2022	2021/231 (W. 57) (C. 6)
Section 37	5 May 2022	2021/231 (W. 57) (C. 6)
Section 39	5 May 2022	2021/231 (W. 57) (C. 6)
Section 40	5 May 2022	2021/231 (W. 57) (C. 6)
Section 41	5 May 2022	2021/231 (W. 57) (C. 6)
Section 42	5 May 2022	2021/231 (W. 57) (C. 6)
Section 43	5 May 2022	2021/231 (W. 57) (C. 6)
Section 44	5 May 2022	2021/231 (W. 57) (C. 6)
Section 45	5 May 2022	2021/231 (W. 57) (C. 6)
Sections 46(1)(b) and (c), (2)(b), (3), (4), and (8) to (10) (partially)	4 March 2021	2021/231 (W. 57) (C. 6)
Section 46 (remainder)	5 May 2022	2021/231 (W. 57) (C. 6)
Section 47(8)	4 March 2021	2021/231 (W. 57) (C. 6)
Section 48	5 May 2022	2021/231 (W. 57) (C. 6)
Section 52	1 April 2022	2021/231 (W. 57) (C. 6)
Section 54	5 May 2022	2021/231 (W. 57) (C. 6)
Section 56	5 May 2022	2021/231 (W. 57) (C. 6)



**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Section 57	5 May 2022	2021/231 (W. 57) (C. 6)
Section 58	5 May 2022	2021/231 (W. 57) (C. 6)
Section 59	4 March 2021	2021/231 (W. 57) (C. 6)
Section 62	5 May 2022	2021/231 (W. 57) (C. 6)
Section 63	5 May 2022	2021/231 (W. 57) (C. 6)
Section 65	5 May 2022	2021/231 (W. 57) (C. 6)
Section 66	5 May 2022	2021/231 (W. 57) (C. 6)
Section 67	5 May 2022	2021/231 (W. 57) (C. 6)
Section 161(1)	4 March 2021	2021/231 (W. 57) (C. 6)
Sections 161 (remainder)	5 May 2022	2021/231 (W. 57) (C. 6)
Section 162	5 May 2022	2021/231 (W. 57) (C. 6)
Section 163	1 April 2021	2021/231 (W. 57) (C. 6)
Section 164	1 April 2021	2021/231 (W. 57) (C. 6)
Part 1 of Schedule 3	1 November 2021	2021/231 (W. 57) (C. 6)
Part 2 of Schedule 3	5 May 2022	2021/231 (W. 57) (C. 6)
Schedule 5	5 May 2022	2021/231 (W. 57) (C. 6)
Schedule 6 (partially)	5 May 2022	2021/231 (W. 57) (C. 6)
Schedule 7	5 May 2022	2021/231 (W. 57) (C. 6)
Schedule 13	5 May 2022	2021/231 (W. 57) (C. 6)

See section 175(1) of the 2021 Act for provisions which came into force on the day after the day on which the 2021 Act received Royal Assent. See section 175(3) for provisions which came into force 2 months after the 2021 Act received Royal Assent. The 2021 Act received Royal Assent on 20 January 2021. See also section 175(4) of the 2021 Act for provisions which come into force on 1 April 2021.