



Local Government (Wales) Act 2015

2015 anaw 6

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).