



Local Government (Wales) Measure 2009

2009 nawm 2

PART 1

LOCAL GOVERNMENT IMPROVEMENT

The Welsh Ministers

28 Welsh Ministers: support for Welsh improvement authorities

- (1) If they have complied with subsection (3), the Welsh Ministers may do anything which they consider is likely to assist a Welsh improvement authority to comply with the requirements of this Part.
- (2) The power under subsection (1) includes power—
 - (a) to enter into arrangements or agreements with any person;
 - (b) to co-operate with, or facilitate or co-ordinate the activities of, any person;
 - (c) to exercise on behalf of any person any functions of that person;
 - (d) to provide staff, goods, services or accommodation to any person.
- (3) Unless they are exercising the power under subsection (1) in response to a request made under subsection (4), the Welsh Ministers must, before exercising that power, consult—
 - (a) the Welsh improvement authority or authorities whom they propose to assist by the exercise of the power; and
 - (b) those persons who appear to the Welsh Ministers to be key stakeholders affected by the exercise of the power referred to in subsection (1).
- (4) If a Welsh improvement authority asks them to do so, the Welsh Ministers must consider whether to exercise their power under subsection (1).

29 Welsh Ministers: powers of direction etc

- (1) This section applies in relation to a Welsh improvement authority if the Welsh Ministers are satisfied as to any of the following—

Status: This is the original version (as it was originally enacted).

- (a) that—
 - (i) the authority has been the object of the exercise by the Welsh Ministers of their power under section 28 for the purpose of assisting the authority to comply with any of the requirements of this Part; and
 - (ii) the authority is failing, or is likely to fail, to comply with any of the requirements of this Part and that failure, or likely failure, concerns a requirement mentioned in sub-paragraph (i);
 - (b) that—
 - (i) the authority is failing, or is likely to fail, to comply with any of the requirements of this Part; and
 - (ii) the urgency of the situation or the potential consequences of the failure, or likely failure, are such that it is appropriate to exercise a power under this section despite the Welsh Ministers not having exercised their power under section 28 for the purpose of assisting the authority to comply with those requirements; or
 - (c) that—
 - (i) the authority is failing, or is likely to fail, to comply with any of the requirements of this Part;
 - (ii) the Welsh Ministers have decided that they wish to exercise their power under section 28 for the purpose of assisting the authority to comply with those requirements; and
 - (iii) the power under section 28 cannot be exercised effectively because the authority has failed to co-operate with the Welsh Ministers.
- (2) Where this section applies in relation to a Welsh improvement authority, the Welsh Ministers may direct it to do all or any of the following—
- (a) prepare or amend an improvement plan or to follow specified procedures in relation to such a plan;
 - (b) carry out a review of its exercise of specified functions;
 - (c) enter into specified collaboration arrangements with another Welsh improvement authority;
 - (d) set specified improvement objectives for itself under section 3.
- (3) Where this section applies in relation to a Welsh improvement authority, the Welsh Ministers may direct a local inquiry to be held into the exercise of specified functions of the authority.
- (4) Subsections (2) to (5) of section 250 of the Local Government Act 1972 (inquiries) shall apply in relation to an inquiry which the Welsh Ministers direct to be held under this section as they apply in relation to an inquiry caused to be held under that section.
- (5) Where this section applies in relation to a Welsh improvement authority the Welsh Ministers may direct the authority to take any action which the Welsh Ministers consider necessary or expedient to secure its compliance with the requirements of this Part.
- (6) Where this section applies in relation to a Welsh improvement authority the Welsh Ministers may direct—
- (a) that a specified function of the authority must be exercised by the Welsh Ministers or a person nominated by them for a period specified in the direction or for so long as the Welsh Ministers consider appropriate; and

- (b) that the authority must comply with any instructions of the Welsh Ministers or their nominee in relation to the exercise of that function and must provide such assistance as the Welsh Ministers or their nominee may require for the purpose of exercising the function.
- (7) The Welsh Ministers may by regulations make provision which—
 - (a) relates to an enactment which confers a function on them in respect of a function of a Welsh improvement authority; and
 - (b) they consider necessary or expedient for the purposes of cases in which they make a direction under subsection (6)(a).
- (8) Regulations under subsection (7) may, in relation to the cases mentioned in subsection (6)(b)—
 - (a) disapply or modify an enactment of the kind mentioned in subsection (7)(a);
 - (b) have an effect similar to the effect of an enactment of that kind.
- (9) A direction given under this section—
 - (a) shall be enforceable by mandatory order on the application of the Welsh Ministers;
 - (b) may be published, in whole or in part, by the Welsh Ministers.

30 Powers of direction: collaboration arrangements

- (1) This section applies to a Welsh improvement authority to which section 29 does not apply.
- (2) Having first consulted the authority, the Welsh Ministers may direct the authority to enter into specified collaboration arrangements with a Welsh improvement authority to which section 29 does apply.
- (3) A direction given under this section shall be enforceable by mandatory order on the application of the Welsh Ministers.

31 Power of Welsh Ministers to modify enactments and confer new powers

- (1) If the Welsh Ministers think that an enactment prevents or obstructs compliance by Welsh improvement authorities with the requirements of this Part they may by order make provision modifying or excluding the application of the enactment in relation to—
 - (a) all Welsh improvement authorities;
 - (b) particular Welsh improvement authorities; or
 - (c) particular descriptions of Welsh improvement authority.
- (2) The Welsh Ministers may by order make provision conferring on—
 - (a) all Welsh improvement authorities;
 - (b) particular Welsh improvement authorities; or
 - (c) particular descriptions of Welsh improvement authority,any power which they consider necessary or expedient to permit or facilitate compliance with the requirements of this Part.
- (3) An order under this section may—

- (a) impose conditions on the exercise of any power conferred by the order (including conditions about consultation or approval);
 - (b) amend an enactment.
- (4) In exercising a power conferred under subsection (2) a Welsh improvement authority must have regard to any guidance issued by the Welsh Ministers.
- (5) In this section “enactment” includes subordinate legislation (within the meaning of section 21 of the Interpretation Act 1978).

32 Orders under section 31: procedure

- (1) Before the Welsh Ministers make an order under section 31 they must consult such authorities or persons as appear to them to be representative of interests affected by their proposals.
- (2) If, following consultation under subsection (1), the Welsh Ministers propose to make an order under section 31 they must lay before the National Assembly for Wales a document explaining their proposals and, in particular—
 - (a) setting out their proposals in the form of a draft order; and
 - (b) giving details of consultation under subsection (1).
- (3) Where a document relating to proposals is laid before the National Assembly for Wales under subsection (2), a draft of an order under section 31 to give effect to the proposals (with or without modification) must not be laid before the Assembly until after the expiry of the period of sixty days beginning with the day on which the document was laid.
- (4) In calculating the period mentioned in subsection (3) no account shall be taken of any time during which the National Assembly is dissolved or is in recess for more than four days.
- (5) In preparing a draft order under section 31 the Welsh Ministers must consider any representations made during the period mentioned in subsection (3).
- (6) A draft order laid before the National Assembly for Wales in accordance with section 50(6) must be accompanied by a statement of the Welsh Ministers giving details of—
 - (a) any representations considered in accordance with subsection (5), and
 - (b) any changes made to the proposals contained in the document laid before the National Assembly for Wales under subsection (2) above.
- (7) Nothing in this section applies to an order under section 31 which is made only for the purpose mentioned in section 50(7).