



# Local Government (Wales) Measure 2011

## 2011 nawm 4

### PART 10

#### GENERAL

#### **172 Orders and regulations**

- (1) Any power of the Welsh Ministers to make an order or regulations under this Measure is exercisable by statutory instrument.
- (2) A statutory instrument containing any of the following may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales—
  - (a) regulations under section 9(1)(i), Part 2, section 140, 165 or 166(2);
  - (b) an order under section 127, 158, 162 or 170;
  - (c) an order amending an order under section 162;
  - (d) an order under section 177 that contains modifications of an enactment (other than an enactment contained in subordinate legislation).
- (3) For additional requirements in relation to the making by the Welsh Ministers of orders under sections 127 and 162, see sections 173 and 169 respectively.
- (4) Any other statutory instrument containing an order or regulations under this Measure, apart from an instrument containing only an order under section 178 (commencement), is subject to annulment in pursuance of a resolution of the National Assembly for Wales.
- (5) Any power of the Welsh Ministers under this Measure to apply an enactment is a power to apply it with or without modifications.
- (6) Any power of the Welsh Ministers to make an order or regulations under this Measure includes (but is not limited to) power—
  - (a) to make different provision for different cases, different purposes, or different geographical areas;
  - (b) to make provision generally or in relation to specific cases;

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*Changes to legislation: There are currently no known outstanding effects for the Local Government (Wales) Measure 2011, PART 10. (See end of Document for details)*

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- (c) to make such supplementary, transitional, transitory, consequential, saving, incidental and other provision as the Welsh Ministers consider necessary or appropriate.

### **173 Procedure applicable to certain orders under section 127**

- (1) The Welsh Ministers must comply with this section before making an order under section 127 to give effect to proposals to modify an enactment which they consider prevents or obstructs community councils from exercising their power under section 2(1) of the Local Government Act 2000 (“the proposals”).
- (2) The Welsh Ministers must consult—
  - (a) such community councils,
  - (b) such representatives of community councils, 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 order under section 127 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 made 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 127 which is made only for the purpose of amending an earlier order under that section—
  - (a) so as to extend the earlier order, or any provision of the earlier order, to a particular community council or to community councils of a particular description, or
  - (b) so that the earlier order, or any provision of the earlier order, ceases to apply to a particular community council or to community councils of a particular description.

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#### **174 Guidance and directions**

- (1) Any power of the Welsh Ministers to give guidance under this Measure includes power to vary or revoke guidance given.
- (2) Any power of the Welsh Ministers to give directions under this Measure includes power to vary or revoke directions given.
- (3) Any power of the Welsh Ministers to give guidance or directions under this Measure includes power—
  - (a) to make different provision for different cases, different purposes, or different geographical areas;
  - (b) to make provision generally or in relation to specific cases.
- (4) Subsections (1) to (3) do not limit the powers under this Measure to give guidance or directions.

#### **175 Interpretation**

In this Measure—

“enactment” (“”) includes—

- (a) an enactment whenever passed or made,
- (b) an enactment contained in this Measure, and
- (c) provision contained in subordinate legislation (within the meaning of the Interpretation Act 1978);

“local authority” (“”) means a county borough council or county council in Wales;

“modifications” (“”) includes (but is not limited to) amendments, repeals and revocations.

“prescribed” (“”) means prescribed in regulations made by the Welsh Ministers.

#### **176 Consequential amendments and repeals**

- (1) In section 106 of the Local Government Act 2000 (Wales), after subsection (4) insert—
  - “(5) The power of the Welsh Ministers to make an order under section 21A(13)(b) or section 21G is exercisable by statutory instrument.
  - (6) A statutory instrument which contains an order made by the Welsh Ministers under section 21A(13)(b) is subject to annulment in pursuance of a resolution of the National Assembly for Wales.
  - (7) A statutory instrument which contains an order under section 21G may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales.”.
- (2) Schedule 4 (repeals and revocations) has effect.
- (3) The revocation of the Local Authorities (Allowances for Members) (Wales) Regulations 2007 (S.I. 2007/1086), by subsection (2), does not affect the power of the Panel to prescribe matters in relation to a scheme made under Part 2 of those Regulations where that scheme operates during any part of the financial year beginning

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1 April 2011 (and for this purpose “Panel” and “financial year” have the same meanings as in Part 8 of this Measure).

**Annotations:**

**Commencement Information**

- I1** S. 176 partly in force; s. 176(2) in force for certain purposes at 11.5.2011 and for certain further purposes at 10.7.2011, see s. 178(1)(c)(2)(d)
- I2** S. 176(1) in force at 30.4.2012 by S.I. 2012/1187, art. 2(1)(p)
- I3** S. 176(2) in force at 30.4.2012 in so far as not already in force by S.I. 2012/1187, art. 2(2)(l)

**177 Power to make supplementary provision**

- (1) The Welsh Ministers may, by order, make such supplementary, incidental, consequential, transitional, transitory and saving provision as they consider appropriate in connection with this Measure.
- (2) The provision that may be made under subsection (1) includes (but is not limited to) modifications of any enactment.
- (3) The modifications that may be made by virtue of subsection (2) are in addition to those made by or which may be made under any other provision of this Measure.

**178 Commencement**

- (1) The following provisions come into force on the day after the day on which this Measure is approved by Her Majesty in Council—
  - (a) sections 58, 77, 79, 80 and 159;
  - (b) this Part (except section 176);
  - (c) Part E of Schedule 4 (and section 176(2) in so far as it relates to Part E of Schedule 4).
- (2) The following provisions come into force at the end of the period of two months beginning with the day on which this Measure is approved by Her Majesty in Council—
  - (a) Parts 3 and 4;
  - (b) sections 55 and 76;
  - (c) Chapters 2 to 9 of Part 7;
  - (d) Parts B and C of Schedule 4 (and section 176(2) in so far as it relates to Parts B and C of Schedule 4).
- (3) Subject to subsections (1) and (2), this Measure comes into force in accordance with provision made by the Welsh Ministers by order.

**179 Short title**

This Measure may be cited as the Local Government (Wales) Measure 2011.

**Changes to legislation:**

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