



# Local Government (Wales) Act 1994

## 1994 CHAPTER 19

### PART III

#### DECENTRALISATION AND JOINT WORKING

##### *Decentralisation schemes*

#### **27 Decentralisation schemes: preparation.**

- (1) If the conditions mentioned in subsection (2) are satisfied, the Secretary of State may give a direction to a new principal council requiring them to prepare and submit to him a decentralisation scheme for such area falling within the area of the council as the Secretary of State sees fit to specify in the direction.
- (2) The conditions are that—
  - (a) an application relating to the council has been made to the Secretary of State under this section by ten or more of their members;
  - (b) the application is expressed to be made in relation to a specified area falling within the area of the council; and
  - (c) at least ten of those persons making the application are members of the council who are connected with the area specified in the application.
- (3) In this section—

“decentralisation scheme”, in relation to a council, means a scheme which provides for the exercise of specified functions of the council to be discharged by a committee of the council established for the purposes of the scheme; and

“direction” means a direction under subsection (1).
- (4) Any council to whom a direction has been given shall submit the required decentralisation scheme to the Secretary of State in accordance with the direction.
- (5) A direction may require a decentralisation scheme to be submitted before a specified date.

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- (6) A committee established for the purposes of a decentralisation scheme is referred to in this Act as an area committee.
- (7) No application under subsection (2) may be made after 1st January 1996 and no direction may be given after 1st July 1996.
- (8) The Secretary of State shall not give a direction unless he is satisfied that a decentralisation scheme is likely to be appropriate for the area in question.
- (9) In considering whether a decentralisation scheme is likely to be appropriate for any area (“the local area”), the Secretary of State shall have regard to—
  - (a) the desirability of providing for the efficient administration of local government functions both in relation to the area of the principal council as a whole and in relation to the local area; and
  - (b) the particular circumstances of the local area including its geographical, historical, cultural and demographic circumstances.
- (10) A direction may specify any area to which it relates by reference to specific boundaries or by a general description.
- (11) The Secretary of State may from time to time issue guidance with respect to the preparation and content of decentralisation schemes.
- (12) Any such guidance may be—
  - (a) general, relating to all decentralisation schemes or all schemes of a specified description; or
  - (b) specific to a particular scheme.
- (13) In specifying any area in a direction, the Secretary of State shall have regard to, but not be bound by, the terms of the application in response to which it is given.
- (14) For the purposes of subsection (2), a member of a council is connected with a specified area if he is a member for an electoral division which, or any part of which, falls within that area.

## **28 Decentralisation schemes: approval and implementation.**

- (1) Where a council have submitted a decentralisation scheme to the Secretary of State under section 27 he shall, before the end of the period of six months beginning with the date on which the scheme was submitted to him—
  - (a) approve the scheme as submitted;
  - (b) approve the scheme subject to such modifications as he considers appropriate; or
  - (c) reject the scheme.
- (2) Where he proposes not to approve the scheme as submitted, the Secretary of State shall notify the council concerned, before the end of that six month period, of the modifications which he proposes to make to the scheme, or (as the case may be) that he proposes to reject the scheme.
- (3) Before he approves a scheme subject to modifications, or rejects a scheme, the Secretary of State shall have regard to any representations which have been made to him by the council concerned.

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- (4) Where the Secretary of State approves a decentralisation scheme, it shall be the duty of the council concerned to implement and maintain the scheme.
- (5) The Secretary of State's decision under subsection (1) shall be given in writing.
- (6) Where the Secretary of State approves a decentralisation scheme, he may give a direction to the council concerned as to the date by which the scheme is to be implemented.
- (7) Where the Secretary of State has rejected a decentralisation scheme, he may at any time before the end of the period of six months beginning with the date on which he rejected the scheme, direct the council concerned to prepare and submit to him a revised scheme under section 27.
- (8) Nothing in section 27(7) shall be taken to prevent the giving of a direction under subsection (7).
- (9) A direction under subsection (7) may require the revised scheme to be submitted to the Secretary of State before a specified date.

## **29 Area committees: safeguards.**

- (1) Where an area committee has been established by a council in accordance with an approved decentralisation scheme—
  - (a) the council shall not, except with the agreement of the committee, abolish the committee or alter any arrangements in force with respect to the committee which were made in accordance with the scheme as originally approved or which have subsequently been agreed with the committee; and
  - (b) nothing in section 101(4) of the 1972 Act (power of local authority to exercise functions otherwise discharged by committee) shall be taken to authorise the council to exercise any functions which are to be discharged by the committee, except as provided for by the scheme.
- (2) Every decentralisation scheme shall include provision, to be given effect to by the standing orders of the council concerned, for the majority required in order for any suspending resolution to be passed to be such majority greater than a simple majority as may be specified by the scheme.
- (3) In subsection (2) “suspending resolution”, in relation to a decentralisation scheme, means a resolution to suspend any of the arrangements in force with respect to an area committee established in accordance with the scheme.

## **30 Area committees: membership etc.**

- (1) This section applies where an area committee has been established by a council in accordance with an approved decentralisation scheme.
- (2) The provisions of the 1972 Act with respect to arrangements for the discharge of functions by committees of local authorities and sub-committees, and the appointment of such committees and sub-committees, shall be subject to this section and section 31.
- (3) Every person who is a member of the council for an electoral division which falls within the area for which the committee is established shall be entitled to be appointed to the committee at his request.

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- (4) The committee may appoint additional persons, including members of the council who are not entitled to membership of the committee under subsection (3), as members of the committee.
- (5) No other persons shall be eligible for appointment to the committee.
- (6) In this section, in relation to an area committee, “co-opted member” means any member appointed by the committee under subsection (4).
- (7) Where the Secretary of State has given a direction under [<sup>F1</sup>section 499 of the Education Act 1996] (power to direct appointment of members of certain committees) which applies to the committee and can only be complied with by the appointment of one or more additional members to the committee, it shall be the duty of the committee to exercise its powers of appointment to secure compliance with the direction.
- (8) A co-opted member of an area committee shall not be entitled to vote at any meeting of the committee on any question which falls to be decided at that meeting.
- (9) Nothing in subsection (8) shall prevent the appointment of a person, in compliance with a direction under [<sup>F2</sup>section 499 of the Act of 1996], as a voting member of an area committee.
- (10) In the application of section 101 of the 1972 Act (arrangement for discharge of functions by local authorities) in relation to the committee—
  - (a) subsection (1) shall have effect as if it gave power to the committee, if authorised to do so by the decentralisation scheme, to arrange for the discharge of any of its functions by a local authority other than the authority who made the scheme;
  - (b) subsection (2) shall have effect with the omission of the words “unless the local authority otherwise direct” and (in the second place where they occur) the words “the local authority or”.
- (11) Sections 102(3) of the 1972 Act (power to include persons who are not members of the local authority concerned) and 15 of the <sup>M1</sup>Local Government and Housing Act 1989 (political balance on committees) shall not apply in relation to membership of the committee.
- (12) The term of office of each of the co-opted members of an area committee shall be fixed by the committee.
- (13) Section 102(2) of the 1972 Act (number of members of committee and terms of office) shall not apply in relation to the committee.
- (14) In the case of an appointment made in order to comply with a direction under [<sup>F2</sup>section 499 of the Act of 1996], the committee shall exercise its powers under subsection (12) subject to any provision of the direction relating to terms of office.

#### **Annotations:**

##### **Amendments (Textual)**

- F1** Words in s. 30(7) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37 Pt. I para. 123(2)** (with ss. 1(4), 561, 562, Sch. 39)
- F2** Words in s. 30(9)(14) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37 Pt. I para. 123(3)** (with ss. 1(4), 561, 562, Sch. 39)

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#### Marginal Citations

**M1** 1989 c. 42.

### 31 Sub-committees of area committees.

- (1) In this section “sub-committee” means a sub-committee of an area committee.
- (2) The members of a sub-committee shall be appointed by the area committee from among persons who are—
  - (a) members of the area committee appointed under subsection (3) of section 30; or
  - (b) entitled to be members of the area committee by virtue of that subsection.
- (3) Subject to subsection (10), a sub-committee may appoint additional persons, including persons who are not members of the area committee concerned, as members of the sub-committee.
- (4) No other persons shall be eligible for appointment to a sub-committee.
- (5) In this section, in relation to a sub-committee, “co-opted member” means any member of the sub-committee appointed under subsection (3).
- (6) Where the Secretary of State has given a direction under [F<sup>3</sup>section 499 of the Education Act 1996] (power to direct appointment of members of certain committees) which applies to a sub-committee, it shall be the duty of the area committee concerned and the sub-committee to secure compliance with the direction.
- (7) A co-opted member of a sub-committee shall not be entitled to vote at any meeting of the sub-committee on any question which falls to be decided at that meeting.
- (8) Nothing in subsection (7) shall prevent the appointment of a person in compliance with a direction under [F<sup>4</sup>section 499 of the Act of 1996] as a voting member of a sub-committee.
- (9) Sections 102(3) of the 1972 Act (power to include persons who are not members of the local authority concerned) and 15 of the <sup>M2</sup>Local Government and Housing Act 1989 (political balance on committees) shall not apply in relation to membership of a sub-committee.
- (10) The number of members of a sub-committee and their terms of office shall be fixed by the area committee concerned.
- (11) Section 102(2) of the 1972 Act (number of members of committee and terms of office) shall not apply in relation to the sub-committee.
- (12) In the case of an appointment made in order to comply with a direction under [F<sup>4</sup>section 499 of the Act of 1996], the area committee shall exercise its powers under subsection (10) subject to any provision of the direction relating to terms of office.

#### Annotations:

#### Amendments (Textual)

**F3** Words in s. 31(6) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37 Pt. I para. 124(2)** (with ss. 1(4), 561, 562, **Sch. 39**)

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**F4** Words in s. 31(8)(12) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37 Pt. I para. 124(3)** (with ss. 1(4), 561, 562, Sch. 39)

**Marginal Citations**

**M2** 1989 c. 42.

*Joint working*

**32 Provision of information to Secretary of State.**

**F5** .....

**Annotations:**

**Amendments (Textual)**

**F5** S. 32 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), s. 1(1), {Sch. 1 Pt. 10 Group 3}

**33 Joint working arrangements.**

- (1) Where it appears to the Secretary of State—
- (a) that particular functions of a new principal council should be discharged in accordance with arrangements entered into by that council and one or more other such councils in relation to the exercise of those functions, but
  - (b) that satisfactory arrangements for the exercise of those functions will not be, or are unlikely to be, in force on or after 1st April 1996,
- he may, at any time before 31st March 1999, give a direction to the councils concerned requiring them to make specified arrangements in relation to the exercise of specified functions.
- (2) The arrangements specified may, in particular, be, or include, arrangements for the joint exercise of functions.
- (3) In this section “specified”, in relation to a direction, means specified in the direction.
- (4) In considering whether to give a direction under subsection (1), the Secretary of State shall have regard, in particular, to the desirability of the functions in question being discharged effectively and in a financially efficient manner.
- (5) A direction under subsection (1) shall remain in force—
- (a) until it is withdrawn by a notice in writing given by the Secretary of State to the councils concerned; or
  - (b) where a period is specified in the direction during which the direction is to have effect, and the direction has not been withdrawn by the Secretary of State, until the end of that period.
- (6) A direction under subsection (1) may at any time while it is in force be varied by the Secretary of State.
- (7) Nothing in subsection (5) or (6) shall be taken to affect the power of the Secretary of State to give a further direction under subsection (1).

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### **34 Joint authorities.**

- (1) Where a direction has been given by the Secretary of State under section 33 but it appears to him that—
  - (a) it has proved impracticable to implement the arrangements required by the direction,
  - (b) the required arrangements have been implemented but are not working satisfactorily, or
  - (c) the required arrangements are, or have been, working satisfactorily but are unlikely to continue to work satisfactorily,he may by order establish a body to act for the areas of the councils to which the direction relates.
- (2) A body established under subsection (1) shall be known as a joint authority and may be established as a body corporate.
- (3) A joint authority shall consist of such number of members as may be determined by the order establishing it.
- (4) Those members shall be appointed by the councils to which the order relates, from among their members, each council being entitled to appoint such number of members as may be specified in the order.
- (5) Where at any time the number of members of a joint authority is less than the required number, the Secretary of State may, if he is satisfied that the councils concerned have had a reasonable opportunity to make the necessary appointment or appointments—
  - (a) give such direction to the councils concerned or to any of them as he considers appropriate; and
  - (b) appoint such members (from among such persons as he considers appropriate) as may be required to complete the membership of the authority.
- (6) The joint authority shall discharge the functions to which the direction relates, from a date specified in the order establishing the authority until such alternative arrangements for the exercise of the functions as appear to the Secretary of State to be satisfactory are brought into force.
- (7) The power conferred on the Secretary of State by subsection (1) may not be exercised after 31st March 1999 but an order under subsection (1) which is made before that date shall continue in force until revoked by the Secretary of State.
- (8) An order under this section may—
  - (a) provide for the joint authority concerned to be treated, for all purposes or only for the purposes of such enactments as may be prescribed, as a new principal council;
  - (b) provide for such enactments relating to new principal councils as may be prescribed (either generally or by reference to specified enactments) to have effect in relation to the joint authority concerned subject to such modifications as may be prescribed;
  - (c) make provision enabling the Secretary of State to require the joint authority concerned to submit to him a scheme for winding itself up and for the transfer to any of the councils for whose areas the joint authority is established of any of the joint authority's property, rights and liabilities or of any functions which it carries out.

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- (9) The Secretary of State may by order provide—
- (a) for excluding any functions, or any functions in any area, from those falling to be carried out by a joint authority; and
  - (b) for giving effect (with or without modifications) to any scheme submitted to him under a provision made by virtue of subsection (8) for the dissolution of a joint authority.
- (10) The power to make an order under this section includes, in particular, power to make provision for the transfer of property, rights and liabilities.



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**Commencement Orders yet to be applied to the Local Government (Wales) Act 1994**

Commencement Orders bringing legislation that affects this Act into force:

- [S.I. 2011/556 art. 1-3](#) commences (2009 c. 23)
- [S.I. 2011/1728 art. 2 Sch. 1](#) commences (2006 c. 50)