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STATUTORY INSTRUMENTS

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**1995 No. 1042**

**LOCAL GOVERNMENT, ENGLAND AND WALES  
WALES**

The Local Government Reorganisation (Wales)  
(Transitional Provisions No. 2) Order 1995

<i>Made</i>	- - - -	<i>11th April 1995</i>
<i>Laid before Parliament</i>		<i>13th April 1995</i>
<i>Coming into Force</i>	- -	<i>4th May 1995</i>

The Secretary of State for Wales, in exercise of the powers conferred on him by section 54(1), (2)(a), (b), (e) and (i) of the Local Government (Wales) Act 1994<sup>(1)</sup>, hereby makes the following Order:

**Citation and commencement**

1. This Order may be cited as the Local Government Reorganisation (Wales) (Transitional Provisions No. 2) Order 1995 and shall come into force on 4th May 1995.

**Interpretation**

2. In this Order—

“the 1972 Act” means the Local Government Act 1972<sup>(2)</sup>;

“the 1994 Act” means the Local Government (Wales) Act 1994;

“existing authority” means a county or district council or joint board which will cease to exist as a result of the 1994 Act;

“new authority” means a county or county borough council established under the 1994 Act;

“the transitional period” means the period beginning with 4th May 1995 and ending on 31st March 1996.

**Functions and powers of new authorities during the transitional period**

3.—(1) Without prejudice to any functions or powers otherwise conferred on it, each new authority shall, during the transitional period, have the functions and powers described in this article.

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(1) 1994 c. 19.

(2) 1972 c. 70.

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- (2) Each new authority shall—
- (a) prepare itself for the assumption of its full functions and powers on 1st April 1996 and shall, in particular, establish such committees and sub-committees, appoint such staff, and prepare such budgets, plans, schemes and other things as are, or will be, required for that purpose; and
  - (b) liaise as necessary with any appropriate existing authority for the purpose of ensuring continuity in the performance of its functions on and after 1st April 1996.
- (3) Each new authority may exercise any of the powers contained in the provisions of the 1972 Act specified in the following Table—

<i>Section</i>	
101	Arrangement for discharge of functions.
102	Appointment of committees.
111	Subsidiary powers of local authorities.
112	Appointment of staff.
113	Placing of staff of local authorities at disposal of other local authorities.
118	Payment of salary, etc, due to mentally disordered person.
119	Payments due to deceased officers.
120	Acquisition of land by agreement by principal councils.
123	Disposal of land by principal councils.
132	Provision of offices, etc, by principal councils.
135	Contracts of local authorities.
136	Contributions towards expenditure on concurrent functions.
139	Acceptance of gifts of property.
140, 140A, 140B and 140C	Insurance.
141	Research and the collection of information.
142	Provision of information, etc, relating to matters affecting local government.
143	Subscriptions to local government associations.

#### **Controls etc applicable to new authorities during the transitional period**

4.—(1) During the transitional period a new authority shall, subject to any provision to the contrary, discharge its functions in the same manner and subject to the same regulation, requirements, controls and constraints as an existing authority and, in particular, the provisions specified in the following Table shall apply to each new authority notwithstanding it does not have the full functions and powers of a local authority—

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*Provision*

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Section 22 of the 1972 Act	Chairman of a principal council.
Section 23 of the 1972 Act	Election of chairman of a principal council.
Section 24 of the 1972 Act	Vice chairman of a principal council.
Section 70 of the 1972 Act	Restriction on promotion of Bills for changing local government areas, etc.
Part V of the 1972 Act	General provisions as to members and proceedings of local authorities.
Part VA of the 1972 Act	Access to meetings and documents of certain authorities, committees and sub-committees.
Section 103 of the 1972 Act	Expenses of joint committees.
Section 104 of the 1972 Act	Disqualification for membership of committees and joint committees.
Section 105 of the 1972 Act	Disability for voting on account of interest in contracts, etc.
Section 106 of the 1972 Act	Standing orders.
Section 114 of the 1972 Act	Security to be taken in relation to officers.
Section 115 of the 1972 Act	Accountability of officers.
Section 116 of the 1972 Act	Members of local authorities not to be appointed as officers.
Section 117 of the 1972 Act	Disclosure by officers of interest in contracts.
Section 128 of the 1972 Act	Consents to land transactions by local authorities and protection of purchasers.
Section 131 of the 1972 Act	Savings.
Section 146 of the 1972 Act	Transfer of securities on alteration of area, etc.
Section 151 of the 1972 Act	Financial administration.
Section 174 of the 1972 Act	Travelling allowance and subsistence allowance.
Section 175 of the 1972 Act	Allowances for attending conferences and meetings.
Section 176 of the 1972 Act	Payment of expenses of official and courtesy visits, etc.
Section 177 of the 1972 Act	Provisions supplementary to sections 173 to 176.
Section 178 of the 1972 Act	Regulations as to allowances.
Section 224 of the 1972 Act	Arrangements by principal councils for custody of documents.
Section 225 of the 1972 Act	Deposit of documents with proper officer of authority, etc.
Section 228 of the 1972 Act	Inspection of documents.

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<i>Provision</i>	
Section 229 of the 1972 Act	Photographic copies of documents.
Section 232 of the 1972 Act	Public notices.
Section 234 of the 1972 Act	Authentication of documents.
Section 7 of the Superannuation Act 1972(3)	Superannuation of persons employed in local government service, etc.
Part III of the Local Government Act 1974(4)	Local government administration.
Part III of the Local Government Finance Act 1982(5)	Accounts and audit.
Part VIII of the Local Government Finance Act 1988(6)	Financial administration.
Part I of the Local Government and Housing Act 1989(7)	Local authority members, officers, staff and committees, etc.
Section 31 of the Local Government and Housing Act 1989	National Code of Local Government Conduct.
Part IV of the Local Government and Housing Act 1989	Revenue accounts and capital finances of local authorities.
The Local Authorities (Members' Allowances) Regulations 1991.(8)	
The Local Authorities (Standing Orders) Regulations 1993(9) except for the provisions of paragraphs 1 and 2 of Part I of Schedule 1 and paragraph 3(a) of Part II of that Schedule.	

(2) Regulation 6(1) of the Local Authorities (Members' Allowances) Regulations 1991 shall be construed as requiring each new authority as soon as practicable after 4th May 1995 to make a scheme in accordance with those Regulations for the payment of allowances in respect of the period up to 1st April 1996 and for subsequent years.

(3) A scheme made in accordance with paragraph (2) shall have effect from 4th May 1995.

### **Application of Secretary of State directions etc to new authorities during the transitional period**

5. Where under any provision the Secretary of State is empowered to give directions or issue guidance to an existing authority, or is otherwise empowered to make a decision in relation to an existing authority, that power may be exercised during the transitional period in relation to a new authority to the extent that this is consistent with the powers and duties conferred and imposed on such authority.

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(3) 1972 c. 11.

(4) 1974 c. 7.

(5) 1982 c. 32.

(6) 1988 c. 41.

(7) 1989 c. 42.

(8) S.I. 1991/351; relevant amending instruments are S.I. 1995/553 and S.I. 1995/570.

(9) S.I. 1993/202.

### **Duty of existing authorities to assist new authorities**

6. Each existing authority shall provide any new authority with such assistance and information as that new authority may reasonably request for the purposes of discharging any of its functions.

### **Access by new authorities to information held by existing authorities**

7.—(1) The right conferred by this article shall be exercisable by a new authority against any existing authority.

(2) Upon giving reasonable notice, a new authority (acting through any authorised officer) shall have the right at all reasonable times to inspect and take copies of recorded information (wherever held and in whatever form), or otherwise extract information therefrom, to which access is necessarily required for the proper discharge of its functions.

(3) The existing authority against whom the right is exercised shall supply all such information and assistance as may reasonably be required in relation to the exercise of the right.

(4) The duty imposed upon an existing authority, when a new authority exercises its right under this article, is in addition to, and without prejudice to, the duty imposed upon that authority by article 6 or any duty otherwise imposed.

### **Registers and similar records required to be maintained**

8.—(1) This article applies to a new authority (“a relevant authority”) which does not, or will not, receive from an existing authority all of the material comprised in any register maintained by the existing authority so far as relevant to the area of the new authority.

(2) Upon giving reasonable notice, a relevant authority (acting through any authorised officer) shall at all reasonable times be entitled to access to such material as is referred to in paragraph (1) which it has not received, or will not receive, whether in the possession of an existing authority or new authority, to enable copies to be taken or information extracted.

(3) In fulfilling its obligation to maintain a register, a relevant authority may incorporate with any material copied or extracted in accordance with paragraph (2) a certificate that it is a true copy of, or extract from, the register from which it has been copied or extracted and thereafter the certified copy or extract may be maintained as the register or, as the case may be, part of the register, that the relevant authority is required to maintain.

(4) Nothing in this article shall affect the operation of any other provision in relation to any register which a relevant authority is required to maintain.

(5) For the purposes of this article “register” means any register, map, list or other document of whatever form and in whatever medium which a local authority is required to maintain.

### **Definitive map and statement of public rights of way**

9.—(1) This article has effect in relation to the definitive maps and statements of public rights of way which are required to be maintained in accordance with Part III of the Wildlife and Countryside Act 1981 (“the 1981 Act”) (10).

(2) Where the area of a new authority is not covered by, or included within, one single definitive map and statement, the new authority may prepare a copy of such definitive maps and statements, or parts thereof, as cover its area (as duly modified in accordance with the provisions of Part III of the 1981 Act) and the copy map and statement so prepared shall be regarded for the purposes of the said Part III as the definitive map and statement for the area of the new authority.

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(10) 1981 c. 69.

(3) Where a copy map and statement is prepared in accordance with the provisions of paragraph (2) before 1st April 1996, it shall not have effect as the definitive map and statement prior to that date.

### **Interim monitoring officer**

**10.**—(1) If, at the time of the holding of the first meeting of a new authority in accordance with paragraph 5(1) of Schedule 5 to the 1972 Act (**11**), the new authority is not in a position to designate a monitoring officer as required by section 5(1) of the Local Government and Housing Act 1989, it shall appoint an interim monitoring officer in accordance with the provisions of this article.

(2) The obligation for a new authority to have an interim monitoring officer shall continue until the designation of a monitoring officer by the authority under section 5(1) of the Act of 1989.

(3) Subject to the provisions of this article, section 5 of the Act of 1989 shall apply to an interim monitoring officer in the same way as it applies to a monitoring officer, and the interim monitoring officer shall, for all purposes, be treated as the new authority's monitoring officer.

(4) An interim monitoring officer shall be paid such remuneration and allowances (if any) as the new authority appointing him think fit.

(5) The duties of an interim monitoring officer shall be performed by him personally.

(6) A new authority shall not appoint as its interim monitoring officer a person who holds any other paid office or employment with that authority.

(7) During the period of his appointment an interim monitoring officer shall not be appointed to any other paid office or employment of the new authority.

(8) Any person who ceases to be an interim monitoring officer shall be disqualified from being appointed to any paid office or employment with that new authority until 1st April 1996.

(9) A member of a new authority shall be disqualified from being appointed as an interim monitoring officer for the authority.

(10) The new authority may revoke the appointment of an interim monitoring officer if—

(a) he becomes bankrupt or makes an arrangement with his creditors; or

(b) he is, in the opinion of the new authority, unable or unfit to discharge his duties.

(11) If the appointment of an interim monitoring officer is ended other than by reason of the designation of a monitoring officer a new authority shall, unless they designate a monitoring officer, appoint a further person to be an interim monitoring officer and the provisions of this article shall have effect in relation to that further appointment.

### **Section 116 of the Local Government Act 1972**

**11.** A person who on, or before, 1st April 1996 has ceased to be a member of a new authority shall not be disqualified by section 116 of the 1972 Act from being appointed by that authority to a paid office.

### **Minutes of final meetings of existing authorities**

**12.**—(1) This article applies to the minutes for the final meeting (“the meeting”) of—

(a) an existing authority;

(b) a committee of an existing authority or a sub-committee of such a committee; or

(c) a joint committee of existing authorities or a sub-committee of such a committee.

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(11) Schedule 5 was substituted by section 3 of, and Schedule 3 to, the 1994 Act.

(2) Where practicable, the minutes shall be signed at the conclusion of the meeting by the person who chaired the meeting.

(3) If the minutes are not signed in accordance with paragraph (2) they shall, as soon as is reasonably practicable, be sent to all members who were present at the meeting inviting any representations within seven days thereof.

(4) As soon as is reasonably practicable after the expiry of the seven day period referred to in paragraph (3) the person who chaired the meeting shall—

- (a) consider any representations received and, having taken into account any such representations, may alter the minutes; and
- (b) thereafter sign the minutes.

(5) If for any reason the person who chaired the meeting is unable to discharge the duties imposed by this article those members who attended the meeting shall nominate a person from amongst themselves for this purpose.

(6) Any minutes signed in accordance with this article shall be treated as having been made and signed in accordance with paragraph 41 of Schedule 12 to the 1972 Act or, as the case may be, in accordance with paragraph 41 as applied by paragraph 44 of that Schedule.

## **Sheriffs**

**13.**—(1) In this article—

“transferee sheriff” means the high sheriff for the sheriff’s area in which a transferred area is located on and after 1st April 1996;

“transferor sheriff” means the high sheriff for the sheriff’s area in which a transferred area is located immediately prior to 1st April 1996; and

“transferred area” means any of the following areas—

- (a) the communities of Llangedwyn, Llanrhaeadr-ym-Mochnant and Llansilin in the existing county of Clwyd;
- (b) the community of Pentyrch in the existing county of Mid Glamorgan; and
- (c) the communities of Ewenny, St. Bride’s Major and Wick, in the existing county of Mid Glamorgan.

(2) Any person who, immediately before 1st April 1996, is qualified under section 4 of the Sheriffs Act 1887<sup>(12)</sup> to be appointed high sheriff for the existing counties of Clwyd or Mid Glamorgan by reason of holding land in a transferred area shall, for a period of two years from that date, be qualified to be appointed high sheriff for the preserved county of Clwyd or the preserved county of Mid Glamorgan, as the case may be.

(3) A transferor sheriff shall on or after 1st April 1996—

- (a) perform (so far as they relate to persons or things in the transferred area) all the duties which are required by section 28(1) of the Act of 1887 to be performed at the expiration of a sheriff’s term of office; and
- (b) transfer to the custody of the transferee sheriff all documents of whatever description relating to the transferred area.

(4) In section 28(1) and (2) of the Act of 1887 the references to an “incoming sheriff” shall from 1st April 1996 be construed as including a reference to a transferee sheriff.

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(12) 1987 c. 55.

## **Deputy lieutenants**

**14.**—(1) In this article—

“transferred area” has the same meaning as in article 13; and

“transferor deputy lieutenant” means a deputy lieutenant for the lieutenant’s area in which a transferred area is located immediately prior to 1st April 1996.

(2) Any person who, immediately before 1st April 1996, is qualified under section 133(2)(a) of the Reserve Forces Act 1980<sup>(13)</sup> to be appointed as a deputy lieutenant for the existing counties of Clwyd or Mid Glamorgan by reason of having a place of residence within a transferred area, or within seven miles from the relevant boundary thereof, shall, for a period of two years from that date, be qualified to be appointed as a deputy lieutenant for the preserved county of Clwyd or the preserved county of Mid Glamorgan, as the case may be.

## **Definition of “local authority” for the purposes of sections 78 and 79 of the Criminal Justice and Public Order Act 1994**

**15.** To such extent as the county and district councils which will cease to exist as a result of the 1994 Act are not included in the term “local authority” in sections 78 and 79 of the Criminal Justice and Public Order Act 1994<sup>(14)</sup>, they shall until 1st April 1996 be treated as being so included.

11th April 1995

*John Redwood*  
Secretary of State for Wales

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<sup>(13)</sup> 1980 c. 9.

<sup>(14)</sup> 1994 c. 33.



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## EXPLANATORY NOTE

(This is not part of the Order)

This Order makes transitional provision with respect to local government reorganisation in Wales and, in particular, the new authorities to be established under the Local Government (Wales) Act 1994. The new authorities will come into existence on 4th May 1995, following their initial elections, and will take over full responsibility for local government in Wales on 1st April 1996 when the existing authorities are abolished. This Order covers that period and the initial period after 1st April 1996.

Article 3 vests functions and powers in the new authorities to enable them to prepare for the assumption of their full functions and to ensure continuity in performance on the transfer of functions.

Article 4 applies existing legislative provisions to the new authorities in relation to the discharge of their functions and exercise of powers.

Article 5 enables the Secretary of State to exercise existing direction making and other powers in relation to new authorities during the transitional period.

Article 6 imposes a duty upon old authorities to provide new authorities with assistance and information where so requested.

Article 7 confers a right upon new authorities to inspect and take copies of, or extracts from, relevant recorded information held by existing authorities.

Article 8 makes provision with respect to registers and other records that new authorities are required to maintain so that certified copy material can be used by a new authority to maintain a register or other record, where it does not receive the original material.

Article 9 contains provision allowing the consolidation of definitive maps and statements of public rights of way which are required to be maintained by new authorities in accordance with Part III of the Wildlife and Countryside Act 1981.

Article 10 makes provision for the appointment of interim monitoring officers by new authorities prior to the designation of permanent monitoring officers under section 5(1) of the Local Government and Housing Act 1989.

Article 11 disapplies section 116 of the Local Government Act 1972 in the case of a person who ceases to be a member of a new authority on, or before, 1st April 1996. As a consequence, such a person will not be disqualified by section 116 from holding a paid office with that authority for a period of one year from the date he or she ceases to be a member.

Article 12 makes provision with respect to the minutes of the final meetings of existing authorities, their committees and sub-committees, and joint committees of existing authorities together with sub-committees of such committees.

Article 13 makes transitional provision with respect to high sheriffs.

Article 14 makes transitional provision with respect to deputy lieutenants.

Article 15 makes supplemental provision with respect to the definition of “local authority” in relation to existing county and district councils for the purposes of sections 78 and 79 of the Criminal Justice and Public Order Act 1994.