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WELSH STATUTORY INSTRUMENTS

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**2012 No. 1187 (W.145) (C.40)**

**LOCAL GOVERNMENT, WALES**

**The Local Government (Wales) Measure 2011  
(Commencement No. 2 and Saving Provisions) Order 2012**

*Made* - - - - *29 April 2012*

The Welsh Ministers make the following Order in exercise of the powers conferred upon them by section 178(3) of the Local Government (Wales) Measure 2011<sup>(1)</sup>.

**Title and interpretation**

1.—(1) The title of this Order is the Local Government (Wales) Measure 2011 (Commencement No.2 and Saving Provisions) Order 2012.

(2) In this Order “the Measure” (“*y Mesur*”) means the Local Government (Wales) Measure 2011.

**Provisions coming into force on 30 April 2012**

2.—(1) The following provisions of the Measure come into force on 30 April 2012—

- (a) sections 5 to 7 (supporting membership);
- (b) sections 8 to 22 (local authority democratic services and interpretation);
- (c) sections 23 to 33 (family absence for members of local authorities);
- (d) sections 56 and 57 (exercise of functions by councillors);
- (e) section 61 (designated persons);
- (f) section 62 (taking into account the views of the public);
- (g) sections 63 to 65 (powers of councillors);
- (h) sections 66 to 75 (appointing persons to chair committees);
- (i) section 78 (prohibition of whipped votes & declaration of party whips);
- (j) sections 81 to 87 (audit committees);
- (k) sections 88 to 99 (community meetings and community polls);
- (l) section 147 (subsequent annual reports);
- (m) section 153 (compliance with Panel’s requirements);

- (n) section 155(1) (withholding payments);
  - (o) section 160 (consequential amendments);
  - (p) section 176(1) (consequential amendments and repeals); and
  - (q) Schedule 3 (payments and pensions: minor and consequential amendments (Part 8 of the Measure)).
- (2) In so far as they are not already commenced—
- (a) sections 142 and 143 (principal functions of the Panel);
  - (b) section 145 (annual reports);
  - (c) section 148 (consultation on draft reports);
  - (d) section 149 (directions to vary draft reports);
  - (e) section 150 (administrative requirements in reports);
  - (f) section 151 (publicity requirements in reports);
  - (g) section 152 (publicising reports);
  - (h) section 154 (members wishing to forgo payments);
  - (i) section 155(2), (3) and (4) (withholding payments);
  - (j) section 156 (directions to comply with requirements);
  - (k) section 157 (guidance);
  - (l) section 176(2) (consequential amendments and repeals); and
  - (m) Schedule 4 (repeals and revocations).

### **Commencement of Part F of Schedule 4 with savings**

**3.—**(1) Despite the coming into force in accordance with article 2(2)(l) and (m) of the repeal and revocation of the entries in Part F of Schedule 4, the Regulations referred to in paragraph (2) continue to have effect as if they had not been revoked by the Measure for the purpose set out in paragraph (3).

- (2) The Regulations referred to in paragraph (1) are—
- (a) the Local Authorities (Allowances for Members of County and County Borough Councils and National Park Authorities) (Wales) Regulations 2002<sup>(2)</sup>;
  - (b) the Local Authorities (Allowances for Members of Community Councils) (Wales) Regulations 2003<sup>(3)</sup>;
  - (c) the Local Authorities (Allowances for Members of Fire Authorities) (Wales) Regulations 2004<sup>(4)</sup>; and
  - (d) the Local Authorities (Allowances for Members) (Wales) Regulations 2007<sup>(5)</sup>.

(3) The purpose referred to in paragraph (1) is that of claims made for allowances or other payments in respect of approved duties performed before 1 April 2012.

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(2) [S.I. 2002/1895](#).  
(3) [S.I. 2003/895](#).  
(4) [S.I. 2004/2555](#).  
(5) [S.I. 2007/1086](#).

29 April 2012

*Carl Sargeant*  
Minister for Local Government and  
Communities, one of the Welsh Ministers

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order is made under section 178(3) of the Local Government (Wales) Measure 2011 (“the Measure”). It is the second commencement order to be made under the Measure.

Article 2 of this Order brings into force on 30 April 2012 provisions of the Measure set out in that article and referred to below;

### **Sections 5 to 7 (supporting membership);**

Section 5 imposes a duty on local authorities to make arrangements to publish annual reports by its members and by members of its executive about their activities.

Section 6 requires a local authority to have regard to any guidance issued by the Welsh Ministers about the timing of meetings of a local authority.

Section 7 places a duty on principal councils to secure the provision of reasonable training and development opportunities for their members.

### **Sections 8 to 22 (local authority democratic services and interpretation);**

These sections make provision for a local authority to designate one of the authority’s officers to be the head of democratic services (a politically restricted post) and also provide for the functions of that officer. In addition, these sections impose a duty on a local authority to appoint a committee of the council to oversee the work of democratic services.

These sections also provide for the governance, reporting and proceedings of a democratic services committee.

The Welsh Ministers are empowered by section 10 to make regulations which require a local authority to adopt standing orders about the management of staff reporting to the head of democratic services.

### **Sections 23 to 33 (family absence for members of local authorities);**

These sections make provision for members of a local authority to be entitled to take maternity, newborn, adoption and parental absence in accordance with regulations made by the Welsh Ministers which prescribe the conditions for entitlement to the relevant period of absence.

### **Sections 56 and 57 (exercise of functions by councillors);**

Section 56 makes provision to enable a member of a local authority who represents the executive or the authority on an outside body to make decisions in relation to functions which are the responsibility of the authority’s executive.

Section 57 makes consequential changes to the Local Government Act 1972 (“the 1972 Act”) and the Local Government Act 2000 (“the 2000 Act”) in connection with the new provision in section 56.

**Section 61 (designated persons);**

Section 61 permits the Welsh Ministers to designate by order those persons or categories of persons (a “designated person”) whose responsibilities or functions may be scrutinised by an overview and scrutiny committee of a local authority.

**Section 62 (taking into account the views of the public);**

Section 62 imposes a duty on local authorities to make arrangements to enable the public to express their views in relation to any matter being considered by the committee.

**Sections 63 to 65 (powers of councillors);**

These sections amend section 21A of the 2000 Act to enable a councillor of a principal council in Wales to refer a matter to an overview and scrutiny committee which relates to the discharge of any of the functions of the council or which affects all or part of the electoral area which the councillor represents and they also make provision about the reports of an overview and scrutiny committee.

**Sections 66 to 75 (appointing persons to chair committees);**

These sections require a local authority to make provision in its standing orders for the appointment of chairs for the authority’s overview and scrutiny committees and also prohibit party control of such committees. In addition, these sections empower the Welsh Ministers to make regulations about the appointment procedure for allocating scrutiny committee chairs and to issue guidance or directions.

**Section 78 (prohibition of whipped votes & declaration of party whips);**

This section imposes a restriction on party control of an overview and scrutiny committee.

**Sections 81 to 87 (audit committees);**

These sections require a local authority to appoint an audit committee to review and scrutinise the authority’s financial affairs and the other functions set out in section 81, including the making of reports and recommendations in relation to these.

**Sections 88 to 99 (community meetings and community polls);**

These sections revise the arrangements set out in the 1972 Act for the calling and organisation of community meetings and community polls in Wales.

**Sections 142 — 143, 145, 148 —152, 154, 155(2),(3) and (4) —157 (Members — Payments and Pensions (Part 8 of the Measure));**

These sections were partially commenced by the Local Government (Wales) Measure 2011 (Commencement No. 1) Order 2011 (2011 No. 2011 (W.221)(C.74)) with effect from 31 August 2011 in respect of the functions of the Panel regarding the first annual report under section 146 of the Measure.

Part 8 of the Measure (sections 141 to 160) provides for payments and pensions to members of county and county borough councils, community councils, fire and rescue authorities and National Park authorities (“relevant authorities”). The Independent Remuneration Panel for Wales (“the Panel”) may decide the payments which may be made in relation to members of relevant authorities and in doing so, is to set out its determinations in an annual report.

**Section 147 (subsequent annual reports);**

This section requires the Panel to publish subsequent annual reports about the exercise of its functions for each forthcoming financial year after the year beginning 1 April 2012.

**Section 153 (compliance with Panel's requirements);**

This section provides for compliance with the Panel's requirements in relation to payments by relevant authorities.

**Section 155(1) (withholding payments);**

This section prohibits a relevant authority from making payments to a member who has been suspended or partially suspended as a result of misconduct.

**Section 160 (consequential amendments) and Schedule 3 (payments and pensions; minor and consequential amendments);**

This section introduces Schedule 3 which sets out minor and consequential amendments to legislation in respect of members' payments and pensions under Part 8 of the Measure.

**Section 176(1) (consequential amendments and repeals);**

This section inserts new subsections (5) to (7) to section 106 of the 2000 Act.

**Section 176(2) and Parts A, D and F of Schedule 4 (repeals and revocations);**

Article 3 saves certain provisions of Part F of Schedule 4 of the Measure (members — payments and pensions (Part 8 of the Measure)) so that the Regulations listed in that Part of the Schedule continue to have effect for certain purposes, despite the revocation of those Regulations on 30 April 2012. The purpose for which these Regulations continue to have effect relates to claims for allowances or other payments under these Regulations before 1 April 2012.

See also section 178(1) (commencement) of the Measure for provisions which came into force on 11 May 2011 (the day after the day on which the Measure was approved by Her Majesty in Council) and section 178(2) for provisions which came into force on 10 July 2011 (the end of the period of 2 months beginning on the day on which the Measure was approved by Her Majesty in Council).

**NOTE AS TO EARLIER COMMENCEMENT ORDERS**

*(This note is not part of the Order)*

The following provisions of the Measure have been brought into force in relation to Wales by the Local Government (Wales) Measure 2011 (Commencement No. 1) Order 2011 ([2011 No. 2011 \(W.221\)\(C.74\)](#)), made before the date of this Order:

| <i>Provision</i>        | <i>Date of commencement</i> | <i>S.I. No .</i>                           |
|-------------------------|-----------------------------|--|
| Sections 1 to 3         | 31 August 2011              | <a href="#">2011 No.2011 (W.221)(C.74)</a> |
| Section 141             | 31 August 2011              | <a href="#">2011 No.2011 (W.221)(C.74)</a> |
| Section 142 (partially) | 31 August 2011              | <a href="#">2011 No.2011 (W.221)(C.74)</a> |
| Section 143 (partially) | 31 August 2011              | <a href="#">2011 No.2011 (W.221)(C.74)</a> |
| Section 144             | 31 August 2011              | <a href="#">2011 No.2011 (W.221)(C.74)</a> |

| <i>Provision</i>                        | <i>Date of commencement</i> | <i>S.I. No .</i>           |
|---|-----------------------------|----------------------------|
| Section 145 (partially)                 | 31 August 2011              | 2011 No.2011 (W.221)(C.74) |
| Section 146                             | 31 August 2011              | 2011 No.2011 (W.221)(C.74) |
| Section 148 (partially)                 | 31 August 2011              | 2011 No.2011 (W.221)(C.74) |
| Section 149 (partially)                 | 31 August 2011              | 2011 No.2011 (W.221)(C.74) |
| Section 150 (partially)                 | 31 August 2011              | 2011 No.2011 (W.221)(C.74) |
| Section 151 (partially)                 | 31 August 2011              | 2011 No.2011 (W.221)(C.74) |
| Section 152 (partially)                 | 31 August 2011              | 2011 No.2011 (W.221)(C.74) |
| Section 154 (partially)                 | 31 August 2011              | 2011 No.2011 (W.221)(C.74) |
| Section 155(2), (3) and (4) (partially) | 31 August 2011              | 2011 No.2011 (W.221)(C.74) |
| Section 156 (partially)                 | 31 August 2011              | 2011 No.2011 (W.221)(C.74) |
| Section 157 (partially)                 | 31 August 2011              | 2011 No.2011 (W.221)(C.74) |
| Section 158                             | 31 August 2011              | 2011 No.2011 (W.221)(C.74) |
| Section 161                             | 31 August 2011              | 2011 No.2011 (W.221)(C.74) |
| Sections 162 to 171                     | 31 August 2011              | 2011 No.2011 (W.221)(C.74) |
| Schedule 2                              | 31 August 2011              | 2011 No.2011 (W.221)(C.74) |