

LOCAL GOVERNMENT (DEMOCRACY) (WALES) ACT 2013

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 3 - Arrangements for local government

Chapter 4 - Procedure for local government reviews

42. This chapter details the procedure of consultation and publication of reports to be adopted for reviews.

Section 34 – Pre-review procedure

43. Prior to starting a review, the Commission or the principal council conducting the review must notify the mandatory consultees (listed in the section) that a review is about to take place.
44. The section also requires the Commission to advise the mandatory consultees of the procedure and methodology it is going to follow in conducting an electoral review of a principal area. In particular this will deal with its approach to determining the appropriate number of members for the council for that area.

Section 35 – Consultation and investigation

45. [Section 35](#) provides that the Commission or the principal council conducting the review (referred to in the Act as “the reviewing body”) must consult with the mandatory consultees and carry out such investigations as it considers appropriate.
46. Following the consultation process, the reviewing body must prepare and consult for between 6 and 12 weeks on a draft report, a copy of which must be made available for inspection at the offices of any principal council for the area which is under review.

Section 36 – Reporting on review

47. [Section 36](#) provides the procedure for reporting on a review by a reviewing body following the consultation period under section 35. Once the reviewing body has considered the representations received during the consultation period they must then prepare a further report. This section makes detailed provision regarding what the further report should contain dependent on the type of review undertaken.
48. The reviewing body must then submit the report and its recommendation to the person or body who has the power to implement the recommendations (except when the reviewing body is itself the implementing authority). It must also ensure that the report is published electronically and is available for public inspection for a period of at least 6 weeks beginning with the date of publication.

49. The reviewing body must also ensure a copy of the further report is sent to the mandatory consultees, Ordnance Survey and the Welsh Ministers. Any other person who has submitted evidence or made representations in relation to the report under section 35 of the Act must be informed of how to obtain a copy.

Section 37 – Implementation by the Welsh Ministers

50. This section provides that, on receiving a report on boundary changes from the reviewing body, Welsh Ministers may make an order either in keeping with the recommendations or modifying them. Alternatively, the Welsh Ministers could decide to take no action in light of the report.
51. There must be at least 6 weeks between the time when a report is received by the Welsh Ministers and the time when any order is made.

Section 38 – Implementation of community boundary change

52. This section provides that when the Commission receives a report of a community boundary review from a principal council, it may make an order implementing the recommendations as they stand, or with modifications agreed with the principal council. No consequential changes to electoral arrangements of the principal area may be made without the consent of the Welsh Ministers. If, however, the Commission and the principal council cannot agree on any proposed modifications, or if the Commission considers that it should not implement any of the council's recommendations, it may conduct its own review.
53. Following that review, the Commission must publish its recommendations and submit them to the Welsh Ministers.

Section 39 – Implementation of community electoral arrangements change

54. This section provides that a principal council may make an order implementing changes to electoral arrangements for a community. The changes may either be those on which the principal council had reported under section 26 or those recommended by the Commission under section 32. No consequential changes to electoral arrangements of the principal area may be made without the consent of the Welsh Ministers. In certain circumstances the Commission may request the Welsh Ministers to implement its recommendations.

Section 40 – Implementation orders: consequential provision

55. [Section 40](#) provides that an order made by the Welsh Ministers, the Commission or a principal council, following a review, may make such other consequential provisions on the changes being introduced as they feel necessary. This could include changing the name of an area, the assignment of existing councillors to new or altered areas and the number and distribution of councillors in a new or altered area.

Section 41 – General consequential and transitional provision

56. The Welsh Ministers may, under section 41, also make regulations (of general application) providing for incidental, consequential etc. matters so as to give full effect to review orders: for example, transfer of staff, property and liabilities.

Section 42 – Transfers of staff

57. [Section 42](#) provides that any transfers of staff must not result in a deterioration of the terms and conditions of the transferred staff.

Section 43 – Variation and revocation of orders

58. Section 43 provides a procedure for the Welsh Ministers, the Commission or a principal council to vary or revoke a review order and to correct mistakes.

Section 44 – Transitional agreements as to property and finance

59. Section 44 enables public bodies affected by a review to enter into an agreement with other public bodies about any transfers of property and any financial arrangements consequential on the area changes. The parties to such an agreement are required to deal with any failure to agree by arbitration.

Section 45 – Police area change

60. If, as part of a boundary review in accordance with section 23 of the Act, a change of police area boundaries appears desirable, the Commission may recommend that the Secretary of State makes such change by order. This circumstance would arise if a change to a county boundary resulted in part of a county being partly inside or outside a police area.
61. The Secretary of State's order can change the police area so that a new area falls within the area of a particular Police and Crime Commissioner. It would also enable the holding of a fresh election for a Commissioner if the Secretary of State so decided.

Section 46 – Extent of seaward boundaries

62. This section provides that communities which border the sea extend to the low water mark of the shore and that any accretion from the sea forms part of the community and county bordering on the shore.

Section 47 – Boundary change following the alteration of water-course

63. This section provides that Welsh Ministers may make an order to change a local government area boundary as a result of a change in water course, following consultation with the Commission.

Section 48 – Directions and guidance relating to Part 3

64. This section enables the Welsh Ministers to give directions to the Commission and principal councils in relation to reviews of local government area and electoral arrangements.
65. The section also requires the Commission and principal councils, when conducting reviews or implementing recommendations, to have regard to any relevant guidance that the Welsh Ministers have issued.

Section 49 – Local inquiries

66. This section enables either the Commission or a principal council to organise a local inquiry associated with any review they are conducting. It also enables the Welsh Ministers or a principal council to arrange for a local inquiry when considering making an order revoking a previous order. The person appointed to conduct the inquiry may require persons to attend or provide evidence under oath.