

LOCAL GOVERNMENT (WALES) ACT 2015

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Section 10 – Other consequential etc. provisions

19. **Section 10** enables the Welsh Ministers to include such supplementary, incidental, consequential, transitional and saving provision as they consider appropriate within the merger regulations, and to make other regulations of general application (that apply beyond merging authorities which specific merger regulations apply to) containing supplementary, incidental, consequential, transitional and saving provision for the purposes of merger regulations or to give full effect to merger regulations. The section sets out a number of specific uses of these powers, and provides that the rights and liabilities which may be transferred in accordance with these regulations include rights and liabilities under a contract of employment and that the [Transfer of Undertakings \(Protection of Employment\) Regulations 2006 \(S.I. 2006/246\)](#) (TUPE) apply to a transfer of staff made under these regulations, apart from regulations 4(6) and 10.
20. Excluding TUPE regulation 4(6) means that the liability of an abolished council to be prosecuted for, convicted of and sentenced for any offence will be transferred to the new council. Without this provision any criminal liability of an abolished council under or in connection with contracts of employment transferred to the new council would disappear on 1 April 2020 when the councils are abolished. Excluding TUPE regulation 10 preserves the occupational pension rights of staff being transferred under or by virtue of the Act. Without this provision, the new counties would not be under a legal obligation to honour pension rights, duties or liabilities under existing contracts of employment.
21. In Wales there are three combined fire and rescue authorities (FRAs) for areas made up of the 22 principal local authority areas, and these were created by combination orders made under the Fire Services Act 1947. Under section 4 of the Fire and Rescue Act 2004 the Welsh Ministers may by order vary or revoke schemes for the combination of fire and rescue authorities. . But before doing so, section 4(6) of the 2004 Act requires the Welsh Ministers to cause an inquiry to be held into the proposed variation. Section 10(10) suspends that where the proposed changes to the scheme are a consequence of a voluntary merger. This is to prevent delays to the merger programme.
22. **Section 10(11)** enables the Welsh Ministers to, by regulation, vary merger regulations (or regulations made under section 10(11)(a) varying merger regulations) and to vary or revoke regulations of general application made under section 10(2).