



Local Government and Elections (Wales) Act 2021

2021 asc 1

VALID FROM 20/03/2021

PART 1 **E+W**

ELECTIONS

Overview of Part

1 Overview **E+W**

This Part—

- (a) provides for the extension of the right to vote in local government elections to new categories of person (sections 2 to 4);
- (b) provides for two systems for the election of councillors for principal councils (the simple majority system and the single transferable vote system) and makes provision about which system applies to any particular council (including a power for any councils to decide which applies) and the powers to make rules for such elections (sections 5 to 13);
- (c) provides for change to the electoral cycle for local government elections from four years to five years (sections 14 to 16) and extension of the power to change the ordinary day of local elections in Wales (section 17);
- (d) provides for registration of local government electors without application (section 18);
- (e) makes provision about qualification for election and holding office as a member of a local authority (section 19);
- (f) makes provision about disqualification for election or from holding office as a member of a local authority (sections 20 and 21);

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- (g) makes provision about the display of documents at local elections (section 22);
- (h) makes provision about meeting returning officers' expenditure (paragraph 2(5) of Schedule 2).

Right to vote in local government elections

2 Extension of right to vote in local government elections **E+W**

- (1) In section 2 of the 1983 Act (local government electors)—
 - (a) in subsection (1)—
 - (i) in paragraph (c), for “or a relevant citizen of the Union” substitute “, a relevant citizen of the Union or (in Wales) a qualifying foreign citizen ”;
 - (ii) in paragraph (d), after “over” insert “ except in Wales (see subsection (1A)) ”;
 - (b) after subsection (1) insert—

“(1A) In Wales, voting age is 16 years or over.”
- (2) In section 12 of the Government of Wales Act 2006 (c. 32) (entitlement to vote)—
 - (a) in subsection (1)(a), omit “or fall within the extended franchise for Senedd elections as described in this section”;
 - (b) omit subsection (1A);
 - (c) omit subsection (1B).
- (3) In section 4 of the 1983 Act (entitlement to be registered as a local government elector)—
 - (a) in subsection (3)—
 - (i) in paragraph (c), for “or a relevant citizen of the Union” substitute “, a relevant citizen of the Union or (in relation to a local government election in Wales) a qualifying foreign citizen ”;
 - (ii) in paragraph (d), omit “ or, if resident in an area in Wales, is 16 years of age or over”;
 - (b) omit subsection (3A);
 - (c) omit subsection (5B).

Commencement Information

- I1** S. 2(1)(3) in force at 20.3.2021, see s. 175(3)(b) (subject to s.3)
- I2** S. 2(2) in force at 5.5.2022, see s. 175(5)

3 Transitional provision **E+W**

- (1) Despite the coming into force of the amendments made by the provisions mentioned in subsection (2) by virtue of section 175(3), they only have effect in relation to a local government election or a local referendum for the purposes of—
 - (a) a local government election at which the poll is held on or after 5 May 2022;
 - (b) a local referendum held on or after 5 May 2022.

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- (2) The provisions are—
- (a) section 2(1) and (3);
 - (b) section 22;
 - (c) paragraphs 2(12), 8(3)(b), 15 and 19 of Schedule 2.
- (3) In subsection (1), “local referendum” means a referendum held under—
- (a) section 27 of the 2000 Act or by virtue of regulations or an order made under Part 2 of that Act;
 - (b) section 40 of the 2011 Measure.

4 Duty to promote awareness and provide assistance **E+W**

- (1) A principal council must—
- (a) promote awareness among relevant young people of the arrangements for registration as local government electors that apply to them;
 - (b) take the steps the council considers necessary to help relevant young people register as local government electors.
- (2) In this section “relevant young people” means—
- (a) persons resident in the principal council's area who have attained the age of 14, but are under the age of 18;
 - (b) persons of the same age who—
 - (i) are not resident in the area of the principal council, and
 - (ii) are looked after by the council;
 - (c) persons of the same age who—
 - (i) are not resident in the area of the principal council, and
 - (ii) are persons to whom the council has a duty to safeguard and promote their well-being under section 109 of the Social Services and Well-being (Wales) Act 2014 (anaw 4).
- (3) In this section, a person is looked after if the person is a looked after child for the purposes of the Social Services and Well-being (Wales) Act 2014.

Voting systems for elections to principal councils

VALID FROM 06/05/2022

5 Two voting systems **E+W**

- (1) There are two systems for electing councillors of a principal council in polls at contested elections—
- (a) a simple majority system, and
 - (b) a single transferable vote system.
- (2) See local elections rules for provision about how each system works.
- (3) See sections 7 to 9 for provision about which system applies to a council and how the system that applies to a council is changed.
- (4) In this Part, “local elections rules” means—

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- (a) rules made under section 36A of the 1983 Act (inserted by section 13(3));
- (b) rules made under section 36 of the 1983 Act that have effect by virtue of section 13(4).

VALID FROM 06/05/2022

6 Key definitions **E+W**

- (1) A “simple majority system” means an electoral system where—
- (a) each voter may cast as many votes as there are offices to be filled;
 - (b) in the case of an election for a single office, the candidate who receives the highest number of votes is elected;
 - (c) in the case of an election to fill more than one office, the candidates equal to the number of offices to be filled who receive the highest number of votes are elected.
- (2) A “single transferable vote system” means an electoral system where—
- (a) in the case of an election to fill more than one office—
 - (i) voters express a first preference for one candidate and may express second and further preferences for other candidates;
 - (ii) a quota for election is calculated from the number of votes and offices to be filled;
 - (iii) the first preferences are counted and any candidate whose first preference votes equal or exceed the quota is elected;
 - (iv) if insufficient candidates are elected under sub-paragraph (iii), the proportion of an elected candidate's votes above the quota is redistributed according to voters' further preferences;
 - (v) candidates who then reach the quota are elected and the candidate with the fewest votes is excluded;
 - (vi) the excluded candidate's votes are redistributed according to voters' further preferences;
 - (vii) if insufficient candidates are elected under sub-paragraphs (iv) to (vi), the steps described in those sub-paragraphs are repeated until all offices are filled;
 - (b) in the case of an election for a single office—
 - (i) voters express a first preference for one candidate and may express second and further preferences for other candidates;
 - (ii) an absolute majority of votes for election is calculated from the number of votes;
 - (iii) the first preferences are counted and, if a candidate's first preference votes equal or exceed the absolute majority of votes, that candidate is elected;
 - (iv) if no candidate is elected under sub-paragraph (iii), the candidate with the fewest votes is excluded, the excluded candidate's votes are redistributed according to voters' further preferences and a candidate who then reaches the absolute majority is elected;

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(v) if no candidate is elected under sub-paragraph (iv), the steps described in sub-paragraph (iv) are repeated until a candidate is elected.

(3) The systems described in subsections (1) and (2) may include other provision for situations where—

- (a) following the steps described does not lead to a candidate being elected, or
- (b) it would not be appropriate to follow the steps described.

(4) This section applies for the purposes of this Part.

VALID FROM 06/05/2022

7 The voting system that applies **E+W**

(1) This section provides for the voting system that applies to electing councillors of a principal council in a poll at a contested election.

(2) The simple majority system provided for by local elections rules applies, unless and until the council changes the voting system for the first time.

(3) But in the case of a principal council constituted by regulations under Part 7 (mergers and restructuring), the voting system provided for in the regulations applies, unless and until the council changes the voting system for the first time after the first ordinary election of councillors to the council.

(4) After a principal council has changed the voting system for the first time (including the first time after a principal council is established), the system to which the council has most recently decided to change applies (subject to subsection (6)).

(5) If a principal council changes its voting system, the change takes effect at the first ordinary election of councillors that takes place after the council passes the resolution required by section 9 and continues in effect unless and until the system is changed again.

(6) But in a poll for an election to fill a casual vacancy in the office of councillor that takes place before the first ordinary election of councillors after the principal council passes the resolution required by section 9, the voting system that applied at the last ordinary election applies.

VALID FROM 06/05/2022

8 Power to change the voting system **E+W**

(1) A principal council may change the voting system that applies to the election of councillors of the council, subject to the requirements of this section and section 9.

(2) If the voting system that applies to a council for the time being is the simple majority system provided for by local elections rules, the council may change it to the single transferable vote system provided for by those rules.

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- (3) If the voting system that applies to a council for the time being is the single transferable vote system provided for by local elections rules, the council may change it to the simple majority system provided for by those rules.
- (4) The power to change the voting system under this section—
 - (a) is not to be the responsibility of an executive of the council under executive arrangements (within the meaning of section 10 of the 2000 Act);
 - (b) is not a function to which section 101 of the 1972 Act (arrangements for discharge of functions by local authorities) applies.
- (5) Before a principal council exercises its power to change its voting system it must consult—
 - (a) the persons entitled to vote as electors at a local government election in its area;
 - (b) each community council in its area;
 - (c) such other persons as it considers appropriate.

VALID FROM 06/05/2022

9 Resolutions to exercise the power to change the voting system **E+W**

- (1) A principal council's power under section 8(1) must be exercised by resolution of the council in accordance with this section.
- (2) A resolution to exercise the power is not passed unless the number of councillors voting in favour of it at a meeting of the council is at least two-thirds of the total number of councillor seats on the council.
- (3) A resolution to exercise the power is of no effect unless—
 - (a) the resolution is considered at a meeting specially convened for the purpose,
 - (b) written notice of the meeting is given to all councillors, and
 - (c) the meeting takes place after the end of a period of 21 days beginning with the day on which notice is given.
- (4) A resolution to exercise the power has no effect unless it is passed before 15 November of the year that is three years before the year in which the next ordinary election of the council is due to be held.
- (5) After a principal council has exercised the power, a further resolution to exercise the power has no effect unless two ordinary elections of the council have been held under the voting system to which it was changed.
- (6) A resolution to exercise the power passed during the period between two consecutive ordinary elections of the council has no effect if the council has previously voted on a resolution to exercise the power during that period at a meeting held in accordance with subsection (3).

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10 Duty to notify when resolution passed **E+W**

- (1) If a principal council exercises its power to change the voting system under section 8, the council must notify the Welsh Ministers and the Local Democracy and Boundary Commission of the change.
- (2) The notification must—
 - (a) be made within a period of 14 days beginning on the day on which the resolution under section 9 was passed,
 - (b) confirm that the council has passed a resolution in accordance with section 9,
 - (c) specify the voting system that is to apply, and
 - (d) specify the date on which the resolution was passed.

VALID FROM 06/05/2022

11 Initial review by the Local Democracy and Boundary Commission **E+W**

- (1) After receiving a notification from a principal council under section 10, the Welsh Ministers may direct the Local Democracy and Boundary Commission for Wales (“the Commission”) to conduct an initial review of the area of the council.
- (2) Before giving a direction under subsection (1) the Welsh Ministers must consult—
 - (a) the Commission, and
 - (b) such persons representing principal councils as the Welsh Ministers consider appropriate.
- (3) A direction under subsection (1) to conduct an initial review may specify that one or more matters of a kind described in paragraph (a) or (b) are not to be considered in the initial review; and those matters are—
 - (a) matters set out in paragraph (b) of the definition of “electoral arrangements” in paragraph 3(1) of Schedule 1 (community councils' electoral arrangements);
 - (b) matters set out in the definition of “relevant consequential changes” in paragraph 3(1) of Schedule 1.
- (4) A direction under subsection (1) must specify the voting system in relation to which the electoral arrangements are to be reviewed.
- (5) Schedule 1 makes provision in relation to initial reviews conducted by virtue of this section.

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12 Restriction on number of councillors if single transferable vote system applies **E+W**

Where the single transferable vote system applies to the election of councillors for a principal council, the number of councillors for each electoral ward is to be no less than three, but no more than six.

13 Rules about the conduct of local elections in Wales **E+W**

- (1) The 1983 Act is amended as follows.
- (2) In section 36(1) (local elections in England and Wales), omit “and Wales”.
- (3) After section 36 insert—

“36A Rules for local elections in Wales

- (1) Elections of councillors for local government areas in Wales must be conducted in accordance with rules made by the Welsh Ministers.
- (2) In relation to the election of councillors to a county council or a county borough council, rules under subsection (1) must—
 - (a) require polls to be conducted if elections are contested,
 - (b) establish the requirements for becoming a candidate for election,
 - (c) require votes at polls to be given by ballot, and
 - (d) provide for polls to be conducted under the voting systems authorised by sections 5 to 9 of the Local Government and Elections (Wales) Act 2021, which are a simple majority system and a single transferable vote system.
- (3) In relation to the election of community councillors for a community council, rules under subsection (1) must—
 - (a) require polls to be conducted if elections are contested,
 - (b) establish the requirements for becoming a candidate for election,
 - (c) require votes at polls to be given by ballot, and
 - (d) provide for polls to be conducted under a simple majority system.
- (4) Rules under subsection (1) may make any other provision for the conduct of elections of councillors for local government areas in Wales.
- (5) Rules made by the Welsh Ministers may, for the purposes of, in consequence of, or for giving full effect to rules made under subsection (1), make supplementary, incidental, consequential, transitional, transitory or saving provision.
- (6) Rules under subsection (5) may amend, modify, repeal or revoke any enactment (including an enactment contained in this Act).
- (7) Before making rules under this section, the Welsh Ministers must consult such persons as they consider appropriate.

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- (8) The requirement to consult imposed by subsection (7) may be satisfied by consultation undertaken before the coming into force of this section.
- (9) The power to make rules under this section—
- (a) is exercisable by statutory instrument;
 - (b) includes power to make different provision for different purposes.
- (10) A statutory instrument containing rules under this section must not be made unless a draft of the instrument has been laid before and approved by resolution of Senedd Cymru.”
- (4) Rules made under section 36 of the 1983 Act that are in force immediately before the coming into force of subsection (3) of this section continue in effect, so far as they apply to elections of councillors for local government areas in Wales, as if the rules were made under section 36A(1) of that Act (inserted by subsection (3)); and references in any enactment to rules made under section 36A of the 1983 Act are to be read accordingly.
- (5) Until sections 5 to 9 of this Act come into force, section 36A(2)(d) of the 1983 Act has effect as if it made the following provision—
- “(d) provide for polls to be conducted under a simple majority system.”

Electoral cycles

14 Change of electoral cycle for principal councils from four years to five years **E+W**

- (1) Section 26 of the 1972 Act (election of councillors) is amended as follows.
- (2) In subsection (1), for “fourth” substitute “ fifth ”.
- (3) In subsection (2), for “four” substitute “ five ”.

15 Change of electoral cycle for community councils from four years to five years **E+W**

- (1) Section 35 of the 1972 Act (election years) is amended as follows.
- (2) In subsection (2), for “fourth” substitute “ fifth ”.
- (3) In subsection (2A), for “four” substitute “ five ”.

16 Change of electoral cycle for elected mayors from four years to five years **E+W**

In section 39 of the 2000 Act (elected mayors etc.), in subsection (7) for “four” substitute “ five ”.

17 Extension of power to change ordinary day of local elections in Wales **E+W**

- (1) Section 37ZA of the 1983 Act (ordinary day of local elections in Wales) is amended as follows.

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- (2) In subsection (1)—
- (a) after “applies” insert “ or an order under subsection (1A) provides otherwise ”;
 - (b) in paragraph (b) omit the words from “made not later” to the end.
- (3) After subsection (1) insert—
- “(1A) The Welsh Ministers may by order fix a different day to the one specified in or fixed under subsection (1) as the ordinary day of election of—
- (a) councillors for one or more counties or county boroughs in Wales, or
 - (b) community councillors for one or more communities in Wales.
- “(1B) An order under subsection (1) or (1A) may fix a day for one or more years.”
- (4) In subsection (2), after “subsection (1)” insert “ or fixed under subsection (1A) ”.
- (5) In subsection (3), after “subsection (1)” insert “ or fixed under subsection (1A) ”.
- (6) In subsection (5), for “subsection (3)” substitute “ this section ”.
- (7) After subsection (5) insert—
- “(6) Before making an order under this section, the Welsh Ministers must consult—
- (a) each council affected by the order,
 - (b) any bodies appearing to the Welsh Ministers to represent the interests of the councils affected by the order, and
 - (c) such other persons as the Welsh Ministers consider appropriate.”

PROSPECTIVE

Registration of local government electors

18 Registration of local government electors without application E+W

- (1) The 1983 Act is amended as follows.
- (2) In section 9 (registers of electors), after subsection (2) insert—
- “(2A) In relation to each register of local government electors for an area in Wales, the names of persons the registration officer has decided to register in accordance with section 9ZA must also be contained in the register, along with the information mentioned in paragraphs (b) and (c) of subsection (2) relating to those persons.”
- (3) After section 9 insert—
- “9ZA Registration of local government electors in Wales without application**
- (1) This section applies to the registration of local government electors in Wales.

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- (2) If the registration officer is satisfied that a person not in the register of local government electors is entitled to be registered, the officer may decide to register the person without an application, subject to the provisions of this section.
 - (3) Before deciding to register a person, the registration officer must notify the person in writing of—
 - (a) the officer's intention to register the person without an application after the end of the notice period required by subsection (5),
 - (b) the person's right to request exclusion from the edited register,
 - (c) the person's right to apply for anonymous registration,
 - (d) the type of elections in which the person will be entitled to vote following registration under this section, and
 - (e) the type of elections in which the person will not be entitled to vote following registration under this section, unless an application for registration is made.
 - (4) The notice under subsection (3) must be in a form specified in regulations made by the Welsh Ministers; and the regulations may make further provision about giving notice for the purposes of this section.
 - (5) The registration officer must not register the person under this section—
 - (a) before the end of a period of 28 days beginning with the day on which the notice is issued;
 - (b) at any time when there is an undetermined application by the person for an anonymous entry in the local government register under section 9B.
 - (6) The registration officer must keep a separate list of the persons registered under this section.
 - (7) The power to make regulations under this section is exercisable by statutory instrument.
 - (8) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of Senedd Cymru, unless it also contains provisions subject to an affirmative procedure in Senedd Cymru.”
- (4) In section 9E (maintenance of registers: invitations to register in Great Britain), after subsection (1) insert—
- “(1A) The duty in subsection (1) does not apply if the registration officer intends to register the person without an application under section 9ZA and gives notice to the person in accordance with that section.”
- (5) In section 10ZE (removal of electors in Great Britain from register)—
- (a) after subsection (2) insert—
- “(2A) Where a person is entered in a register of local government electors in Wales by virtue of section 9ZA, the registration officer must also remove the person's entry from the register if the officer determines that the person is not entitled to be registered in the register of local government electors for reasons other than those mentioned in subsection (1).”;

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- (b) in subsection (3), after “(1)” insert “ or (2A) ”;
- (c) after subsection (4) insert—

“(4A) The Welsh Ministers may by regulations make provision about the procedure for making determinations under subsection (2A), which may include provision requiring an officer to take prescribed steps before making a determination.”

- (d) after subsection (5) insert—

“(5A) In relation to a person registered under section 9ZA, a registration officer for a local government area in Wales must consider whether to make a determination under subsection (2A) if the officer—

- (a) receives an objection to the person's registration in the register, or
- (b) otherwise becomes aware of information that causes the officer to suspect that the person is not entitled to be registered in the register of local government electors.

(5B) The Welsh Ministers' power to make regulations under subsection (4A) is exercisable by statutory instrument.

(5C) A statutory instrument containing regulations under subsection (4A) is subject to annulment in pursuance of a resolution of Senedd Cymru, unless it also contains provisions subject to an affirmative procedure in Senedd Cymru.”

- (6) In section 13A(1) (alteration of registers), after paragraph (zb) insert—

“(zc) in the case of a registration officer for a local government area in Wales, decides to register a person under section 9ZA;”.

- (7) In section 13AB(1) (alteration of registers: interim publication dates), in paragraph (a) after “(zb),” insert “ (zc), ”.

- (8) In section 13B(2) (alteration of registers: pending elections), in paragraph (a) after “(zb),” insert “ (zc), ”.

- (9) In section 56(1) (registration appeals: England and Wales), after paragraph (aa) insert—

“(azaa) from any decision of a registration officer for a local government area in Wales to register a person under section 9ZA;”.

VALID FROM 17/11/2021

Qualification for membership of a local authority

19 Qualification for election and holding office as a member of a local authority in Wales E+W

- (1) Section 79 of the 1972 Act is amended as follows.

- (2) In subsection (1), after “Union” insert “ or, in the case of a local authority in Wales, a qualifying foreign citizen ”.

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(3) After subsection (2C) insert—

“(2D) For the purposes of this section, a person is a qualifying foreign citizen if the person—

- (a) is not a Commonwealth citizen, a citizen of the Republic of Ireland or a relevant citizen of the Union, and
- (b) either—
 - (i) is not a person who requires leave under the Immigration Act 1971 to enter or remain in the United Kingdom, or
 - (ii) is such a person but for the time being has (or is, by virtue of any enactment, to be treated as having) indefinite leave to remain within the meaning of that Act.

(2E) But a person is not a qualifying foreign citizen by virtue of subsection (2D) (b)(i) if the person does not require leave to enter or remain in the United Kingdom by virtue only of section 8 of the Immigration Act 1971 (exceptions to requirement for leave in special cases).”

VALID FROM 17/11/2021

Disqualification of members of local authorities

20 Disqualification for election and being a member of a local authority E

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After section 80 of the 1972 Act insert—

“80A Disqualification for election or being a member of a local authority in Wales

- (1) A person is disqualified for being elected or being a member of a local authority in Wales if—
- (a) the person is the subject of—
 - (i) a bankruptcy restrictions order or an interim bankruptcy restrictions order under Schedule 4A to the Insolvency Act 1986, Schedule 2A to the Insolvency (Northern Ireland) Order 1989, or Part 13 of the Bankruptcy (Scotland) Act 2016;
 - (ii) a debt relief restrictions order or interim debt relief restrictions order under Schedule 4ZB to the Insolvency Act 1986 or Schedule 2ZB to the Insolvency (Northern Ireland) Order 1989;
 - (b) the person is disqualified for being elected or for being a member of the authority under Part 3 of the Representation of the People Act 1983 (corrupt or illegal practices);
 - (c) the person is subject to the notification requirements of, or an order under, Part 2 of the Sexual Offences Act 2003;
 - (d) the person has a relevant criminal conviction.

Status: Point in time view as at 21/01/2021. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Local Government and Elections (Wales) Act 2021 is up to date with all changes known to be in force on or before 01 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (2) A person has a relevant criminal conviction if, during the period of five years ending with the day of the local authority election, or since the person's election, the person has been convicted in the United Kingdom, the Channel Islands, or the Isle of Man of an offence for which the person has been sentenced to a term of imprisonment (whether suspended or not) of 3 months or more without the option of a fine.
- (3) A person is not disqualified under subsection (1)(c) at any time before the end of the ordinary period allowed for making—
 - (a) an appeal or application in respect of the conviction or finding to which the notification requirements relate;
 - (b) an appeal in respect of the order.
- (4) A person is not disqualified under subsection (1)(d) at any time before the end of the ordinary period allowed for making an appeal or application in respect of the conviction.
- (5) A person who makes an appeal or application of the kind mentioned in subsection (3) or (4) is not disqualified under subsection (1)(c) or (d) at any time before the end of the day on which the appeal or application is finally disposed of, or is abandoned, or fails by reason of non-prosecution.
- (6) A person who would be disqualified but for subsection (3), (4) or (5) must not act in the office of member of a local authority in Wales.

80B Disqualification for being a member of a local authority in Wales and holding local office or employment

- (1) A person who holds a relevant paid office or employment (see section 80C) is disqualified for being a member of a local authority in Wales, (but not for being elected as such a member).
- (2) A person is not disqualified under subsection (1) at any time before the person makes a declaration of acceptance of office in accordance with section 83.
- (3) Subsections (4), (5) and (6) apply where a person is elected as a member of a local authority in Wales and resigns from the relevant paid office or employment for the purpose of taking office as a member.
- (4) The resignation terminates the holding of the paid office or employment with immediate effect.
- (5) Any notice requirement in the terms and conditions under which the paid office or employment is held has no effect.
- (6) Section 86(2) of the Employment Rights Act 1996 (requirement on employee to give minimum of one week's notice) does not apply.
- (7) This section does not apply to a person who is disqualified for being elected or being a member of a local authority under section 1 of the Local Government and Housing Act 1989 (disqualification by virtue of holding politically restricted post).

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80C Paid office or employment to which disqualification applies

- (1) For the purposes of section 80B “a relevant paid office or employment” is a paid office or employment appointment or election to which is or may be made or confirmed by—
 - (a) the local authority to which the person was elected a member;
 - (b) a committee or sub-committee of the local authority;
 - (c) a joint committee or National Park authority on which the local authority is represented; or
 - (d) a holder of a paid office or employment of the kind described in paragraphs (a), (b) or (c).
- (2) But a relevant paid office or employment in subsection (1) does not include the office of—
 - (a) chairman, vice-chairman, presiding member or deputy presiding member, or
 - (b) in the case of a local authority operating executive arrangements which involve a leader and cabinet executive, the office of executive leader, member of the executive or assistant to the executive.
- (3) Subsection (1) has effect in relation to a teacher in a school maintained by a local authority whether or not the appointment to the post was made in accordance with that subsection.
- (4) Where the holder of a relevant paid office in a local authority in Wales (“local authority A”) is employed under the direction of—
 - (a) a committee or sub-committee of local authority A any member of which is appointed on the nomination of another local authority in Wales (“local authority B”), or
 - (b) a joint board, a National Park authority, or joint committee on which local authority A is represented and any member of which is appointed on the nomination of local authority B,
 section 80B applies in respect of the person's membership of local authority B.
- (5) For the purposes of this section, a local authority is represented on a National Park authority if it is entitled to appoint a member of the local authority as a member of the National Park authority.”

21 Disqualification of member of a local authority in Wales for appointment to paid office E+W

After section 116 of the 1972 Act insert—

“116A Members of local authorities in Wales not to be appointed as officers

A member of a local authority in Wales is disqualified for being appointed or elected by that authority to any paid office other than the office of chairman, vice-chairman, or in the case of a local authority operating

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executive arrangements which involve a leader and cabinet executive, the office of executive leader, member of the executive or assistant to the executive.”

Documents at local government elections

22 Translations etc. of documents at local government elections in Wales **E+W**

- (1) The 1983 Act is amended as follows.
- (2) In section 199B (translation etc. of certain documents), after subsection (10) insert—
 - “(11) This section does not apply to a local government election in Wales.”
- (3) After section 199B, insert—

“199C Local government elections in Wales: translations etc. of certain documents

- (1) Subsections (2) and (3) apply to any document which under or by virtue of this Act is required or authorised to be given to voters or displayed in any place for the purposes of a local government election in Wales.
- (2) The person (“P”) who is required or authorised to give or display the document must, as P thinks appropriate, give or display or otherwise make available in such form as P thinks appropriate—
 - (a) the document in Braille;
 - (b) the document in languages other than English and Welsh;
 - (c) graphical representations of the information contained in the document;
 - (d) other means of making the information contained in the document accessible to persons who might not otherwise have reasonable access to the information.
- (3) P must, as P thinks appropriate, make available the information contained in the document in such audible form as P thinks appropriate.
- (4) Subsections (2) and (3) do not apply to—
 - (a) the nomination paper; or
 - (b) the ballot paper.”

General

23 Minor and consequential amendments **E+W**

Schedule 2 makes minor and consequential amendments.

Commencement Information

I3 S. 23 in force at 20.3.2021 for specified purposes, see s. 175(3)(f)(7) (subject to s. 3)

Status: Point in time view as at 21/01/2021. This version of this Act contains provisions that are not valid for this point in time.

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VALID FROM 04/03/2021

PART 2 E+W

GENERAL POWER OF COMPETENCE

CHAPTER 1 E+W

THE GENERAL POWER

VALID FROM 01/11/2021

24 Local authority's general power of competence E+W

- (1) A qualifying local authority has power to do anything that individuals generally may do, even if that thing is, in nature or extent or otherwise—
 - (a) unlike anything a qualifying local authority may do apart from this section;
 - (b) unlike anything that other public bodies may do.
- (2) Where subsection (1) confers power on an authority to do something, it confers power to do it in any way whatsoever, including—
 - (a) power to do it anywhere in Wales or elsewhere;
 - (b) power to do it for a commercial purpose or otherwise for a charge, or without charge;
 - (c) power to do it for, or otherwise than for, the benefit of the authority, its area or persons resident or present in its area.
- (3) The generality of the power conferred by subsection (1) on a qualifying local authority is not limited by the existence of any other power of the authority; and any other power of the authority is not limited by the existence of the general power.
- (4) For the purposes of this Chapter, each of the following is a qualifying local authority—
 - (a) a principal council;
 - (b) an eligible community council (as to which see Chapter 2).
- (5) In this section, “individual” means an individual with full capacity.
- (6) References in this Part to the general power are to the power conferred by subsection (1).
- (7) This section is subject to sections 25 to 27 and to any provision made under section 28(3) or (4).

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VALID FROM 01/11/2021

25 Boundaries of the general power **E+W**

- (1) The general power does not enable a qualifying local authority to do anything that the authority is unable to do by virtue of a pre-commencement limitation.
- (2) Nor does the general power enable a qualifying local authority to do anything that the authority is unable to do by virtue of a post-commencement limitation that is expressed to apply—
 - (a) to the general power,
 - (b) to all of the authority's powers, or
 - (c) to all of the authority's powers but with exceptions that do not include the general power.
- (3) The general power does not confer power to make or alter—
 - (a) arrangements of a kind that are made, or may be made, by or under Part 6 of the 1972 Act (discharge of functions by local authorities);
 - (b) arrangements of a kind that are made, or may be made, by or under Part 2 of the 2000 Act (arrangements with respect to executives etc.);
 - (c) contracting out arrangements, or any other arrangements that are not arrangements within paragraph (a) or (b), that authorise a person to exercise a function of a qualifying local authority.
- (4) In this section—

“post-commencement limitation” (“*cyfyngiad ar ôl cychwyn*”) means a prohibition, restriction or other limitation expressly imposed by a provision of—

 - (a) an Act of Senedd Cymru or an Act of Parliament passed after the day on which this Act was passed;
 - (b) an instrument—
 - (i) made under primary legislation (including this Act), and
 - (ii) which comes into force on or after the day on which section 24 comes into force in relation to principal councils;

“pre-commencement limitation” (“*cyfyngiad cyn cychwyn*”) means a prohibition, restriction or other limitation expressly imposed by a provision of—

 - (a) this Act;
 - (b) any other primary legislation passed before, or on the same day as, the day on which this Act was passed;
 - (c) an instrument—
 - (i) made under primary legislation (including this Act), and
 - (ii) which comes into force before the day on which section 24 comes into force in relation to principal councils.
- (5) For the purposes of subsection (1), section 111(3) of the 1972 Act (subsidiary powers of local authorities not to include power to raise money) is to be disregarded.

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VALID FROM 01/11/2021

26 Limits on charging in exercise of general power **E+W**

- (1) The general power confers power on a qualifying local authority to charge for providing a service to a person only if the following conditions are met.
- (2) The first condition is that the service is not one that any enactment requires the authority to provide to the person.
- (3) The second condition is that the person has agreed to the service being provided.
- (4) Except in relation to a service provided for a commercial purpose, to the extent that the general power confers a power on a qualifying local authority to charge for the provision of a service, the power is subject to a duty to secure that, taking one financial year with another, the income from charges imposed under it does not exceed the costs of provision.
- (5) The duty under subsection (4) applies separately in relation to each kind of service.
- (6) Subject to the duty under subsection (4), in exercising the power conferred by the general power to charge for providing a service, a qualifying local authority may set its charges as it considers appropriate, and may among other things—
 - (a) charge only some persons for providing a service;
 - (b) charge different persons, or different descriptions of persons, different amounts for the provision of a service.

VALID FROM 01/11/2021

27 Limits on doing things for commercial purpose in exercise of general power **E+W**

- (1) The general power confers power on a qualifying local authority to do things for a commercial purpose only if they are things that the authority may, in exercise of the general power, do otherwise than for a commercial purpose.
- (2) Where, in exercise of the general power, a qualifying local authority does things for a commercial purpose, the authority must do them through a company.
- (3) A qualifying local authority may not, in exercise of the general power, do things for a commercial purpose in relation to a person if any enactment requires the authority to do those things in relation to the person.
- (4) In this section, “company” means—
 - (a) a company within the meaning of section 1(1) of the Companies Act 2006 (c. 46), or
 - (b) a registered society within the meaning of the Co-operative and Community Benefit Societies Act 2014 (c. 14) or the Co-operative and Community Benefit Societies Act (Northern Ireland) 1969 (c. 24 (NI)).

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- (5) A qualifying local authority must have regard to any guidance issued by the Welsh Ministers about doing things, in the exercise of the general power, for a commercial purpose.

28 Powers to make supplementary provision E+W

- (1) If the Welsh Ministers consider that an enactment prevents qualifying local authorities from exercising the general power, or obstructs them in exercising the general power, the Welsh Ministers may by regulations amend, modify, repeal, revoke or disapply that enactment.
- (2) If the Welsh Ministers consider that any other power overlaps (to any extent) the general power, then, for the purpose of reducing or removing that overlap, the Welsh Ministers may by regulations amend, modify, repeal, revoke or disapply any enactment.
- (3) The Welsh Ministers may by regulations make provision preventing qualifying local authorities from doing, in exercise of the general power, anything that is specified, or is of a description specified, in the regulations.
- (4) The Welsh Ministers may by regulations provide for the exercise of the general power to be subject to conditions, either generally or in relation to doing anything that is specified, or is of a description specified, in the regulations.
- (5) Regulations made under subsection (4) may, among other things, provide that the exercise of the general power by a qualifying local authority—
 - (a) to charge for providing a service to a person is to be subject to conditions in addition to the conditions set out in section 26;
 - (b) to do things for a commercial purpose is to be subject to conditions in addition to the conditions set out in section 27.
- (6) The power under subsection (1), (2), (3) or (4) may be exercised in relation to—
 - (a) all qualifying local authorities;
 - (b) a particular authority that is a qualifying local authority;
 - (c) a particular description of local authority that is a qualifying local authority.
- (7) Except as provided for in subsection (8), before making regulations under subsection (1), (2), (3) or (4) the Welsh Ministers must consult—
 - (a) such principal councils and community councils as they consider appropriate,
 - (b) such persons representing principal councils and community councils as they consider appropriate, and
 - (c) such other persons as they consider appropriate.
- (8) The duty imposed by subsection (7) does not apply in the case of regulations made by the Welsh Ministers only for the purpose of amending earlier regulations—
 - (a) so as to extend the earlier regulations, or any provision of the earlier regulations, to a particular authority or authorities of a particular description, or
 - (b) so that the earlier regulations, or any provision of the earlier regulations, ceases to apply to a particular authority or to authorities of a particular description.

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- (9) This section does not confer power to make provision—
- (a) that amends, repeals or disapplies a provision of this Act;
 - (b) for the delegation or transfer of any function of legislating by order, rules, regulations, or other subordinate instrument.

Commencement Information

14 S. 28 in force at 4.3.2021 by S.I. 2021/231, art. 2(a)

VALID FROM 01/11/2021

29 Amendments relating to this Chapter **E+W**

Part 1 of Schedule 3 makes amendments relating to this Chapter.

CHAPTER 2 **E+W**

ELIGIBLE COMMUNITY COUNCILS

30 Becoming an eligible community council **E+W**

- (1) A community council that meets each of the conditions set out in subsections (2) to (4) (“the eligibility conditions”) may become an eligible community council for the purposes of Chapter 1 by passing, at any meeting of the council, a resolution that it is an eligible community council.
- (2) The first condition is that at least two-thirds of the total number of councillors of the community council have been declared elected (whether at an ordinary election or at a by-election).
- (3) The second condition is that the clerk to the council holds such qualification or description of qualification as may be specified by the Welsh Ministers by regulations.
- (4) The third condition is that—
 - (a) the most recent AGW opinion on the council's accounts—
 - (i) is an unqualified AGW opinion, and
 - (ii) was received by the council during the period of 12 months ending on the day the council will (if it passes a resolution in accordance with subsection (1)) become an eligible community council, and
 - (b) the AGW opinion on the council's accounts which immediately preceded the opinion mentioned in paragraph (a) is also an unqualified AGW opinion.
- (5) For the purposes of subsection (4) and section 34—
 - (a) an AGW opinion is an opinion provided by the Auditor General for Wales under section 23 of the Public Audit (Wales) Act 2004 (c. 23), having concluded an audit of a community council's accounts for a financial year, and

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- (b) an AGW opinion is unqualified if the Auditor General for Wales has not, in the opinion, expressed in any way that the Auditor General for Wales is not satisfied as to the matters set out in section 17 of the Public Audit (Wales) Act 2004.
- (6) A community council that passes a resolution in accordance with subsection (1) becomes an eligible community council on passing the resolution.

VALID FROM 05/05/2022

31 Continuing to be an eligible community council **E+W**

- (1) If an eligible community council wishes to continue to be an eligible community council it must—
- (a) at the time of each annual meeting following the passing of the resolution in accordance with section 30, meet the eligibility conditions, and
 - (b) at each such annual meeting, pass a resolution that it continues to be an eligible community council.
- (2) An eligible community council that does not pass a resolution in accordance with subsection (1) ceases to be an eligible community council at the end of the day following the annual meeting in question.
- (3) In this section and section 32 “annual meeting”, in relation to an eligible community council, means a meeting of the council held under paragraph 23 of Schedule 12 to the 1972 Act.

VALID FROM 05/05/2022

32 Ceasing to be an eligible community council **E+W**

- (1) An eligible community council may pass a resolution at any meeting of the council (including an annual meeting) that it cease to be an eligible community council.
- (2) A community council that passes a resolution under subsection (1) ceases to be an eligible community council at the end of the day following the meeting at which the resolution was passed.

VALID FROM 05/05/2022

33 Community councils that cease to be eligible: exercise of general power of competence **E+W**

A community council that ceases to be an eligible community council may continue to exercise the general power of competence in relation to any thing done while it was an eligible community council.

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VALID FROM 05/05/2022

34 Common community councils established after this Act is passed **E+W**

- (1) This section applies where—
 - (a) after this Act is passed, communities are grouped together under a common community council under an order under section 27F of the 1972 Act, and
 - (b) at least half of the communities grouped together had separate community councils which, immediately before the order under section 27F of the 1972 Act was made, met the third eligibility condition (set out in section 30(4)).
- (2) The third eligibility condition does not apply to the common community council until it has received two AGW opinions in respect of two financial years; and sections 30(1) and 31(1) are to be read accordingly.
- (3) If the first AGW opinion received by the common community council is not an unqualified opinion, the council is to be treated as no longer meeting the eligibility conditions.

35 Power to amend or modify this Chapter **E+W**

- (1) The Welsh Ministers may by regulations amend this Chapter for the purposes of—
 - (a) adding an eligibility condition,
 - (b) removing an eligibility condition,
 - (c) changing any of the eligibility conditions, or
 - (d) making provision for a community council to cease to be an eligible community council (in circumstances other than those specified in this Chapter).
- (2) Before making regulations under paragraphs (a) to (c) of subsection (1), the Welsh Ministers must consult such persons representing community councils as they consider appropriate.
- (3) The Welsh Ministers may by regulations amend or modify this Chapter for the purposes of providing that, during the period of two years beginning with the day on which this Chapter comes into force—
 - (a) an eligibility condition does not apply;
 - (b) an eligibility condition applies with modifications.

VALID FROM 05/05/2022

36 Guidance on exercise of functions under this Chapter **E+W**

A community council must have regard to any guidance issued by the Welsh Ministers about the exercise of functions under this Chapter.

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VALID FROM 05/05/2022

37 Amendments relating to this Chapter E+W

Part 2 of Schedule 3 makes amendments relating to this Chapter.

PART 3 E+W

PROMOTING ACCESS TO LOCAL GOVERNMENT

VALID FROM 20/03/2021

CHAPTER 1 E+W

OVERVIEW OF PART

38 Overview E+W

In this Part—

- (a) Chapter 2 requires a principal council—
 - (i) to encourage local people to participate in decision-making by the council;
 - (ii) to prepare and publish a strategy setting out how it is to comply with its duty to encourage participation in decision-making;
 - (iii) to make a petition scheme;
 - (iv) to publish an electronic and postal address for each of its members;
- (b) Chapter 3 requires a principal council to publish a guide to accompany its constitution and make copies of the guide available on request;
- (c) Chapter 4 makes provision—
 - (i) for broadcasting proceedings at meetings of principal councils and other local authorities which are open to the public;
 - (ii) requiring local authorities to make arrangements enabling remote attendance at meetings;
 - (iii) giving members of the public the opportunity to speak at meetings of community councils open to the public;
 - (iv) about the giving of notices, and access to documents, relating to local authority meetings;
 - (v) for regulations to be made about local authority meetings, publication of information and community meetings;
- (d) Chapter 5 requires community councils to publish an annual report about their priorities, activities and achievements.

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VALID FROM 05/05/2022

CHAPTER 2 **E+W**

PUBLIC PARTICIPATION IN DECISION-MAKING BY PRINCIPAL COUNCILS

Principal councils' duty to encourage participation in local government

39 Duty to encourage local people to participate in decision-making by principal councils **E+W**

- (1) A principal council must encourage local people to participate in the making of decisions by the council (including the making of decisions in partnership or in conjunction with any other person).
- (2) In subsection (1), a reference to the making of decisions includes a reference to the making of decisions by a person in relation to the exercise of a function delegated to that person by a principal council.

40 Strategy on encouraging participation **E+W**

- (1) A principal council must prepare and publish a strategy (“a public participation strategy”) specifying how it proposes to comply with the duty in section 39.
- (2) A public participation strategy must, in particular, address—
 - (a) ways of promoting awareness among local people of the principal council's functions;
 - (b) ways of promoting awareness among local people of how to become a member of the principal council, and what membership entails;
 - (c) ways of facilitating access for local people to information about decisions made, or to be made, by the principal council;
 - (d) ways of promoting and facilitating processes by which local people may make representations to the principal council about a decision before, and after, it is made;
 - (e) arrangements made, or to be made, for the purpose of the council's duty in section 62 of the 2011 Measure (bringing views of the public to attention of overview and scrutiny committees);
 - (f) ways of promoting awareness among members of the principal council of the benefits of using social media to communicate with local people.
- (3) A public participation strategy may address how a principal council proposes to comply with a duty imposed by any enactment.

41 Public participation strategy: consultation and review **E+W**

- (1) A principal council's first public participation strategy must be published as soon as reasonably practicable after section 40 comes into force.
- (2) In preparing that strategy the council must consult—
 - (a) local people, and

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- (b) such other persons as it considers appropriate.
- (3) A principal council—
 - (a) must review its public participation strategy as soon as reasonably practicable following each ordinary election of councillors to the council, and
 - (b) may review its strategy at any other time.
- (4) In conducting a review of a public participation strategy under subsection (3)(a) a principal council must consult—
 - (a) local people, and
 - (b) such other persons as it considers appropriate.
- (5) Following a review under subsection (3) a principal council may revise its public participation strategy, or replace it with a new strategy.
- (6) But before revising or replacing its public participation strategy following a review under subsection (3)(b) a principal council must consult—
 - (a) local people, and
 - (b) such other persons as it considers appropriate.
- (7) If a principal council revises or replaces a public participation strategy, it must publish the revised or new strategy as soon as reasonably practicable.

Principal council's petition scheme

42 Duty to make petition scheme E+W

- (1) A principal council must make and publish a scheme (a “petition scheme”) setting out how the council intends to handle and respond to petitions (including electronic petitions).
- (2) A petition scheme must, in particular, set out—
 - (a) how a petition may be submitted to the council;
 - (b) how and by when the council will acknowledge receipt of a petition;
 - (c) the steps the council may take in response to a petition received by it;
 - (d) the circumstances (if any) in which the council may take no further action in response to a petition;
 - (e) how and by when the council will make available its response to a petition to the person who submitted the petition and to the public.
- (3) A principal council must review its petition scheme from time to time and, if the council considers it appropriate, revise the scheme.
- (4) If a principal council revises or replaces a petition scheme, it must publish the revised or new scheme.

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Addresses of members of principal councils

43 Duty on principal councils to publish official addresses **E+W**

A principal council must publish an electronic and postal address for each member of the council, to which correspondence for the member may be sent.

Guidance

44 Guidance on exercise of functions under this Chapter **E+W**

A principal council must have regard to any guidance issued by the Welsh Ministers about the exercise of functions under this Chapter.

VALID FROM 05/05/2022

CHAPTER 3 **E+W**

CONSTITUTION GUIDES

45 Principal councils' duty to publish constitution and constitution guide **E+W**

(1) Section 37 of the 2000 Act (local authority constitution) is amended as follows.

(2) After subsection (1) insert—

“(1A) A local authority must prepare and keep up to date a document (referred to in this section as their constitution guide) which explains, in ordinary language, the content of their constitution.”

(3) In subsection (2)—

(a) after “must” insert “—

(a) publish their constitution and their constitution guide electronically and in such other manner as they consider appropriate, and

(b)”;

(b) after “copies of their constitution” insert “ and their constitution guide ”.

(4) In subsection (3)—

(a) after “constitution” insert “ or, as the case may be, their constitution guide ”;

(b) for the words from “who requests” to the end of the subsection, substitute “ on request, either free of charge or at a charge representing no more than the cost of providing the copy ”.

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CHAPTER 4 E+W

LOCAL GOVERNMENT MEETINGS

VALID FROM 04/03/2021

46 **Electronic broadcasts of meetings of certain local authorities** E+W

- (1) A principal council must make and publish arrangements for the purpose of ensuring that—
 - (a) a broadcast of proceedings at a meeting to which subsection (2) applies is available electronically so that members of the public not in attendance at the meeting can see and hear the proceedings;
 - (b) the proceedings are broadcast as they take place, subject to any specified exceptions;
 - (c) the broadcast is available electronically for a specified period after the meeting.
- (2) This subsection applies to proceedings at a meeting, or any part of a meeting, which is open to the public of—
 - (a) a principal council;
 - (b) any of the following specified bodies—
 - (i) the executive of a principal council;
 - (ii) a committee or sub-committee of an executive of a principal council;
 - (iii) a committee or sub-committee of a principal council;
 - (iv) a joint committee, or a sub-committee of a joint committee, of two or more principal councils.
- (3) The Welsh Ministers may by regulations make further provision in connection with the broadcast of proceedings at a meeting to which subsection (2) applies.
- (4) In subsections (1) and (2), “specified” means specified in regulations made by the Welsh Ministers.
- (5) If a principal council revises or replaces arrangements made under subsection (1), it must publish the revised or new arrangements.
- (6) A principal council making arrangements required by subsection (1) must have regard to any guidance about the exercise of that function issued by the Welsh Ministers.
- (7) The validity of any proceedings to which subsection (2) applies is not affected by the availability or otherwise of a broadcast (whether as the proceedings take place or afterwards).
- (8) The Welsh Ministers may by regulations make provision for and in connection with ensuring that proceedings at a meeting of an authority listed in subsection (9), or at a meeting of a committee or sub-committee of such an authority, are broadcast electronically.
- (9) The authorities are—
 - (a) a fire and rescue authority for an area in Wales;

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- (b) a National Park authority for a National Park in Wales;
 - (c) a joint committee of one or more principal councils and one or more authorities described in paragraph (a) or (b);
 - (d) a joint board which—
 - (i) is constituted under any enactment as a body corporate, and
 - (ii) discharges functions of two or more principal councils.
- (10) Regulations under subsection (3) or (8) may include provision amending, modifying, repealing or revoking any enactment.

VALID FROM 04/03/2021

47 Attendance at local authority meetings **E+W**

- (1) A local authority must make and publish arrangements for the purpose of ensuring that local authority meetings are able to be held by means of any equipment or other facility which—
- (a) enables persons who are not in the same place to attend the meetings, and
 - (b) satisfies the conditions in subsection (2).
- (2) The conditions are that the equipment or other facility enables persons—
- (a) in the case of local authority meetings that do not fall within paragraph (b), to speak to and be heard by each other (whether or not the equipment or facility enables those persons to see and be seen by each other), and
 - (b) in the case of meetings of a principal council required to be broadcast under section 46 (electronic broadcasts), or any other local authority meetings required to be broadcast by regulations made under that section, to speak to and be heard by each other and to see and be seen by each other.
- (3) In the case of meetings of a joint committee of two or more local authorities, the authorities must make and publish arrangements under subsection (1) jointly.
- (4) If a local authority revises or replaces arrangements made under subsection (1), it must publish the revised or new arrangements.
- (5) A local authority making arrangements required by subsection (1) must have regard to any guidance about the exercise of that function issued by the Welsh Ministers.
- (6) In this section—
- “local authority” (“*awdurdod lleol*”) means—
 - (a) a principal council;
 - (b) a community council;
 - (c) a fire and rescue authority for an area in Wales;
 - (d) a National Park authority for a National Park in Wales;
 - (e) a port health authority for a port health district in Wales constituted under section 2 of the Public Health (Control of Disease) Act 1984 (c. 22);
 - “local authority meeting” (“*cyfarfod awdurdod lleol*”) means a meeting of—
 - (a) a local authority;

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- (b) where the local authority is a principal council, its executive;
- (c) a joint committee of two or more local authorities;
- (d) a committee or sub-committee of anything within paragraphs (a) to (c),

and, for the avoidance of doubt, includes a hearing held by a principal council's licensing committee established under section 6 of the Licensing Act 2003 (c. 17) or a sub-committee established by a licensing committee.

- (7) A reference in any enactment to—
- (a) the attendance, presence or appearance of a person at a local authority meeting includes, in relation to a meeting held by the means described in subsection (1), attendance, presence or appearance by use of those means;
 - (b) the place at which a local authority meeting is held is not to be read as limited to a single physical location.
- (8) The Welsh Ministers may by regulations amend this section so as to—
- (a) add to, amend or omit the conditions in subsection (2);
 - (b) add to the definition of “local authority” in subsection (6) a joint board which—
 - (i) is constituted under any enactment as a body corporate, and
 - (ii) discharges functions of two or more principal councils.
- (9) Part 2 of Schedule 4 makes consequential amendments.

VALID FROM 05/05/2022

48 Participation at meetings of community councils E+W

In Part 4 of Schedule 12 to the 1972 Act (meetings and proceedings of community councils), after paragraph 27 insert—

- “27A (1) This paragraph applies in respect of a meeting or part of a meeting of a community council which is open to the public.
- (2) The person presiding over the meeting must give members of the public in attendance a reasonable opportunity to make representations about any business to be transacted at the meeting, unless that person considers that doing so is likely to prejudice the effective conduct of the meeting.
- (3) In complying with sub-paragraph (2), the person presiding over the meeting must have regard to any guidance issued by the Welsh Ministers about the function in that sub-paragraph.”

49 Notices etc. of local authority meetings E+W

Part 1 of Schedule 4 makes amendments to the 1972 Act and other Acts, concerning notices and other documents relating to meetings of local authorities.

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Commencement Information

I5 S. 49 in force at 21.1.2021 for specified purposes, see s. 175(1)(c)(7)

50 Regulations about conduct of local authority meetings, documents relating to meetings and publication of information **E+W**

- (1) The Welsh Ministers may by regulations make provision for and in connection with requirements concerning notices and other documents relating to local authority meetings and concerning the conduct of such meetings.
- (2) Regulations under subsection (1) may, in particular, include provision about—
 - (a) the production of notices and other documents relating to local authority meetings;
 - (b) the publication and dissemination of such notices and documents;
 - (c) the content of such notices and documents;
 - (d) rights of access to such notices and documents;
 - (e) the keeping of documents relating to local authority meetings;
 - (f) arrangements relating to the holding of local authority meetings;
 - (g) the recording of decisions made at such meetings.
- (3) The Welsh Ministers may also by regulations make provision for and in connection with the publication by local authorities of, and rights of access to, information setting out details about—
 - (a) members of the authority and its committees and sub-committees;
 - (b) rights to attend local authority meetings and to access documents;
 - (c) the exercise of powers of a local authority by its officers.
- (4) Regulations under this section may amend, modify, repeal or revoke any enactment.
- (5) In this section—

“local authority” (“*awdurdod lleol*”) means—

 - (a) a principal council;
 - (b) a community council;
 - (c) a fire and rescue authority for an area in Wales;
 - (d) a National Park authority for a National Park in Wales;
 - (e) a joint board which—
 - (i) is constituted under any enactment as a body corporate, and
 - (ii) discharges functions of two or more principal councils;
 - (f) a port health authority for a port health district in Wales constituted under section 2 of the Public Health (Control of Disease) Act 1984 (c. 22);

“local authority meeting” (“*cyfarfod awdurdod lleol*”) means a meeting of—

 - (a) a local authority;
 - (b) where the local authority is a principal council, its executive;
 - (c) a joint committee of two or more local authorities;
 - (d) a committee or sub-committee of anything within paragraphs (a) to (c).

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51 Regulations about community meetings **E+W**

In Part 5 of Schedule 12 to the 1972 Act (community meetings), after paragraph 36 insert—

- “36A (1) The Welsh Ministers may by regulations make provision for and in connection with requirements concerning notices and other documents relating to community meetings and concerning the holding of such meetings and their conduct.
- (2) Regulations under sub-paragraph (1) may, in particular, include provision about—
- (a) arrangements relating to the holding of community meetings attended by persons who are not in the same place;
 - (b) the convening of community meetings;
 - (c) the production, publication, dissemination and content of notices of community meetings;
 - (d) the recording of decisions made at community meetings;
 - (e) the functions of principal councils and community councils in relation to community meetings;
 - (f) eligibility to attend and to vote at community meetings.
- (3) Regulations under sub-paragraph (1) may include supplementary, incidental, consequential, transitional, transitory or saving provision (including provision amending, modifying, repealing or revoking any enactment (including this Act)).
- (4) A statutory instrument containing regulations under sub-paragraph (1) must not be made unless a draft of the instrument has been laid before and approved by resolution of Senedd Cymru.
- 36BA principal council and a community council exercising functions in relation to community meetings must have regard to any guidance about the exercise of those functions issued by the Welsh Ministers.”

VALID FROM 01/04/2022

CHAPTER 5 **E+W**

ANNUAL REPORTS BY COMMUNITY COUNCILS

52 Annual reports by community councils **E+W**

- (1) As soon as reasonably practicable after the end of each financial year, a community council must prepare and publish a report (an “annual report”) about the council's priorities, activities and achievements during that year.
- (2) A community council must have regard to any guidance about annual reports issued by the Welsh Ministers.

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- (3) Section 101 of the 1972 Act (arrangements for discharge of functions by local authorities) does not apply to a community council's function of determining the content of an annual report.

PART 4 **E+W**

LOCAL AUTHORITY EXECUTIVES, MEMBERS, OFFICERS AND COMMITTEES

VALID FROM 20/03/2021

Overview of Part

53 Overview **E+W**

This Part makes provision—

- (a) requiring a principal council to appoint a chief executive (rather than designate a head of paid service), whose functions will include duties imposed under this Part;
- (b) about the remuneration of chief executives;
- (c) for the appointment of assistants to executives of principal councils;
- (d) about job-sharing of certain offices in principal councils;
- (e) for issuing guidance, including to elected mayors and executive leaders, on equality and diversity;
- (f) about the entitlement of members of local authorities to various kinds of family absence;
- (g) requiring leaders of political groups to take steps to promote and maintain high standards of conduct by members of their groups, and to co-operate with standards committees;
- (h) requiring standards committees to produce annual reports on the exercise of their functions;
- (i) amending the 2000 Act and other Acts to make provision about investigations by the Public Services Ombudsman for Wales into the conduct of members of local government;
- (j) about the provision of certain information to overview and scrutiny committees;
- (k) enabling the Welsh Ministers to require local authorities to appoint joint overview and scrutiny committees;
- (l) requiring community councils to make training plans.

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VALID FROM 20/03/2021

Chief executives

VALID FROM 05/05/2022

54 Chief executives E+W

- (1) A principal council must appoint a chief executive.
- (2) The chief executive of a principal council must—
 - (a) keep each of the matters specified in subsection (3) under review, and
 - (b) where the chief executive considers it appropriate to do so, make a report to the council setting out the chief executive's proposals in respect of any of those matters.
- (3) The matters are—
 - (a) the manner in which the exercise by the council of its different functions is co-ordinated;
 - (b) the council's arrangements in relation to—
 - (i) financial planning,
 - (ii) asset management, and
 - (iii) risk management;
 - (c) the number and grades of staff required by the council for the exercise of its functions;
 - (d) the organisation of the council's staff;
 - (e) the appointment of the council's staff;
 - (f) the arrangements for the management of the council's staff (including arrangements for training and development).
- (4) As soon as reasonably practicable after preparing a report for the purposes of subsection (2)(b), the chief executive of a principal council must arrange for the report to be sent to each member of the council.
- (5) A principal council must consider a report made under subsection (2)(b) at a meeting held not more than three months after copies of the report are first sent to members of the council; and section 101 of the 1972 Act (arrangements for discharge of functions by local authorities) does not apply to the duty imposed by this subsection.
- (6) A principal council must provide its chief executive with such staff, accommodation and other resources as are, in the chief executive's opinion, sufficient to allow the chief executive's duties under this section to be carried out.
- (7) Schedule 5 makes consequential amendments.

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55 Replacement of references to “salary” in section 143A of the 2011 Measure **E**
+W

- (1) Section 143A of the 2011 Measure is amended as follows.
- (2) In subsections (1), (3), (3A), (3B), (5A) and (5B), for “salary” and “a salary” in each place they occur substitute “ remuneration ”.
- (3) In subsection (3), for “salaries” substitute “ remuneration ”.
- (4) In subsection (3A), for “payable” substitute “ provided ”.
- (5) In subsection (5B), for “pay” substitute “ provide ” and for “paying” substitute “ providing ”.
- (6) In subsection (7)—
 - (a) omit the definition of “salary”, and
 - (b) at the appropriate place insert—

““remuneration” (“*cydnabyddiaeth ariannol*”) has the meaning given in section 43 of the Localism Act 2011;”.
- (7) In the heading, for “salaries” substitute “ remuneration ”.
- (8) In the 1972 Act, in section 112(2A) (appointment of staff) for “salaries” substitute “ remuneration ”.

VALID FROM 05/05/2022

56 Reconsideration of remuneration following direction by the Welsh Ministers **E+W**

In section 143A of the 2011 Measure (functions of Independent Remuneration Panel for Wales in respect of remuneration of chief executives), after subsection (5B) insert—

- “(5C) If the Welsh Ministers give a direction under subsection (5B) to a qualifying relevant authority—
- (a) the function of reconsidering the remuneration is not to be the responsibility of an executive of the authority under executive arrangements (within the meaning of section 10 of the Local Government Act 2000);
 - (b) an elected mayor (within the meaning of section 39(1) of that Act) is to be treated as a member of the authority for the purposes of that function, and
 - (c) section 101 of the Local Government Act 1972 (arrangements for discharge of functions by local authorities) does not apply to that function.”

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VALID FROM 04/03/2021

Executives of principal councils

VALID FROM 05/05/2022

57 Appointment of assistants to executive E+W

(1) Schedule 1 to the 2000 Act (executive arrangements in Wales: further provision) is amended as follows.

(2) Before paragraph 4 insert—

3A “Assistants to the executive

(1) Executive arrangements by a local authority may make provision for councillors of the authority to be appointed to assist the executive in discharging functions which are the responsibility of the executive.

(2) Such a councillor is referred to in this Schedule as an assistant to the executive of the authority.

(3) Assistants to the executive of an authority are to be appointed—

- (a) in the case of an authority operating a mayor and cabinet executive, by the elected mayor;
- (b) in the case of an authority operating a leader and cabinet executive (Wales), by the executive leader or the authority.

(4) Executive arrangements which make provision for the appointment of assistants to an executive may include provision about—

- (a) the number of assistants that may be appointed,
- (b) their term of office, and
- (c) their responsibilities.

(5) The assistants to the executive of a local authority may not include—

- (a) the chairman and vice-chairman of the authority;
- (b) the presiding member and deputy presiding member of the authority (if the authority has a presiding member).

(6) An assistant to the executive of an authority is not a member of the executive of the authority.

(7) Section 101 of the Local Government Act 1972 (arrangements for discharge of functions by local authorities) does not apply to a local authority's function of making appointments under sub-paragraph (3)(b).”

(3) In paragraph 5—

- (a) at the beginning insert—

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“(1) An assistant to the executive of a local authority is entitled to attend, and speak at, any meeting of the executive or of a committee of the executive.

(2)”;

(b) for “not a member of the authority's executive” substitute “ neither a member of the authority's executive nor an assistant to the executive ”.

(4) Schedule 6 to this Act makes consequential amendments.

VALID FROM 05/05/2022

58 Job-sharing: executive leaders and executive members **E+W**

Schedule 7 provides for amendments to the 2000 Act to make provision—

- (a) requiring local authorities to include in their executive arrangements provision enabling two or more councillors to share office on an executive, including the office of executive leader,
- (b) changing the maximum number of members of an executive when members of the executive share office, and
- (c) about voting and quorum where members of an executive share office.

59 Content of, and duty to have regard to, guidance under section 38 of the 2000 Act **E+W**

(1) Section 38 of the 2000 Act (guidance) is amended as follows.

(2) In subsection (1), after “local authority” insert “ , an elected mayor or an executive leader ”.

(3) After subsection (1) insert—

“(1A) The guidance may, among other things, include provision designed to encourage good practice in relation to equality and diversity (within the meaning of section 8(2) of the Equality Act 2006).”

Entitlement of members to job-share and to family absence

VALID FROM 20/03/2021

60 Job-sharing: non-executive offices in principal councils **E+W**

(1) The Welsh Ministers may by regulations make provision for the purpose of facilitating or enabling the sharing of a principal council office.

(2) For the purposes of this section, “principal council office” means—

- (a) chair of a principal council (see section 22 of the 1972 Act);
- (b) vice-chair of a principal council (see section 24 of that Act);

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- (c) presiding member of a principal council (see section 24A of that Act);
 - (d) deputy presiding member of a principal council (see section 24B of that Act);
 - (e) chair of a committee or sub-committee of a principal council;
 - (f) vice-chair or deputy chair of a committee or sub-committee of a principal council;
 - (g) deputy mayor in a mayor and cabinet executive (see Schedule 1 to the 2000 Act (executive arrangements)).
- (3) Regulations under subsection (1) may, in particular—
- (a) require principal councils to facilitate or enable the sharing of a principal council office (including by way of amending standing orders and other instruments);
 - (b) make provision about the appointment, election or nomination of a person to share a principal council office;
 - (c) make provision about the exercise of the functions of a principal council office which is shared;
 - (d) make provision about voting and quorum where a principal council office is shared.
- (4) Regulations under subsection (1) may amend, modify, apply (with or without modifications), disapply, repeal or revoke any enactment.
- (5) A principal council must have regard to any guidance issued by the Welsh Ministers for the purposes of regulations made under subsection (1).
- (6) In subsection (2), a reference to a committee or sub-committee includes a reference to a joint committee, or a sub-committee of a joint committee.

61 Family absence for members of local authorities E+W

- (1) The 2011 Measure is amended as follows.
- (2) In section 24 (maternity absence)—
- (a) for subsection (2) substitute—
 - “(2) Regulations must include provision for determining—
 - (a) the extent of a member's entitlement to maternity absence in respect of a child;
 - (b) when maternity absence may be taken.”;
 - (b) omit subsections (3) and (4).
- (3) In section 25 (newborn absence), omit—
- (a) subsection (4);
 - (b) subsection (6);
 - (c) subsection (9);
 - (d) in subsection (10), the definition of “week”.
- (4) In section 26 (adopter's absence), omit subsection (3).
- (5) In section 27 (new adoption absence) omit—
- (a) subsection (4);
 - (b) subsection (6);

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(c) subsections (9) and (10).

(6) In section 28 (parental absence), omit subsection (4).

VALID FROM 05/05/2022

Conduct of members

62 Duties of leaders of political groups in relation to standards of conduct E

+W

(1) The 2000 Act is amended as follows.

(2) After section 52 insert—

“52A County and county borough councils: duties of leaders of political groups in relation to standards of conduct

(1) A leader of a political group consisting of members of a county council or county borough council in Wales—

- (a) must take reasonable steps to promote and maintain high standards of conduct by the members of the group, and
- (b) must co-operate with the council's standards committee (and any sub-committee of the committee) in the exercise of the standards committee's functions.

(2) In complying with subsection (1), a leader of a political group must have regard to any guidance about the functions under that subsection issued by the Welsh Ministers.

(3) The Welsh Ministers may by regulations make provision for the purposes of this section about the circumstances in which—

- (a) members of a county council or county borough council in Wales are to be treated as constituting a political group;
- (b) a member of a political group is to be treated as a leader of the group.

(4) Before making regulations under subsection (3), the Welsh Ministers must consult such persons as they think appropriate.”

(3) In section 54 (functions of standards committees), after subsection (2) insert—

“(2A) A standards committee of a county council or county borough council in Wales also has the specific functions of—

- (a) monitoring compliance by leaders of political groups on the council with their duties under section 52A(1), and
- (b) advising, training or arranging to train leaders of political groups on the council about matters relating to those duties.”

(4) In section 106 (Wales: orders and regulations)—

- (a) omit subsection (5);
- (b) in subsection (7) after “section 21G” insert “ or regulations under section 52A(3) ”.

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(5) In the 2013 Act, omit section 68(4)(a).

(6) In this Act, omit section 63(2).

63 Duty of standards committee to make annual report E+W

(1) In Part 3 of the 2000 Act, at the end of Chapter 1 insert—

“56B Annual reports by standards committees

- (1) As soon as reasonably practicable after the end of each financial year, a standards committee of a relevant authority must make an annual report to the authority in respect of that year.
- (2) The annual report must describe how the committee's functions have been discharged during the financial year.
- (3) In particular, the report must include a summary of—
 - (a) what has been done to discharge the general and specific functions conferred on the committee by section 54 or 56;
 - (b) reports and recommendations made or referred to the committee under Chapter 3 of this Part;
 - (c) action taken by the committee following its consideration of such reports and recommendations;
 - (d) notices given to the committee under Chapter 4 of this Part.
- (4) An annual report by a standards committee of a county council or county borough council in Wales must include the committee's assessment of the extent to which leaders of political groups on the council have complied with their duties under section 52A(1) during the financial year.
- (5) An annual report by a standards committee of a relevant authority may include recommendations to the authority about any matter in respect of which the committee has functions.
- (6) A relevant authority must consider each annual report made by its standards committee before the end of 3 months beginning with the day on which the authority receives the report.
- (7) The function of considering the report may be discharged only by the relevant authority (and accordingly is not a function to which section 101 of the Local Government Act 1972 applies).
- (8) In this section “financial year” means a period of 12 months ending with 31 March.”

(2) Until section 62 comes into force, section 56B of the 2000 Act is to be read as if subsection (4) were omitted.

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64 Certain investigations by the Public Services Ombudsman for Wales **E+W**

Schedule 8 makes amendments to the 2000 Act and other Acts, about investigations by the Public Services Ombudsman for Wales concerning failures to comply with a code of conduct.

VALID FROM 05/05/2022

Overview and scrutiny committees

65 Making information available to overview and scrutiny committees **E+W**

In section 22(10) of the 2000 Act (power to require information to be made available about decisions), for “or members of the authority” substitute “, members of the authority, an overview and scrutiny committee of the authority or a sub-committee of such a committee”.

66 Power to require authorities to appoint joint overview and scrutiny committees **E+W**

- (1) Section 58 of the 2011 Measure (joint overview and scrutiny committees) is amended as follows.
- (2) In subsection (1), after “authorities may” insert “ or must ”.
- (3) In subsection (3), for paragraph (a) substitute—
 - “(a) provision about the circumstances in which arrangements may be made;
 - (aa) provision prescribing circumstances in which arrangements must be made;
 - (ab) provision for arrangements to be made subject to prescribed conditions or limitations;”.
- (4) In subsection (4)—
 - (a) omit “, in exercising or deciding whether to exercise any function conferred on it by or under this section,”;
 - (b) after “Welsh Ministers” insert “ in relation to the exercise of any function it has under or by virtue of this section ”.

VALID FROM 05/05/2022

Training of members and staff of community councils

67 Community council training plans **E+W**

- (1) A community council must make and publish a plan (a “training plan”) setting out its proposals in relation to the provision of training for—
 - (a) the councillors of the community council, and

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(b) the community council's staff.

- (2) A community council must make its first training plan no later than six months after the date on which subsection (1) comes into force.
- (3) A community council must make a new training plan no later than three months after each ordinary election of community councillors to the council.
- (4) A community council must review its training plan from time to time.
- (5) If a community council revises or replaces its training plan, it must publish the revised or new plan.
- (6) Section 101 of the 1972 Act (arrangements for discharge of functions by local authorities) does not apply to a community council's functions of—
 - (a) determining the content of a training plan or any revised plan, and
 - (b) reviewing the training plan.
- (7) A community council must have regard to any guidance issued by the Welsh Ministers about the exercise of functions under this section.

PART 5 E+W

COLLABORATIVE WORKING BY PRINCIPAL COUNCILS

CHAPTER 1 E+W

TERMS USED IN PART

68 Terms used in Part E+W

In this Part—

“corporate joint committee” (“*cyd-bwyllgor corfforedig*”) has the meaning given in section 72(1) and section 74(1) (and means a body corporate established by joint committee regulations for the purpose of exercising, in relation to two or more principal areas, a function specified in the regulations);

“documents” (“*dogfennau*”) includes information recorded in any form;

“economic well-being function” (“*swyddogaeth llesiant economaidd*”) is to be interpreted in accordance with section 76;

“joint committee application” (“*cais cyd-bwyllgor*”) has the meaning given in section 70(1);

“joint committee regulations” (“*rheoliadau cyd-bwyllgor*”) means—

- (a) regulations under section 72 (requested joint committee regulations);
- (b) regulations under section 74 (joint committee regulations where no request has been made);

“National Park authority” (“*awdurdod Parc Cenedlaethol*”) means a National Park authority for a National Park in Wales;

“principal area” (“*prif ardal*”) means—

- (a) a county in Wales;
- (b) a county borough (in Wales);

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“strategic development plan” (“*cynllun datblygu strategol*”) has the meaning given in section 60M of the Planning and Compulsory Purchase Act 2004 (c. 5).

CHAPTER 2 **E+W**

GUIDANCE ABOUT COLLABORATIVE WORKING

69 **Guidance about collaborative working** **E+W**

- (1) A principal council must have regard to any guidance issued by the Welsh Ministers about the exercise of its functions in collaboration with another principal council.
- (2) For the purposes of this section a principal council exercises a function in collaboration with another principal council if—
 - (a) it exercises a function of another principal council under an arrangement made under—
 - (i) section 101(1)(b) of the 1972 Act (discharge of functions by another local authority);
 - (ii) regulations made under section 19(1) of the 2000 Act (discharge of executive functions by another local authority);
 - (iii) regulations made under section 19(2) of the 2000 Act (discharge of non-executive functions by the executive of another local authority);
 - (b) it exercises the function jointly with another principal council under an arrangement made under section 101(5) of the 1972 Act (including by virtue of regulations made under section 20(1) of the 2000 Act (joint exercise of functions));
 - (c) it authorises another principal council to exercise the function under an order made under section 70 of the Deregulation and Contracting Out Act 1994 (c. 70);
 - (d) the function is exercised in relation to its principal area and the principal area of another principal council by a corporate joint committee;
 - (e) it exercises the function in collaboration with another principal council under any other enactment.

CHAPTER 3 **E+W**

ESTABLISHING CORPORATE JOINT COMMITTEES WHERE REQUEST HAS BEEN MADE

Applications to establish a corporate joint committee

70 **Application by principal councils to establish a corporate joint committee** **E+W**

- (1) Any two or more principal councils may jointly make an application (a “joint committee application”) to the Welsh Ministers, asking them to consider making regulations under section 72 establishing a corporate joint committee to exercise—
 - (a) a function of those councils;
 - (b) the economic well-being function,

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in relation to the principal areas of those councils.

- (2) If, following receipt of a joint committee application, the Welsh Ministers decide not to make regulations under section 72, they must notify the principal councils that made the application.

71 Consultation before making joint committee application **E+W**

Before making a joint committee application the principal councils must consult—

- (a) local people in the principal councils' areas,
- (b) each of the councils for communities in the principal councils' areas,
- (c) the National Park authority for a National Park, any part of which is in the area of any of the principal councils,
- (d) the public services board or boards for the principal councils' areas,
- (e) every trade union which is recognised (within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992 (c. 52)) by one or more of the principal councils, and
- (f) such other persons as the principal councils consider appropriate.

Requested joint committee regulations

72 Requested joint committee regulations **E+W**

- (1) The Welsh Ministers may by regulations establish a body corporate (to be known as a corporate joint committee) to exercise, in relation to the principal areas of the principal councils that made the joint committee application (“the relevant councils”), a function specified in the regulations.
- (2) But the Welsh Ministers may make regulations under this section only if the conditions set out in section 73 are satisfied.
- (3) Regulations under this section may specify only—
 - (a) a function of the principal councils that made the application;
 - (b) the economic well-being function.
- (4) Regulations under this section which specify a function of a principal council must make provision so that the function is either—
 - (a) exercisable by the corporate joint committee instead of by the relevant councils, or
 - (b) exercisable concurrently by the corporate joint committee and the relevant councils.
- (5) A function of a principal council may be specified in regulations under this section by reference to a particular activity or activities.

73 Conditions to be met before making requested joint committee regulations **E+W**

- (1) The conditions mentioned in section 72(2) are as follows.
- (2) The first condition is that the Welsh Ministers have received a joint committee application.

Document Generated: 2024-06-01

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- (3) The second condition is that the Welsh Ministers have consulted the following on a draft of the proposed regulations—
- (a) the principal councils that made the joint committee application,
 - (b) local people in the principal councils' areas,
 - (c) each of the councils for communities in the principal councils' areas,
 - (d) the National Park authority for a National Park, any part of which is in the area of any of the principal councils,
 - (e) the public services board or boards for the principal councils' areas,
 - (f) every trade union which is recognised (within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992 (c. 52)) by one or more of the principal councils, and
 - (g) such other persons as the Welsh Ministers consider appropriate.
- (4) The third condition is that the principal councils that made the joint committee application have each given consent in writing to the regulations being made.

CHAPTER 4 **E+W**

ESTABLISHING CORPORATE JOINT COMMITTEES WHERE NO REQUEST HAS BEEN MADE

74 **Joint committee regulations where no request has been made** **E+W**

- (1) The Welsh Ministers may by regulations establish a body corporate (to be known as a corporate joint committee) to exercise, in relation to the principal areas specified in the regulations (“the relevant areas”), a function specified in the regulations.
- (2) But the Welsh Ministers may make regulations under this section only if the conditions set out in section 75 are satisfied.
- (3) Regulations under this section may specify only—
 - (a) a function of the principal councils for the relevant areas that relates to—
 - (i) improving education;
 - (ii) transport;
 - (b) the function of preparing a strategic development plan (as to which, see subsection (4));
 - (c) the economic well-being function.
- (4) Where the function of preparing a strategic development plan is specified in joint committee regulations, Part 6 of the Planning and Compulsory Purchase Act 2004 (c. 5) applies to the corporate joint committee.
- (5) Regulations under this section which specify a function of a principal council must make provision so that the function is either—
 - (a) exercisable by the corporate joint committee instead of by the principal councils for the relevant areas, or
 - (b) exercisable concurrently by the corporate joint committee and those principal councils.
- (6) A function of a principal council may be specified in regulations under this section by reference to a particular activity or activities.

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75 Conditions to be met before making regulations under section 74 E+W

- (1) The conditions mentioned in section 74(2) are as follows.
- (2) The first condition is that the Welsh Ministers have consulted the following on a draft of the regulations—
 - (a) the principal councils for the principal areas to be specified in the regulations,
 - (b) local people in the principal councils' areas,
 - (c) each of the councils for communities in the principal councils' areas,
 - (d) the National Park authority for a National Park, any part of which is in the area of any of the principal councils,
 - (e) the public services board or boards for the principal councils' areas,
 - (f) every trade union which is recognised (within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992 (c. 52)) by one or more of the principal councils, and
 - (g) such other persons as the Welsh Ministers consider appropriate.
- (3) The second condition is that, if the condition in subsection (2) is satisfied and the Welsh Ministers intend to make regulations under section 74, they have given notice of their intention to—
 - (a) the principal councils for the principal areas to be specified in the regulations, and
 - (b) if the regulations specify the function of preparing a strategic development plan, the National Park authority for a National Park any part of which is in any of the principal areas to be specified in the regulations.
- (4) The first condition may be satisfied by consultation undertaken before the coming into force of this section.

CHAPTER 5 E+W

FURTHER PROVISION RELATING TO CORPORATE JOINT COMMITTEES AND JOINT COMMITTEE REGULATIONS

Promotion and improvement of economic well-being

76 Economic well-being function E+W

- (1) A corporate joint committee which has been granted the economic well-being function may do anything which it considers is likely to promote or improve the economic well-being of its area.
- (2) The economic well-being function may be exercised in relation to or for the benefit of—
 - (a) the whole or any part of the corporate joint committee's area;
 - (b) all or any persons resident or present in its area.
- (3) The economic well-being function includes power to do anything in relation to, or for the benefit of, any person or area situated outside the corporate joint committee's area, including areas outside Wales, if the corporate joint committee considers that it is likely to promote or improve the economic well-being of its area.

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- (4) Subsections (1) to (3) are subject to any prohibition, restriction or other limitation on the exercise of the economic well-being function as may be provided for in joint committee regulations or regulations under section 83.

Provision in joint committee regulations

77 Provision that may or must be included in joint committee regulations E+W

- (1) Joint committee regulations must provide that the senior executive members of the principal councils for the principal areas in the area of the corporate joint committee are members of the committee.
- (2) Where the function of preparing a strategic development plan is specified in joint committee regulations and any part of a National Park is in the area of the corporate joint committee, the regulations must make provision about the membership of the committee by the National Park authority for that National Park.
- (3) Joint committee regulations may, in particular, make provision about—
- (a) subject to subsections (1) and (2), the composition of a corporate joint committee (including about the co-opting of members to the committee or any sub-committee);
 - (b) the name of a corporate joint committee;
 - (c) the establishment of sub-committees of a corporate joint committee;
 - (d) the proceedings of a corporate joint committee and of any sub-committee (including provision about voting rights);
 - (e) powers of a corporate joint committee to arrange for the exercise of its functions by another person;
 - (f) powers of a corporate joint committee to exercise, on behalf of any person, any functions of that person;
 - (g) powers of a corporate joint committee to exercise its functions, other than functions under Part 6 of the Planning and Compulsory Purchase Act 2004 (c. 5), jointly, or otherwise in collaboration, with another person;
 - (h) powers of a corporate joint committee to provide staff, goods, services or accommodation to any person;
 - (i) remuneration, allowances, expenses, pensions or compensation for loss of office for members of a corporate joint committee or of any sub-committee;
 - (j) the funding of a corporate joint committee;
 - (k) the finances of a corporate joint committee, including provision about—
 - (i) the borrowing or lending of money by a corporate joint committee;
 - (ii) the giving or receipt by a corporate joint committee of financial assistance;
 - (iii) the charging of fees by a corporate joint committee;
 - (l) powers of a corporate joint committee to do for a commercial purpose anything it may do in the exercise of its functions;
 - (m) the performance of a corporate joint committee (including making a committee subject to scrutiny by another person);
 - (n) the acquisition, appropriation or disposal of property (real or personal) or rights by a corporate joint committee (including provision for the acquisition of land compulsorily);

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- (o) the commencement of or participation in legal proceedings by a corporate joint committee (including participation in a public inquiry);
 - (p) powers of the Welsh Ministers to give directions to—
 - (i) a corporate joint committee;
 - (ii) a principal council for a principal area in the area of a corporate joint committee;
 - (iii) if the joint committee regulations specify the function of preparing a strategic development plan, the National Park authority for a National Park any part of which is in the area of a corporate joint committee, and about the enforcement of such directions;
 - (q) a corporate joint committee's power to do things which are to facilitate, or are conducive or incidental to, the exercise of its functions.
- (4) For the purposes of subsection (1), “senior executive member” means—
- (a) in the case of a principal council operating a leader and cabinet executive, the executive leader;
 - (b) in the case of a principal council operating a mayor and cabinet executive, the elected mayor.

Amendment and revocation of joint committee regulations

78 Application by principal councils to amend or revoke joint committee regulations E+W

- (1) The principal councils for the principal areas in a corporate joint committee's area may jointly make an application to the Welsh Ministers, asking them to consider making regulations under section 80 to amend or revoke the joint committee regulations which established the corporate joint committee.
- (2) But an application under this section may not ask the Welsh Ministers to consider—
 - (a) amending joint committee regulations to specify a function unless it is—
 - (i) a function of the councils making the application;
 - (ii) the economic well-being function;
 - (b) amending regulations made under section 74 (joint committee regulations where no request has been made) so as to—
 - (i) omit or modify a function which relates to improving education or transport;
 - (ii) omit the function of preparing a strategic development plan;
 - (iii) omit the economic well-being function or impose, modify or omit a prohibition, restriction or other limitation on the exercise of that function;
 - (c) revoking regulations made under section 74.
- (3) An application under this section asking the Welsh Ministers to consider amending joint committee regulations so as to specify a principal area (so that the corporate joint committee will exercise a function in relation to that area) may not be made unless the principal council for that area is one of the applicants.

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79 Further provision in relation to applications **E+W**

- (1) Before making an application under section 78 the principal councils must consult such persons as they consider appropriate.
- (2) If, following the receipt of an application under section 78, the Welsh Ministers decide not to make regulations under section 80, the Welsh Ministers must notify the principal councils that made the application.

80 Amendment and revocation of joint committee regulations **E+W**

- (1) The Welsh Ministers may by regulations amend or revoke joint committee regulations.
- (2) But the Welsh Ministers may make regulations under subsection (1) only if—
 - (a) in the case of regulations that amend regulations made under section 72 (requested joint committee regulations), the conditions set out in section 81 are satisfied;
 - (b) in the case of regulations that amend regulations made under section 74 so as to specify, modify or omit a function, other than so as to—
 - (i) specify, modify or omit a function which relates to improving education or transport;
 - (ii) specify or omit the function of preparing a strategic development plan;
 - (iii) specify or omit the economic well-being function,the conditions set out in section 81 are satisfied;
 - (c) in any other case (including the case of regulations that amend regulations under section 74 to impose, modify or omit a prohibition, restriction or other limitation on the exercise of the economic well-being function), the conditions set out in section 82 are satisfied.
- (3) Regulations under subsection (1) may not amend joint committee regulations so as to specify a function unless it is—
 - (a) a function of the principal councils in the corporate joint committee's area;
 - (b) the economic well-being function;
 - (c) in the case of regulations that amend regulations made under section 74, the function of preparing a strategic development plan.
- (4) Regulations under subsection (1) which amend joint committee regulations so as to specify a function of a principal council must make provision so that the function is either—
 - (a) exercisable by the corporate joint committee instead of by the principal councils in the corporate joint committee's area, or
 - (b) exercisable concurrently by the corporate joint committee and those principal councils.
- (5) Regulations under subsection (1) may amend joint committee regulations so as to specify a function of a principal council by reference to a particular activity or activities.
- (6) Regulations under subsection (1) which—
 - (a) amend joint committee regulations so as to omit a function specified in those joint committee regulations, or

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(b) revoke joint committee regulations (so as to abolish the corporate joint committee established by those regulations),

may provide that a function which will cease to be exercisable by the corporate joint committee, other than the economic well-being function or the function of preparing a strategic development plan, is to be exercisable by another person.

(7) The Welsh Ministers may by regulations revoke regulations made under this section.

81 Conditions to be met before amending joint committee regulations: application required from principal councils **E+W**

- (1) The conditions mentioned in section 80(2)(a) and (b) are as follows.
- (2) The first condition is that the Welsh Ministers have received an application under section 78 to amend the joint committee regulations.
- (3) The second condition is that the Welsh Ministers have consulted such persons as they consider appropriate on a draft of the regulations.
- (4) The third condition is that the principal councils which made the application have each given consent in writing to the regulations being made.
- (5) The fourth condition is that, if the conditions in subsections (2) to (4) are satisfied and the Welsh Ministers intend to make the regulations, they have given notice of their intention to the corporate joint committee.

82 Conditions to be met before amending or revoking joint committee regulations: no application required from principal councils **E+W**

- (1) The conditions mentioned in section 80(2)(c) are as follows.
- (2) The first condition is that the Welsh Ministers have consulted such persons as they consider appropriate on a draft of the regulations.
- (3) The second condition is that, if the condition in subsection (2) is satisfied and the Welsh Ministers intend to make the regulations, they have given notice of their intention to—
 - (a) the principal councils in the corporate joint committee's area,
 - (b) if the regulations will amend joint committee regulations to specify a principal area—
 - (i) the principal council for that area, and
 - (ii) if the corporate joint committee has, or under the regulations will have, the function of preparing a strategic development plan, the National Park authority for a National Park any part of which is in that area,
 - (c) if the regulations will amend regulations made under section 74 to specify or omit the function of preparing a strategic development plan, the National Park authority for a National Park any part of which is in the corporate joint committee's area, and
 - (d) the corporate joint committee.

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Supplementary etc. provision in and in relation to joint committee regulations

83 Supplementary etc. provision in certain regulations under this Part **E+W**

- (1) Joint committee regulations and regulations under section 80 may include supplementary, incidental, consequential, transitional, transitory or saving provision.
- (2) The Welsh Ministers may by regulations make supplementary, incidental, consequential, transitional, transitory or saving provision applying in relation to—
 - (a) all corporate joint committees;
 - (b) a particular corporate joint committee;
 - (c) a particular description of corporate joint committee.
- (3) Regulations under subsection (2) may also make provision imposing a prohibition, restriction or other limitation on the exercise of the economic well-being function by a corporate joint committee granted that function.
- (4) Regulations under subsection (2) have effect subject to any provision included in joint committee regulations.
- (5) In this section references to supplementary, incidental, consequential, transitional, transitory or saving provision include provision—
 - (a) for the transfer of property (real or personal), rights or liabilities (including criminal liabilities, and rights and liabilities in relation to a contract of employment)—
 - (i) from a principal council to a corporate joint committee;
 - (ii) from a National Park authority to a corporate joint committee;
 - (iii) from a corporate joint committee to one or more other corporate joint committees;
 - (iv) from a corporate joint committee to one or more principal councils, persons by whom a function is exercisable by virtue of section 80(6) or National Park authorities;
 - (v) from a person by whom a function is exercisable by virtue of section 80(6) to one or more principal councils or corporate joint committees;
 - (b) for the management or custody of property transferred to or otherwise acquired by a corporate joint committee;
 - (c) for civil or criminal proceedings—
 - (i) commenced by or against a principal council to be continued by or against a corporate joint committee;
 - (ii) commenced by or against a corporate joint committee to be continued by or against one or more other corporate joint committees;
 - (iii) commenced by or against a corporate joint committee to be continued by or against one or more principal councils, persons by whom a function is exercisable by virtue of section 80(6) or National Park authorities;
 - (iv) commenced by or against a person by whom a function is exercisable by virtue of section 80(6) to be continued by or against one or more principal councils or corporate joint committees;
 - (d) subject to subsection (6), for the transfer of staff—
 - (i) from a principal council to a corporate joint committee;

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- (ii) from a National Park authority to a corporate joint committee;
 - (iii) from a corporate joint committee to one or more other corporate joint committees;
 - (iv) from a corporate joint committee to one or more principal councils, persons by whom a function is exercisable by virtue of section 80(6) or National Park authorities;
 - (v) from a person by whom a function is exercisable by virtue of section 80(6) to one or more principal councils or corporate joint committees;
 - (e) about other staffing matters (including remuneration, allowances, expenses, pensions or compensation for loss of office);
 - (f) for treating for some or all purposes—
 - (i) a corporate joint committee as the same person in law as a principal council;
 - (ii) a corporate joint committee as the same person in law as a National Park authority;
 - (iii) a corporate joint committee as the same person in law as another corporate joint committee;
 - (iv) a corporate joint committee as the same person in law as a person by whom a function is exercisable by virtue of section 80(6);
 - (v) a principal council, a person by whom a function is exercisable by virtue of section 80(6) or a National Park authority as the same person in law as a corporate joint committee;
 - (vi) a principal council as the same person in law as a person by whom a function is exercisable by virtue of section 80(6);
 - (g) about things which a corporate joint committee may or must do that are supplementary or incidental to the functions of the committee specified in joint committee regulations by virtue of section 72(1), 74(1) or 80(1);
 - (h) about the provision of information or documents by a principal council, a National Park authority or a corporate joint committee to a person specified in the regulations;
 - (i) about co-operation by a principal council, a National Park authority or a corporate joint committee with a person specified in the regulations;
 - (j) for the payment of compensation in respect of loss suffered by any person in consequence of a function becoming, or ceasing to be, exercisable by a corporate joint committee.
- (6) Joint committee regulations, regulations under section 80 or regulations under this section containing provision for the transfer of staff must apply the provisions of the Transfer of Undertakings (Protection of Employment) Regulations 2006 (S.I. 2006/246), apart from regulations 4(6) and 10, to those transfers (whether or not the transfer is a relevant transfer for the purposes of the Transfer of Undertakings (Protection of Employment) Regulations 2006).
- (7) The Welsh Ministers may by regulations amend or revoke regulations made under subsection (2) or regulations made under this subsection; and regulations under this subsection may make supplementary, incidental, consequential, transitional, transitory or saving provision.

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84 Power of the Welsh Ministers to amend, repeal etc. enactments **E+W**

- (1) Joint committee regulations and regulations under section 80 or 83 may—
 - (a) amend, modify, apply (with or without modifications) or disapply any enactment;
 - (b) repeal or revoke any enactment.
- (2) The Welsh Ministers may, for the purposes of or otherwise in connection with this Part, by regulations—
 - (a) amend, modify, apply (with or without modifications) or disapply any enactment;
 - (b) repeal or revoke any enactment.

Functions of and relating to corporate joint committees and principal councils

85 Requirement to provide information etc. **E+W**

The Welsh Ministers may direct a principal council, a National Park authority or a corporate joint committee to provide the Welsh Ministers with any information or documents the Welsh Ministers consider appropriate—

- (a) for the purposes of considering whether to make regulations under this Part;
- (b) for the purposes of giving effect to such regulations;
- (c) otherwise in connection with such regulations.

86 Guidance **E+W**

- (1) Principal councils and corporate joint committees must have regard to any guidance issued by the Welsh Ministers for the purposes of Chapters 3 and 4 and this Chapter.
- (2) A National Park authority must have regard to any guidance issued by the Welsh Ministers for the purposes of Chapter 4 and this Chapter.

87 Exercise by principal councils of functions under this Part **E+W**

- (1) Section 101 of the 1972 Act (arrangements for discharge of functions by local authorities) does not apply to the functions set out in subsection (4).
- (2) The functions set out in subsection (4) are not to be the responsibility of an executive of a principal council under executive arrangements.
- (3) An elected mayor is to be treated as a councillor of a principal council for the purposes of the functions set out in subsection (4).
- (4) The functions are—
 - (a) making a joint committee application;
 - (b) giving consent under section 73(4) to joint committee regulations being made;
 - (c) making an application under section 78 to amend or revoke joint committee regulations;
 - (d) giving consent under section 81(4) to joint committee regulations being amended.

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Amendments of other enactments

88 Amendments relating to strategic planning and joint transport authorities **E**
+W

- (1) Part 1 of Schedule 9 makes provision amending the Planning and Compulsory Purchase Act 2004 (c. 5) and other enactments to—
 - (a) repeal the powers of the Welsh Ministers to establish strategic planning panels and strategic planning areas, and
 - (b) provide for the grant of functions relating to the preparation of strategic development plans to certain corporate joint committees.
- (2) Part 2 of Schedule 9 makes provision amending other enactments to repeal the power of the Welsh Ministers to establish joint transport authorities.

VALID FROM 20/03/2021

PART 6 **E+W**

PERFORMANCE AND GOVERNANCE OF PRINCIPAL COUNCILS

CHAPTER 1 **E+W**

PERFORMANCE, PERFORMANCE ASSESSMENTS AND INTERVENTION

VALID FROM 01/04/2021

Performance

89 Duty of principal council to keep its performance under review **E+W**

- (1) A principal council must keep under review the extent to which—
 - (a) it is exercising its functions effectively,
 - (b) it is using its resources economically, efficiently and effectively, and
 - (c) its governance is effective for securing the matters set out in paragraphs (a) and (b).
- (2) In this Chapter, the matters set out in paragraphs (a) to (c) of subsection (1) are referred to as “the performance requirements”.
- (3) A principal council must have regard to any guidance issued by the Welsh Ministers about—
 - (a) the performance requirements;
 - (b) the exercise of its functions under this Chapter.

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90 Duty to consult local people etc. on performance **E+W**

A principal council must from time to time, and at least once in each financial year, consult the following about the extent to which the council is meeting the performance requirements—

- (a) local people,
- (b) other persons carrying on a business in the council's area,
- (c) the staff of the council, and
- (d) every trade union which is recognised (within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992 (c. 52)) by the council.

VALID FROM 01/04/2021

Self-assessments of performance

91 Duty of principal council to report on its performance **E+W**

- (1) A principal council must, in respect of each financial year, make a report setting out its conclusions as to the extent to which it met the performance requirements during that financial year.
- (2) In this section, a report under subsection (1) is referred to as a “self-assessment report”.
- (3) A principal council's self-assessment report must set out any actions the council intends to take, and any actions it has already taken, with a view to increasing the extent to which it will meet the performance requirements in the financial year following the financial year to which the report relates.
- (4) A self-assessment report (other than a principal council's first self-assessment report) must include the council's conclusions as to the extent to which any actions included by virtue of subsection (3) in the council's preceding report increased the extent to which the council met the performance requirements in the financial year to which the self-assessment report relates.
- (5) In reaching the conclusions in its self-assessment report a council must take into account the views of the persons mentioned in paragraphs (a) to (d) of section 90 (whether those views were obtained under section 90 or otherwise) about the extent to which the council met the performance requirements during the financial year to which the report relates.
- (6) The council must make a draft of its self-assessment report available to its governance and audit committee.
- (7) The governance and audit committee must review the draft report and may make recommendations for changes to the conclusions, or to anything included by virtue of subsection (3), in the draft.
- (8) If the council does not make a change recommended by the governance and audit committee under subsection (7), the council must set out in the report the recommendation and the reasons why it did not make the change.

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- (9) The council must make a self-assessment report in respect of a financial year as soon as reasonably practicable after the end of that financial year.
- (10) Before the end of the period of four weeks beginning with the day on which the council makes the report the council must—
 - (a) publish the report,
 - (b) make the report available to the council's governance and audit committee, and
 - (c) send the report to—
 - (i) the Auditor General for Wales,
 - (ii) Her Majesty's Chief Inspector of Education and Training in Wales, and
 - (iii) the Welsh Ministers.
- (11) A council may publish its self-assessment report in respect of a financial year and its report under paragraph 1 of Schedule 1 to the Well-being of Future Generations (Wales) Act 2015 (anaw 2) (progress in meeting well-being objectives) in respect of the same financial year in the same document.

Panel assessments of performance

VALID FROM 05/05/2022

92 Duty of principal council to arrange panel performance assessment E+W

- (1) A principal council must make arrangements so that, at least once during the period between two consecutive ordinary elections of councillors to the council, a panel appointed by the council assesses the extent to which the council is meeting the performance requirements.
- (2) In this section, an assessment under subsection (1) is referred to as a “panel performance assessment”.
- (3) In carrying out a panel performance assessment in respect of a council, a panel must consult the following about the extent to which the council is meeting the performance requirements—
 - (a) local people,
 - (b) other persons carrying on a business in the council's area,
 - (c) the staff of the council, and
 - (d) every trade union which is recognised (within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992 (c. 52)) by the council.
- (4) Following a panel performance assessment a panel must make a report setting out—
 - (a) its conclusions as to the extent to which the council is meeting the performance requirements;
 - (b) any actions the panel recommends that the council take in order to increase the extent to which it meets the performance requirements.

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- (5) As soon as reasonably practicable after making the report the panel must send it to—
 - (a) the council,
 - (b) the Auditor General for Wales,
 - (c) Her Majesty's Chief Inspector of Education and Training in Wales, and
 - (d) the Welsh Ministers.
- (6) As soon as reasonably practicable after receiving the report from the panel, the council must—
 - (a) make the report available to the council's governance and audit committee, and
 - (b) publish the report.
- (7) Arrangements under subsection (1) must enable the principal council to publish at least one report before the day which is six months before the day on which the next ordinary election of councillors to the council is due to take place.
- (8) In this section, a reference to a panel is a reference to the members of that panel acting jointly; accordingly, a function expressed as a function of a panel is a function of each member of the panel that may only be exercised jointly with the other members.

VALID FROM 05/05/2022

93 **Duty of principal council to respond to report of panel performance assessment** **E+W**

- (1) A principal council must prepare a response to each report made under section 92(4) in respect of the council.
- (2) The response must state—
 - (a) the extent to which the council accepts the conclusions in the report as to the extent to which the council is meeting the performance requirements,
 - (b) the extent to which the council intends to follow any recommendations in the report, and
 - (c) any actions the council intends to take to increase the extent to which it meets the performance requirements.
- (3) The council must make a draft of the response available to its governance and audit committee.
- (4) The governance and audit committee must review the draft response and may make recommendations for changes to the statements made in the draft under subsection (2).
- (5) If the council does not make a change recommended by the governance and audit committee under subsection (4), the council must set out, in the response, the recommendation and the reasons why it did not make the change.
- (6) As soon as reasonably practicable after finalising the response the council must—
 - (a) publish the response, and

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- (b) send the response to—
 - (i) the members of the panel,
 - (ii) the Auditor General for Wales,
 - (iii) Her Majesty's Chief Inspector of Education and Training in Wales, and
 - (iv) the Welsh Ministers.

(7) Arrangements under section 92(1) must enable the principal council to publish at least one response to a report before the day which is four months before the day on which the next ordinary election of councillors to the council is due to take place.

94 Panel performance assessments: supplementary regulations **E+W**

- (1) The Welsh Ministers may by regulations make provision for and in connection with the appointment by principal councils of panels under section 92(1).
- (2) The regulations may, in particular, include provision about—
 - (a) the appointment of members of a panel (including the number, and any limit on the number, of members who may or must be appointed, and any conditions for appointment);
 - (b) the payment of fees to or in relation to members of a panel.

VALID FROM 01/04/2021

Special inspections by Auditor General for Wales

95 Power of Auditor General to carry out a special inspection **E+W**

- (1) If the Auditor General for Wales (“the Auditor General”) considers that a principal council is not, or may not be, meeting the performance requirements, the Auditor General may carry out an inspection in order to assess the extent to which the council is meeting those requirements.
- (2) In this Chapter, an inspection under subsection (1) is referred to as a “special inspection”.
- (3) The Welsh Ministers may request the Auditor General to consider whether—
 - (a) a particular principal council is not, or may not be, meeting the performance requirements, and
 - (b) to carry out a special inspection.
- (4) Before determining whether to carry out a special inspection of a principal council, the Auditor General must consult the Welsh Ministers, unless the Welsh Ministers made a request under subsection (3) in relation to the council.
- (5) Before carrying out a special inspection of a principal council the Auditor General must give notice in writing to the council specifying—
 - (a) the Auditor General's reasons for considering that the council is not or may not be meeting the performance requirements, and

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- (b) the matters that the Auditor General intends to inspect (but the Auditor General is not restricted to inspecting only the matters specified in the notice).
- (6) Following a special inspection of a council the Auditor General must make a report setting out—
 - (a) the Auditor General's conclusions as to the extent to which the council is meeting the performance requirements, and
 - (b) any actions which the Auditor General recommends that the council or the Welsh Ministers take for the purposes of—
 - (i) increasing the extent to which the council meets the performance requirements;
 - (ii) improving the effectiveness of local government for the area of the council.
- (7) As soon as reasonably practicable the Auditor General must—
 - (a) publish the report, and
 - (b) send the report to—
 - (i) the council,
 - (ii) Her Majesty's Chief Inspector of Education and Training in Wales, and
 - (iii) the Welsh Ministers.
- (8) As soon as reasonably practicable after receiving the report from the Auditor General, the council must make it available to its governance and audit committee.
- (9) If a report deals with the administration of housing benefit by the council, the Auditor General may send the report to the Secretary of State.

96 Duty of principal council to respond to Auditor General's recommendations E+W

- (1) If a report made by the Auditor General under section 95(6) contains recommendations under section 95(6)(b) for action to be taken by a principal council, the council must prepare a response to the recommendations.
- (2) The response must state what action, if any, the council intends to take in response to the recommendations.
- (3) The council must make a draft of the response available to its governance and audit committee.
- (4) The governance and audit committee must review the draft response and may make recommendations for changes to the statement made in the draft under subsection (2).
- (5) If the council does not make a change recommended by the governance and audit committee under subsection (4), the council must set out, in the response, the recommendation and the reasons why it did not make the change.
- (6) The council must send the response to the Auditor General before the end of—
 - (a) the period of 30 days beginning with the day on which the council receives the Auditor General's report, or
 - (b) any longer period which the Auditor General specifies in writing.

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- (7) As soon as reasonably practicable after sending the response to the Auditor General the council must—
- (a) publish the response, and
 - (b) send the response to—
 - (i) Her Majesty's Chief Inspector of Education and Training in Wales, and
 - (ii) the Welsh Ministers.

97 Duty of the Welsh Ministers to respond to Auditor General's recommendations E+W

- (1) If a report made by the Auditor General under section 95(6) contains recommendations under section 95(6)(b) for action to be taken by the Welsh Ministers, the Welsh Ministers must prepare a response to the recommendations.
- (2) As soon as reasonably practicable the Welsh Ministers must—
 - (a) publish the response, and
 - (b) send the response to—
 - (i) the Auditor General,
 - (ii) the principal council to which the Auditor General's report relates, and
 - (iii) Her Majesty's Chief Inspector of Education and Training in Wales.

98 Auditor General's powers of entry and inspection etc. E+W

- (1) An inspector may at any reasonable time enter any premises of a principal council and do anything that the inspector considers necessary for the purposes of a special inspection of that council, including inspecting a document held by the council.
- (2) An inspector may require a principal council to provide the inspector with any of the following that the inspector considers necessary for the purposes of a special inspection of that council—
 - (a) a document held by the council;
 - (b) facilities and assistance.
- (3) If an inspector considers a person may be able to provide information, an explanation or a document that the inspector considers necessary for the purposes of a special inspection, the inspector may require that person to attend before the inspector at any reasonable time to provide the information, explanation or document.
- (4) An inspector may—
 - (a) copy a document inspected under subsection (1) or provided under subsection (2)(a) or (3);
 - (b) require a principal council to provide the inspector with a legible copy, including a legible electronic copy, of a document inspected under subsection (1) or provided under subsection (2)(a);
 - (c) retain a document inspected under subsection (1) or provided under subsection (2)(a) or (3), but only for as long as is necessary for the purposes of the special inspection.

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(5) In this section and sections 99 and 100, “inspector” means the Auditor General for Wales or a person exercising a function of the Auditor General for Wales under this Chapter by virtue of a delegation made under section 18 of the Public Audit (Wales) Act 2013 (anaw 3).

99 Auditor General's powers of entry and inspection etc.: notice and evidence of identity E+W

- (1) An inspector may enter the premises of a principal council in exercise of the powers under section 98(1) (powers to enter council premises and do things for the purposes of a special inspection) only if—
- (a) an inspector has given notice in writing to the council, and
 - (b) there are at least three working days between the day on which the inspector gives the notice and the day on which the inspector enters the premises.
- (2) An inspector may exercise the powers under section 98(2) (powers to require documents, facilities and assistance) only if—
- (a) an inspector has given notice in writing to the council, and
 - (b) there are at least three working days between the day on which the inspector gives the notice and the day on which the council is required to provide the document, facilities or assistance.
- (3) The requirements in subsections (1) and (2) do not apply if an inspector considers that giving notice to a principal council would, or would be likely to, prejudice a special inspection of that council.
- (4) An inspector may exercise the power under section 98(3) (power to require persons to attend before an inspector) only if—
- (a) an inspector has given notice in writing to the person, and
 - (b) between the day on which the inspector gives the notice and the day on which the person is required to attend before the inspector there are at least—
 - (i) three working days if the person is a member of a principal council or a member of the staff of a principal council, or
 - (ii) seven working days in any other case.
- (5) Notice under subsection (1) or (2) to a principal council may be given by—
- (a) leaving the notice at the principal office of the council;
 - (b) sending the notice by first class post, or by an alternative service which provides for delivery no later than the next working day, to the principal office of the council;
 - (c) sending the notice to any e-mail address which the council has specified to the Auditor General for Wales for the purposes of receiving notices under this section.
- (6) Notice under subsection (4) to a member of a principal council or a member of the staff of a principal council may be given by—
- (a) leaving the notice at the principal office of the council;
 - (b) sending the notice by first class post, or by an alternative service which provides for delivery no later than the next working day, to the principal office of the council;

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- (c) handing the notice to the person;
 - (d) leaving the notice at the last known residence of the person;
 - (e) sending the notice by first class post, or by an alternative service which provides for delivery no later than the next working day, to the last known residence of the person.
- (7) Notice under subsection (4) to a person other than a member of a principal council or a member of the staff of a principal council may be given by—
- (a) handing the notice to the person;
 - (b) leaving the notice at the last known residence or place of business of the person;
 - (c) sending the notice by first class post, or by an alternative service which provides for delivery no later than the next working day, to the last known residence or place of business of the person.
- (8) An inspector must produce evidence that they are an inspector if requested to do so by a person in respect of whom the inspector attempts to exercise a power under section 98 (and if the inspector does not produce that evidence the power is not exercisable).

100 Auditor General's powers of entry and inspection etc.: offences E+W

- (1) A person who without reasonable excuse fails to comply with a requirement imposed under section 98(2), (3) or (4)(b) commits an offence.
- (2) A person who intentionally obstructs an inspector exercising or attempting to exercise a power under section 98(1) or (4)(a) or (c) commits an offence.
- (3) A person guilty of an offence under subsection (1) or (2) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (4) The reasonable expenses incurred by an inspector in proceedings for an offence under subsection (1) or (2) alleged to have been committed in relation to a special inspection are, so far as not recoverable from any other source, recoverable from the principal council to which the special inspection relates.

101 Auditor General's fees E+W

- (1) The Wales Audit Office must prescribe a scale of fees in respect of special inspections.
- (2) A principal council in respect of which a special inspection is carried out must, subject to subsection (3), pay to the Wales Audit Office, in accordance with a scheme for charging fees prepared under section 24 of the Public Audit (Wales) Act 2013 (anaw 3), the fee payable under the scale prescribed under subsection (1).
- (3) If it appears to the Wales Audit Office that the work involved in a particular special inspection was substantially more or less than that envisaged by the scale prescribed under subsection (1), the Wales Audit Office may charge a fee which is larger or smaller than that mentioned in subsection (2).
- (4) But a fee charged under this section may not exceed the full cost of carrying out the activity to which it relates.

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- (5) Before prescribing a scale of fees under this section the Wales Audit Office must consult—
- (a) the Welsh Ministers, and
 - (b) such persons representing principal councils as the Wales Audit Office considers appropriate.

VALID FROM 01/04/2021

Support and assistance with improving performance

102 Support and assistance by the Welsh Ministers **E+W**

- (1) The Welsh Ministers may provide a principal council with such support and assistance as the Welsh Ministers consider appropriate to increase the extent to which the council meets the performance requirements.
- (2) A principal council may ask the Welsh Ministers to consider providing the council with support and assistance under subsection (1).
- (3) Before providing support and assistance under subsection (1) to a principal council, the Welsh Ministers must consult the council about the support and assistance they intend to provide.
- (4) The function in subsection (1) includes power to—
 - (a) enter into a contract or other agreement or arrangement with any person;
 - (b) cooperate with, or facilitate or co-ordinate the activities of, any person;
 - (c) provide staff, goods, services and accommodation to any person.

103 Direction to a principal council to provide support and assistance **E+W**

- (1) The Welsh Ministers may direct a principal council to provide another principal council (“the supported council”) with such support and assistance as the Welsh Ministers consider appropriate to increase the extent to which the supported council meets the performance requirements.
- (2) The support and assistance to be provided must be specified in the direction.
- (3) But before giving a direction under this section the Welsh Ministers must consult both councils.
- (4) The support and assistance which the Welsh Ministers may direct a principal council to provide include—
 - (a) entering into a contract or other agreement or arrangement with the supported council (and the direction may specify its terms and conditions);
 - (b) co-operating with, or facilitating or co-ordinating the activities of, the supported council;
 - (c) providing staff, goods, services and accommodation to the supported council.

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VALID FROM 01/04/2021

Intervention by the Welsh Ministers

104 Powers of the Welsh Ministers to intervene E+W

- (1) The Welsh Ministers may give an intervention direction to or in relation to a principal council if they consider that—
 - (a) it is likely that the council is not meeting the performance requirements, or
 - (b) the council is not meeting the performance requirements.
- (2) But before giving an intervention direction the Welsh Ministers must—
 - (a) provide or attempt to provide support and assistance to the council (which may include directing another council under section 103),
 - (b) consult such persons as the Welsh Ministers consider appropriate, and
 - (c) notify the council that they intend to give the direction.
- (3) A requirement in paragraph (a), (b) or (c) of subsection (2) does not apply if the Welsh Ministers consider that there is an urgent need to give the direction and the urgency is such that it would be appropriate to do so without taking the step set out in the paragraph.
- (4) In this section, “intervention direction” means a direction under section 105, 106 or 107; and those sections are subject to subsections (1) to (3) of this section.

105 Direction to co-operate with provision of support and assistance E+W

- (1) The Welsh Ministers may direct a principal council (“the supported council”) to co-operate with—
 - (a) the Welsh Ministers;
 - (b) a principal council acting under a direction under section 103,
 for the purposes of enabling support and assistance to be provided to the supported council.
- (2) When a direction under this section has effect the supported council must provide a person referred to in subsection (1)(a) or (b) with the following things, to the extent the person considers necessary for the purposes of providing support and assistance to the council—
 - (a) access to its premises;
 - (b) access to documents held by it (and the supported council must allow the person to take copies of those documents);
 - (c) other information;
 - (d) facilities and assistance.
- (3) But subsection (2) does not require a council to provide, or provide access to, anything that the council is prohibited from providing or providing access to by any enactment or rule of law.
- (4) A direction under this section may require a supported council to co-operate with a person referred to in subsection (1)(a) or (b) by taking steps specified in the direction, including—

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- (a) entering into a contract or other agreement or arrangement (and the direction may specify its terms and conditions) with that person;
- (b) allowing that person to facilitate or co-ordinate any of the council's activities.

(5) In subsection (1)(a) and (b), the references to the Welsh Ministers and a principal council acting under a direction under section 103 include a person acting on behalf of, assisting or authorised by them.

106 Direction to take or not to take etc. a specified step **E+W**

- (1) The Welsh Ministers may direct a principal council to—
- (a) take a specified step (and the direction may specify a deadline by which the step must be taken);
 - (b) not take a specified step;
 - (c) cease taking a specified step (and the direction may specify a deadline by which the council must cease taking the step).
- (2) The steps which a direction may require a council to take include entering into a contract or other agreement or arrangement—
- (a) with a specified person;
 - (b) with a person of a specified description;
 - (c) for specified purposes;
 - (d) on specified terms and conditions.
- (3) In this section “specified” means specified in the direction.

107 Direction that a function be performed by the Welsh Ministers or their nominee **E+W**

- (1) The Welsh Ministers may direct that a specified function of a principal council be exercised by the Welsh Ministers or a person nominated by them.
- (2) When a direction under this section has effect the principal council must—
- (a) comply with the instructions of the Welsh Ministers or their nominee in relation to the exercise of the specified function;
 - (b) provide the Welsh Ministers or their nominee with the following things, to the extent the Welsh Ministers consider, or their nominee considers, necessary for the purposes of exercising the specified function—
 - (i) access to its premises;
 - (ii) access to documents held by it (and the principal council must allow the Welsh Ministers or their nominee to take copies of those documents);
 - (iii) other information;
 - (iv) facilities and assistance;
 - (c) take such steps as may be specified.
- (3) The Welsh Ministers may by regulations apply an enactment with modifications, or disapply an enactment, in relation to functions exercisable by the Welsh Ministers or their nominee by virtue of a direction within this section.

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(4) In subsection (2) the references to the Welsh Ministers and their nominee include a person acting on behalf of, assisting or authorised by the Welsh Ministers or their nominee.

(5) In this section “specified” means specified in the direction.

VALID FROM 01/04/2021

Supplementary

108 Exercise of functions under this Chapter E+W

- (1) A function conferred on a principal council under or by virtue of this Chapter (other than functions expressly conferred on a governance and audit committee) may be exercised by the council or by its executive, as the council may determine.
- (2) If a principal council determines that a function mentioned in subsection (4) is to be exercised by the council, section 101 of the 1972 Act (arrangements for discharge of functions by local authorities) does not apply to that function.
- (3) If a principal council determines that a function mentioned in subsection (4) is to be exercised by the executive, section 14 or (as the case may be) 15 of the 2000 Act (discharge of functions by executives) does not apply in relation to that function.
- (4) The functions are—
 - (a) section 91(1) (self-assessment report);
 - (b) section 91(8) (response to recommendations about report);
 - (c) section 92(1) (appointment of performance assessment panel);
 - (d) section 93(1) (response to report of panel performance assessment);
 - (e) section 93(5) (response to recommendations about response to report of panel);
 - (f) section 96(1) (response to recommendations from the Auditor General for Wales);
 - (g) section 96(5) (response to recommendations about response to the Auditor General for Wales);
 - (h) section 102(2) (request to the Welsh Ministers for support and assistance).

109 Power of the Welsh Ministers to add to list of persons to whom reports etc. must be sent E+W

The Welsh Ministers may by regulations amend the following provisions to add a person to the lists in those provisions—

- (a) section 91(10)(c) (self-assessment report);
- (b) section 92(5) (report of panel performance assessment);
- (c) section 93(6)(b) (response to report of panel performance assessment);
- (d) section 95(7)(b) (report of special inspection);
- (e) section 96(7)(b) (response by principal council to recommendations from the Auditor General for Wales);

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- (f) section 97(2)(b) (response by Welsh Ministers to recommendations from the Auditor General for Wales).

110 Power of the Welsh Ministers to amend etc. enactments and confer new powers **E+W**

- (1) If the Welsh Ministers consider that an enactment (other than a provision of this Chapter) prevents or obstructs a principal council from complying with this Chapter, the Welsh Ministers may by regulations amend, modify, repeal, revoke or disapply that enactment in relation to—
- all principal councils,
 - particular principal councils, or
 - particular descriptions of principal council.
- (2) The Welsh Ministers may by regulations make provision conferring on—
- all principal councils,
 - particular principal councils, or
 - particular descriptions of principal council,
- any power which the Welsh Ministers consider necessary or expedient to permit or facilitate compliance with this Chapter by a principal council.
- (3) Regulations under subsection (2) may impose conditions on the exercise of any power conferred by the regulations (including conditions about consultation or approval).

111 Guidance **E+W**

- (1) A person who has functions under or by virtue of this Chapter must have regard to any guidance issued by the Welsh Ministers about the exercise of those functions.
- (2) In exercising a function under this Chapter which relates to an assessment of the extent to which a principal council is meeting the performance requirements, a person must have regard to any guidance issued by the Welsh Ministers about the performance requirements.
- (3) The requirements of this section do not apply to—
- the Auditor General for Wales or a person exercising a function of the Auditor General for Wales under this Chapter (by virtue of a delegation made under section 18 of the Public Audit (Wales) Act 2013 (anaw 3));
 - a principal council (see section 89(3) which deals with guidance to principal councils).

112 Interpretation **E+W**

In this Chapter—

- “document” (“*dogfen*”) includes information recorded in any form;
“performance requirements” (“*gofynion perfformiad*”) has the meaning given in section 89(2);
“special inspection” (“*arolygiad arbennig*”) has the meaning given in section 95.

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VALID FROM 01/04/2021

Amendment of other enactments

113 Disapplication of the 2009 Measure in relation to principal councils and repeal of provisions about coordination of audit **E+W**

In the 2009 Measure omit—

- (a) section 1(a) (meaning of “Welsh improvement authority”);
- (b) section 4(3)(a) (aspects of improvement);
- (c) section 11(1)(b) and (2) (meaning of “powers of collaboration”);
- (d) section 16(2)(a) and (b) (meaning of “relevant regulators” and “relevant functions”);
- (e) section 22(5) (special inspection reports relating to housing benefit);
- (f) section 23 (coordination of audit);
- (g) section 25(4)(d) (statement of practice by the Auditor General for Wales);
- (h) section 33 (information sharing); and in consequence, in section 159 of this Act omit subsection (10).

114 Amendment of the Well-being of Future Generations (Wales) Act 2015 **E+W**

In paragraph 1 of Schedule 1 to the Well-being of Future Generations (Wales) Act 2015 (anaw 2), after sub-paragraph (2) insert—

“(2A) In respect of any financial year, a local authority may publish its report under this paragraph and its report under section 91(1) of the Local Government and Elections (Wales) Act 2021 (self-assessment of performance) in the same document.”

VALID FROM 01/04/2021

Governance and audit committees of principal councils

115 New name and functions of audit committees **E+W**

- (1) Section 81 of the 2011 Measure (local authorities to appoint audit committees) is amended as follows.
- (2) In subsection (1), for “(an “audit committee”)” substitute “ (a “governance and audit committee”) ”.
- (3) In paragraph (c) of subsection (1), after “internal control” insert “ , performance assessment ”.
- (4) After paragraph (d) of subsection (1) insert—

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- “(da) review and assess the authority's ability to handle complaints effectively,
- (db) make reports and recommendations in relation to the authority's ability to handle complaints effectively.”.

(5) After subsection (1) insert—

“(1A) See Chapter 1 of Part 6 of the Local Government and Elections (Wales) Act 2021 (performance and governance of principal councils) for further functions of governance and audit committees.”

(6) Schedule 10 makes consequential amendments.

VALID FROM 05/05/2022

CHAPTER 2 **E+W**

GOVERNANCE AND AUDIT COMMITTEES: MEMBERSHIP AND PROCEEDINGS

116 **Membership of governance and audit committee** **E+W**

(1) Section 82 of the 2011 Measure (membership) is amended as follows.

(2) In subsection (2)—

- (a) in paragraph (a) omit the words “at least”;
- (b) for paragraph (b) substitute—

“(b) one-third of the members of that committee are lay persons;”.

(3) After subsection (5) insert—

“(5A) A governance and audit committee is to appoint—

- (a) a member of the committee as its chair (“the committee chair”), and
- (b) a member of the committee as the deputy to the committee chair (“the deputy chair”).

(5B) The member appointed as the committee chair must be a lay person.

(5C) The member appointed as the deputy chair must not be a member of the local authority's executive or an assistant to its executive.”

(4) Omit subsection (6).

(5) In Schedule 10 to this Act (consequential amendments relating to governance and audit committees), omit paragraph 4(b)(i) and (f).

117 **Meaning of lay person** **E+W**

In section 87 of the 2011 Measure (interpretation), in subsection (2) omit the definition of “lay member” and insert—

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““lay person” (“lleygwr”) means a person who—

- (a) is not a member or an officer of any local authority,
- (b) has not at any time in the period of twelve months ending with the date of that person's appointment been a member or an officer of any local authority, and
- (c) is not the spouse or civil partner of a member or an officer of any local authority;”.

118 Proceedings etc. **E+W**

- (1) Section 83 of the 2011 Measure (proceedings) is amended as follows.
- (2) For subsections (1) and (2) substitute—
 - “(1) A meeting of a governance and audit committee is to be chaired—
 - (a) by the committee chair, or
 - (b) if the committee chair is absent, by the deputy chair.
 - (2) If both the committee chair and the deputy chair are absent the committee may appoint a member of the committee who is not a member of the local authority's executive, or an assistant to its executive, to chair the meeting.”
- (3) Omit subsection (8).
- (4) In Schedule 6 to this Act (assistants to executives), omit paragraph 6(5).
- (5) In Schedule 10 to this Act (consequential amendments relating to governance and audit committees), omit paragraph 5(a) and (b).

VALID FROM 01/04/2021

CHAPTER 3 **E+W**

COORDINATION BETWEEN REGULATORS

119 Coordination between regulators **E+W**

- (1) The Auditor General for Wales and the relevant regulators must have regard to the need for coordination in the exercise of their relevant functions.
- (2) In respect of each financial year the Auditor General for Wales must produce a timetable in relation to each principal council which sets out the Auditor General's opinion as to the dates or periods in that year on or during which—
 - (a) the relevant regulators should exercise their relevant functions in relation to the council, and
 - (b) the Auditor General should exercise the Auditor General's relevant functions in relation to that council.
- (3) Before producing a timetable under subsection (2) the Auditor General for Wales must consult the relevant regulators.

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- (4) The duty under subsection (2) may be discharged by the production of a timetable which relates to more than one financial year.
- (5) The Auditor General for Wales and the relevant regulators, in exercising their relevant functions in relation to a principal council, must take all reasonable steps to adhere to the timetable produced in relation to that council under subsection (2).
- (6) The Auditor General for Wales must assist the relevant regulators to comply with their duties under subsections (1) and (5).
- (7) In this section, “relevant regulators” and “relevant functions” have the meaning given in section 120.

120 “Relevant regulators” and “relevant functions” **E+W**

- (1) For the purposes of section 119 the relevant functions of the Auditor General for Wales are—
 - (a) auditing the accounts of a principal council under Chapter 1 of Part 2 of the Public Audit (Wales) Act 2004 (c. 23);
 - (b) undertaking a study under Chapter 2 of Part 2 of the Public Audit (Wales) Act 2004 in relation to a principal council;
 - (c) carrying out an examination of a principal council under section 15 of the Well-being of Future Generations (Wales) Act 2015 (anaw 2).
- (2) For the purposes of section 119, a relevant regulator is a person mentioned in the first column of table 1 and their relevant functions are the functions specified in the second column.

TABLE 1

Relevant regulators	Relevant functions
Her Majesty's Chief Inspector of Education and Training in Wales	Functions under section 38 of the Education Act 1997 (c. 44) (inspection of education functions etc.)
The Welsh Ministers	Functions under section 149A and section 149B of the Social Services and Well-being (Wales) Act 2014 (anaw 4) (reviews etc. of the exercise of social services functions)

- (3) The Welsh Ministers may by regulations amend table 1 to—
 - (a) add an entry;
 - (b) amend an entry;
 - (c) omit an entry.
- (4) Before making regulations under subsection (3), the Welsh Ministers must consult—
 - (a) such persons representing principal councils as the Welsh Ministers consider appropriate;
 - (b) the Auditor General for Wales;

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(c) the person to whom a new or amended entry will relate.

PART 7 E+W

MERGERS AND RESTRUCTURING OF PRINCIPAL AREAS

CHAPTER 1 E+W

VOLUNTARY MERGERS OF PRINCIPAL AREAS

Applications for mergers

121 **Merger applications** E+W

- (1) Any two or more principal councils may jointly make an application (“a merger application”) to the Welsh Ministers, asking them to consider making merger regulations under section 124(1) merging their principal areas into a new principal area.
- (2) Section 101 of the 1972 Act (arrangements for discharge of functions by local authorities) does not apply to the function of making a merger application.
- (3) The function of making a merger application is not to be the responsibility of an executive of the principal council under executive arrangements.
- (4) An elected mayor is to be treated as a councillor of the principal council for the purposes of the function of making a merger application.
- (5) If, following receipt of a merger application, the Welsh Ministers decide not to make merger regulations under section 124(1), they must notify the principal councils that made the application.

122 **Consultation before making merger application** E+W

- (1) Before making a merger application the principal councils must consult—
 - (a) local people in the principal councils' areas,
 - (b) each of the councils for communities in the principal councils' areas,
 - (c) the National Park authority for a National Park any part of which is in one or more of the principal councils' areas,
 - (d) the fire and rescue authority for an area any part of which is in one or more of the principal councils' areas,
 - (e) the public services board or boards for the principal councils' areas,
 - (f) the Local Health Board for an area any part of which is in one or more of the principal councils' areas,
 - (g) every trade union which is recognised (within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992 (c. 52)) by one or more of the principal councils,
 - (h) every other principal council for a principal area which is likely to be affected by the proposal for merger, and

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- (i) such other persons as the principal councils consider appropriate.
- (2) The requirement in subsection (1) may be satisfied by consultation undertaken before the coming into force of this section.

123 Guidance about merger applications **E+W**

- (1) Principal councils must have regard to any guidance issued by the Welsh Ministers about the making of a merger application.
- (2) The requirement in subsection (1) may be satisfied by having regard to any guidance issued by the Welsh Ministers before the coming into force of this section, and which was issued expressly for the purpose of this section.

Merger regulations

124 Merger regulations **E+W**

- (1) If the Welsh Ministers receive a merger application they may make regulations which provide for the constitution of a new principal area on a date specified in the regulations (“the transfer date”) by—
 - (a) abolishing the principal areas of the merging councils on the transfer date, and
 - (b) merging, to create a new principal area, the principal areas of the merging councils.
- (2) In this Part, regulations under subsection (1) are referred to as merger regulations.
- (3) Merger regulations must provide for—
 - (a) the boundary of the new principal area,
 - (b) the name of the new principal area,
 - (c) whether the new principal area is to be a county or a county borough,
 - (d) the establishment of a council for the new principal area (in accordance with section 125),
 - (e) the transfer of functions of the merging councils to the new principal council, and
 - (f) the winding up and dissolution of the merging councils.
- (4) Where the new principal area is to be a county, merger regulations must provide for the new principal council to have the name of the county with the addition of the words “County Council” or the word “Council”.
- (5) Where the new principal area is to be a county borough, merger regulations must provide for the new principal council to have the name of the county borough with the addition of the words “County Borough Council” or the word “Council”.

125 Shadow councils and shadow executives **E+W**

- (1) Merger regulations must provide for there to be a shadow council for the new principal area.
- (2) A shadow council must be an elected shadow council unless the Welsh Ministers consider it appropriate to provide for there to be a designated shadow council.

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- (3) An elected shadow council—
 - (a) consists of the councillors elected in the first ordinary election of councillors to the new principal council, and
 - (b) is established on the fourth day after that election, when those councillors assume office as shadow members.
- (4) A designated shadow council—
 - (a) consists of all the members of the merging councils, and
 - (b) is established on the date specified in the merger regulations as the date on which those members assume office as shadow members.
- (5) The merger regulations must make provision—
 - (a) for the appointment of a shadow executive by the shadow council, in the form of a leader and cabinet executive,
 - (b) in the case of a designated shadow council, specifying the composition of the shadow executive,
 - (c) specifying the functions of the shadow council and the shadow executive, and about the exercise of those functions, during the shadow period, and
 - (d) about the funding of the shadow council.
- (6) Provision made in accordance with subsection (5)(d) may confer functions on a merging council, including in relation to the administration of the shadow council's finances.
- (7) In subsection (5)(c), “shadow period” means the period—
 - (a) beginning with the date on which the shadow council is first authorised or required to exercise any functions in accordance with the merger regulations, and
 - (b) ending immediately before the transfer date.
- (8) The merger regulations must provide that an elected shadow council is the shadow council for the new principal area until the transfer date (from when it is, and has all the functions of, the principal council for the new principal area; and the shadow executive is, and has all the functions of, the executive for the principal council).
- (9) In the case of a designated shadow council, the merger regulations must provide that—
 - (a) the designated shadow council is the shadow council for the new principal area until the pre-election period, and
 - (b) during the pre-election period the shadow council is, and has all the functions of, the principal council for the new principal area; and the shadow executive is, and has all the functions of, the executive for the principal council.
- (10) In subsection (9), “pre-election period” means the period—
 - (a) beginning with the transfer date, and
 - (b) ending immediately before the fourth day after the holding of the first ordinary election of councillors to the new principal council.

126 Voting system E+W

- (1) Merger regulations must specify whether the voting system that applies to the first ordinary election of councillors to the principal council for the new principal area is to be—

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- (a) the simple majority system provided for by rules made, or having effect as if made, under section 36A of the 1983 Act, or
 - (b) the single transferable vote system provided for by rules made under section 36A of the 1983 Act.
- (2) The voting system specified in the merger regulations must be—
- (a) the voting system agreed by the merging councils, or
 - (b) in the absence of agreement—
 - (i) the voting system used in both, or where there are three or more merging councils, all or the majority of, the merging councils immediately before the application date, or
 - (ii) if neither of the merging councils used, or (where there are three or more merging councils) the majority of the merging councils did not use, the same voting system immediately before the application date, the voting system determined by the Welsh Ministers after consulting the merging councils.
- (3) In subsection (2)(b), “application date” means the date on which the merger application is made.
- (4) If a merger application is made before section 7 comes into force—
- (a) subsections (1) and (2) of this section do not apply in relation to the merger regulations relating to the application, and
 - (b) those regulations must provide that if section 7 is in force on the day of the first ordinary election of councillors to the principal council for the new principal area, the simple majority system applies to that election.

127 Elections **E+W**

- (1) Merger regulations must set—
- (a) the date of the first ordinary election of councillors to the principal council for the new principal area, and
 - (b) the terms of office of councillors returned at that election.
- (2) Merger regulations may include provision—
- (a) cancelling an ordinary election of councillors to one or more of the merging councils and extending the existing terms of office of councillors;
 - (b) cancelling an election of an elected mayor to one or more of the merging councils and extending the existing terms of office of elected mayors;
 - (c) relating to requirements to fill casual vacancies in the office of councillor, vice-chair or chair, and the holding of elections in any of the merging councils or the shadow council to fill casual vacancies;
 - (d) postponing an ordinary election of councillors to community councils in the new principal area and the extension of the existing terms of office of councillors.
- (3) Merger regulations may also include provision about—
- (a) the appointment of a returning officer at the first ordinary election of councillors to the principal council for the new principal area;
 - (b) meeting expenditure incurred in holding that election, including provision for the making of determinations by the Welsh Ministers about how expenditure is to be met;

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- (c) declarations of acceptance of the office of councillor of the new principal council;
 - (d) the holding of the first meeting of the new principal council.
- (4) Provision made under subsection (3)(a) may include provision for the Welsh Ministers to give directions to a principal council as to the appointment of a returning officer, and for the enforcement of such directions.

Facilitating mergers

128 Duties of merging councils to facilitate transfer E+W

- (1) A merging council must—
- (a) for the purposes of the merger, co-operate with the Welsh Ministers, the other merging council or councils and any other person exercising functions in relation to the merger, and
 - (b) take all reasonable steps to—
 - (i) facilitate the economic, effective and efficient transfer of its functions, staff, property, rights and liabilities to the new principal council, and
 - (ii) ensure that the new principal council and its staff are in a position to perform the new principal council's functions effectively.
- (2) The Welsh Ministers may direct a merging council to take, or not to take, any action the Welsh Ministers consider appropriate for the purpose of discharging the council's duty under this section.

VALID FROM 01/04/2021

CHAPTER 2 E+W

RESTRUCTURING OF PRINCIPAL AREAS

Conditions to be met

129 Conditions to be met before making restructuring regulations E+W

- (1) If the conditions set out in this section are satisfied, the Welsh Ministers may make restructuring regulations (as to which, see section 131).
- (2) The first condition is that the Welsh Ministers have received—
- (a) a report of a special inspection of a principal council by the Auditor General for Wales under section 95(7), or
 - (b) an abolition request under section 130 from a principal council.
- (3) The second condition is that the Welsh Ministers have—
- (a) given notice to the affected councils that the Welsh Ministers have received the report or abolition request, and
 - (b) published the notice.

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- (4) The third condition is that the Welsh Ministers have consulted—
- (a) the council which was the subject of the report mentioned in subsection (2) (a) or which made the abolition request mentioned in subsection (2)(b) (“the council under consideration”),
 - (b) every other principal council whose area will be, or is likely to be, affected by any restructuring regulations made in respect of the council under consideration, and
 - (c) such other persons as the Welsh Ministers consider appropriate,
- about the steps that the Welsh Ministers are considering taking as a consequence of receipt of the report or request.
- (5) The fourth condition is that, following consultation in accordance with subsection (4), the Welsh Ministers are satisfied that, unless restructuring regulations are made, effective and convenient local government is not likely to be achieved in the area of the council under consideration.
- (6) The fifth condition is that, if each of the conditions in subsections (2) to (5) are satisfied and the Welsh Ministers propose to make restructuring regulations, they have given notice of their proposals to the council under consideration and—
- (a) if the transfer of a part or parts of the area of the council under consideration is proposed, the principal council for the principal area which is (or the principal councils for the principal areas which are) to include a part of the area of the council under consideration;
 - (b) if the creation of a new principal area is proposed, the principal council for a principal area which is (or the principal councils for principal areas which are) to be merged with all or part of the area of the council under consideration into a new principal area;
 - (c) every other principal council consulted as described in subsection (4)(b).

Abolition requests

130 Abolition requests **E+W**

- (1) A principal council may, by notice in writing (“an abolition request”), ask the Welsh Ministers to consider abolishing the council and its principal area.
- (2) An abolition request must set out the principal council's reasons for seeking abolition.
- (3) The principal council must publish the abolition request as soon as reasonably practicable after making the request.
- (4) Section 101 of the 1972 Act (arrangements for discharge of functions by local authorities) does not apply to the function of making an abolition request.
- (5) The function of making an abolition request is not to be the responsibility of an executive of the principal council under executive arrangements.
- (6) An elected mayor is to be treated as a councillor of the principal council for the purposes of the function of making an abolition request.

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Restructuring regulations

131 Restructuring regulations E+W

Restructuring regulations are regulations which provide for the abolition of the principal area of a council under consideration on a date specified in the regulations (“the transfer date”), and either or both of the following—

- (a) for a part or parts of the principal area being abolished to become, on the transfer date, part of another existing principal area or parts of other existing principal areas;
- (b) for the constitution of a new principal area on the transfer date by—
 - (i) abolishing the principal area of one or more other principal councils (as well as the area of the council under consideration), and
 - (ii) merging, to create a new principal area, all or part of the area of the council under consideration with the area of the other principal council or councils (whether or not the other council or councils are also councils under consideration).

132 Restructuring regulations which provide for part of a principal area to become part of another existing principal area E+W

- (1) Restructuring regulations which include provision under section 131(a) must—
 - (a) specify, by reference to each part of the area being abolished which is transferred to an existing principal area, the new area of that principal area,
 - (b) provide for the transfer of functions from the council under consideration to another principal council,
 - (c) provide for the winding up and dissolution of the council under consideration, and
 - (d) provide for the voting system (see section 134(4)) which applies in relation to a part of the area of the council under consideration which is transferred to another principal area (“principal area A”) to be, at the first ordinary election of councillors after the transfer date, the voting system applying in the rest of principal area A.
- (2) Restructuring regulations may, for the purposes of providing for part of the area of the council under consideration to become part of another principal area, make provision about—
 - (a) the assignment of councillors of the council under consideration to another principal council;
 - (b) the election and terms of office of councillors of a restructuring council;
 - (c) the voting system which is to apply, in relation to a part of the area of the council under consideration which is transferred to another principal area, at an election to fill a casual vacancy held after the transfer date and before the first ordinary election of councillors to the council after the transfer date;
 - (d) the election and terms of office of councillors to community councils in the area of a restructuring council;
 - (e) the executive arrangements of a restructuring council;
 - (f) the form of executive operated by a restructuring council;

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- (g) the area, term of office and election of an elected mayor of a restructuring council;
- (h) the arrangements for the remuneration of members of a restructuring council, including provision conferring functions on the Independent Remuneration Panel for Wales;
- (i) a change to the name of a restructuring council;
- (j) whether the principal area of a restructuring council is a county or county borough.

133 Restructuring regulations which constitute a new principal area **E+W**

- (1) Restructuring regulations which include provision as described in section 131(b) must provide for—
 - (a) the boundary of the new principal area,
 - (b) the name of the new principal area,
 - (c) whether the new principal area is to be a county or a county borough,
 - (d) the establishment of a council for the new principal area (in accordance with paragraph (e) or subsections (4) to (7)),
 - (e) (subject to subsection (4)) there to be an elected shadow council for the new principal area until the transfer date (from when it is, and has all the functions of, the principal council for the new principal area),
 - (f) the functions of the shadow council,
 - (g) the funding of the shadow council,
 - (h) the appointment of a shadow executive by the shadow council, in the form of a leader and cabinet executive (which, from the transfer date, is and has all the functions of, the executive for the principal council),
 - (i) the functions of the shadow executive,
 - (j) the transfer of functions to the new principal council from the restructuring councils whose areas are to be merged to create the new principal area,
 - (k) the winding up and dissolution of the restructuring councils whose areas are to be merged to create the new principal area,
 - (l) which of the voting systems (see section 134(4)) is to apply to the first ordinary election of councillors to the new principal council,
 - (m) the date of the first ordinary election of councillors to the new principal council, and
 - (n) the terms of office of councillors returned at that election.
- (2) Where a new principal area constituted by restructuring regulations is to be a county, the regulations must provide for the new principal council to have the name of the county with the addition of the words “County Council” or the word “Council”.
- (3) Where a new principal area constituted by restructuring regulations is to be a county borough, the regulations must provide for the new principal council to have the name of the county borough with the addition of the words “County Borough Council” or the word “Council”.
- (4) The Welsh Ministers may, if they consider it appropriate, make provision in the restructuring regulations for the shadow council to be a designated shadow council until the pre-election period.

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- (5) If the Welsh Ministers make such provision, they must also, in the restructuring regulations—
- (a) make provision specifying the composition of the shadow executive to be appointed by the shadow council;
 - (b) provide that during the pre-election period the shadow council is, and has all the functions of, the principal council for the new principal area; and the shadow executive is, and has all the functions of, the executive for the principal council.
- (6) In subsections (4) and (5), “pre-election period” means the period—
- (a) beginning with the transfer date, and
 - (b) ending immediately before the fourth day after the holding of the first ordinary election of councillors to the new principal council.
- (7) For the purposes of this section—
- (a) an elected shadow council—
 - (i) consists of the councillors elected in the first ordinary election of councillors to the new principal council, and
 - (ii) is established on the fourth day after that election, when those councillors assume office as shadow members;
 - (b) a designated shadow council—
 - (i) consists of such members of the restructuring councils as are specified in the restructuring regulations, appointed in accordance with the regulations, and
 - (ii) is established on the date specified in the restructuring regulations as the date on which those members assume office as shadow members.

134 Restructuring regulations: supplementary E+W

- (1) Restructuring regulations may make provision that corresponds to, or applies (with or without modifications) provision made by or under, or that may or must be made under—
- (a) Chapter 4 (remuneration arrangements), where the regulations make provision in accordance with section 131(b);
 - (b) section 127 (elections);
 - (c) paragraphs 2 and 3 of Schedule 11 (transition committees).
- (2) Restructuring regulations may provide for—
- (a) the establishment of a committee or other body to provide advice and recommendations to persons specified in the regulations about the transfer of functions, liabilities and property, and about staffing matters;
 - (b) the establishment of a body corporate for the purpose of taking over, and disposing of, any property, rights or liabilities of a principal council which is to be abolished under the regulations, and exercising any related functions of such a council; and restructuring regulations may—
 - (i) provide for such a body to acquire property, make levies, borrow and lend money, and
 - (ii) make provision about the winding up of such a body;
 - (c) the provision of information or documents by a restructuring council to persons specified in the regulations;

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- (d) the giving of directions by the Welsh Ministers to persons specified in the regulations for purposes connected to a restructuring, and for their enforcement;
 - (e) the Welsh Ministers to determine, in circumstances specified in the regulations, matters connected to the restructuring.
- (3) If the Welsh Ministers decide not to make restructuring regulations after—
- (a) having received a report of a special inspection of a principal council by the Auditor General for Wales under section 95(7) and having consulted as described in section 129(4), or
 - (b) having received an abolition request,
- they must notify the council under consideration and any other principal council they have given notice or consulted as described in section 129.
- (4) For the purposes of sections 132 and 133, the voting systems are—
- (a) the simple majority system provided for by rules made, or having effect as if made, under section 36A of the 1983 Act;
 - (b) the single transferable vote system provided for by rules made under section 36A of the 1983 Act.
- (5) If, before section 7 comes into force, notice is given as described in section 129(6) and the creation of a new principal area is proposed—
- (a) section 133(1) does not apply in relation to the restructuring regulations relating to the notice, and
 - (b) those regulations must provide that if section 7 is in force on the day of the first ordinary election of councillors to the principal council for the new principal area, the simple majority system applies to that election.

Facilitating restructuring

135 Duties of restructuring councils to facilitate transfer E+W

- (1) A restructuring council must, for the purposes of the restructuring, co-operate with the Welsh Ministers, the other restructuring council or councils and any other person exercising functions in relation to the restructuring.
- (2) A restructuring council whose area is to be abolished must take all reasonable steps to—
- (a) facilitate the economic, effective and efficient transfer of its functions, staff, property, rights and liabilities to the other restructuring councils and any new principal councils, and
 - (b) ensure that the other restructuring councils and any new principal councils, and their staff, are in a position to perform their functions effectively.
- (3) A restructuring council other than one whose area is to be abolished must take all reasonable steps to—
- (a) facilitate the economic, effective and efficient transfer to it of the functions, staff, property, rights and liabilities of the council under consideration, and
 - (b) ensure that it and its staff are in a position to perform their functions effectively.

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- (4) The Welsh Ministers may direct a restructuring council to take, or not to take, any action the Welsh Ministers consider appropriate for the purpose of discharging the council's duty under this section.

CHAPTER 3 E+W

FUNCTIONS RELATING TO MERGERS AND RESTRUCTURING

136 Transition committees E+W

Schedule 11 makes provision about the establishment of transition committees.

137 Restraint of transactions and recruitment E+W

Schedule 12 makes provision about restraints on transactions and recruitment.

138 Reviews of electoral arrangements E+W

- (1) The Welsh Ministers may direct the Local Democracy and Boundary Commission for Wales to conduct an initial review of electoral arrangements after the Welsh Ministers—
 - (a) receive a merger application, or
 - (b) give notice as described in section 129(6).
- (2) Before giving a direction under subsection (1) the Welsh Ministers must consult—
 - (a) the Local Democracy and Boundary Commission for Wales, and
 - (b) such persons representing principal councils as the Welsh Ministers consider appropriate.
- (3) A direction under subsection (1) to conduct an initial review in relation to a proposal to transfer part of a principal area to be abolished to another principal area, or in relation to restructuring regulations which provide for such a transfer—
 - (a) must specify the area (which may be all or part of a principal area) that is to be subject to the initial review, and
 - (b) may specify that one or more matters of a kind described in sub-paragraph (i) or (ii) are not to be considered in the initial review; and those matters are—
 - (i) matters set out in the definition of “electoral arrangements” in paragraph 3(1) of Schedule 1;
 - (ii) matters set out in the definition of “relevant consequential changes” in that paragraph.
- (4) A direction under subsection (1) must specify the voting system in relation to which the electoral arrangements are to be reviewed.
- (5) Schedule 1 makes provision in relation to initial reviews conducted by virtue of this section.
- (6) The Welsh Ministers may by regulations amend subsection (3) of section 29 of the 2013 Act (periodic reviews of electoral arrangements for principal areas).

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Commencement Information

- I6** S. 138(1)(a)(2) in force at 21.1.2021, see s. 175(1)(f)
I7 S. 138(4)-(6) in force at 21.1.2021, see s. 175(1)(f)

139 Prohibition of changes to executive arrangements **E+W**

- (1) After receiving a merger application the Welsh Ministers may direct a merging council that—
- (a) until merger regulations applying to the council come into force, or
 - (b) until it receives notice under section 121(5),
- it must not take any steps (including the holding of a referendum) to change its form of executive.
- (2) After giving notice as described in section 129(6), the Welsh Ministers may direct a restructuring council that—
- (a) until restructuring regulations applying to the council come into force, or
 - (b) until it receives notice under section 134(3),
- it must not take any steps (including the holding of a referendum) to change its form of executive.
- (3) While a direction under subsection (1) or (2) has effect in relation to a council, the council is not subject to any duty imposed by or under an enactment to take steps to change its form of executive.

Commencement Information

- I8** S. 139(1) in force at 21.1.2021, see s. 175(1)(f)(2)
I9 S. 139(3) in force at 21.1.2021 for specified purposes, see s. 175(1)(f)(2)(d)(ii)(7)

140 Requirement on principal councils to provide information etc. to the Welsh Ministers **E+W**

- (1) The Welsh Ministers may direct a principal council (“council A”) to provide them with any information or documents they consider appropriate—
- (a) for the purposes of considering whether to transfer the functions of council A to another principal council (“council B”) or to a new principal council,
 - (b) for the purposes of giving effect to such a transfer, or
 - (c) otherwise in connection with such a transfer.
- (2) The Welsh Ministers may also direct council B to provide the Welsh Ministers with any information or documents which they consider appropriate as mentioned in subsection (1)(a), (b) or (c).

Commencement Information

- I10** S. 140(1)(a) in force at 21.1.2021 for specified purposes, see s. 175(1)(f)(2)(e)(i)(7)
I11 S. 140(1)(b)(c) in force at 21.1.2021, see s. 175(1)(f)(2)

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141 Requirement on principal councils to provide information etc. to other bodies E +W

- (1) The Welsh Ministers may direct a principal council (“council A”) to provide a relevant body with any information or documents which the Welsh Ministers consider appropriate—
 - (a) for the purposes of considering whether to transfer the functions of council A to another principal council (“council B”) or to a new principal council,
 - (b) for the purposes of giving effect to such a transfer, or
 - (c) otherwise in connection with such a transfer.
- (2) The following are relevant bodies—
 - (a) any other principal council (including council B) whose area will be, or is likely to be, affected by any merger regulations or restructuring regulations made in respect of council A;
 - (b) any transition committee established by council A (see Schedule 11);
 - (c) if a new principal area containing all or part of council A's area is to be constituted, the shadow council for the new principal area.
- (3) The Welsh Ministers may also direct council B to provide another relevant body or council A with any information or documents which the Welsh Ministers consider appropriate as mentioned in subsection (1)(a), (b) or (c).

Commencement Information

I12 S. 141(1)(2) in force at 21.1.2021 for specified purposes, see s. 175(1)(f)(i)-(iii)(2)(7)

CHAPTER 4 E+W

REMUNERATION ARRANGEMENTS FOR NEW PRINCIPAL COUNCILS

142 Directions to Independent Remuneration Panel for Wales E+W

- (1) The Welsh Ministers may direct the Independent Remuneration Panel for Wales (“the Panel”) that it must perform its payment and pension functions in relation to—
 - (a) the shadow council for a new principal area established under merger regulations or restructuring regulations, and
 - (b) the principal council for that area, for the financial year in which the transfer date falls.
- (2) For the purposes of subsection (1), the Panel's payment and pension functions are the functions under the following sections in Part 8 of the 2011 Measure—
 - (a) section 142 (payments to members), and
 - (b) section 143 (members' pensions).
- (3) Accordingly Part 8 of the 2011 Measure applies in the case of a council to which a direction under subsection (1) relates; but in its application by virtue of this subsection Part 8 is subject to—
 - (a) subsection (4), and
 - (b) section 143.

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- (4) Where Part 8 of the 2011 Measure applies by virtue of subsection (3)—
- (a) the shadow council is a relevant authority for the purposes of that Part,
 - (b) the Panel may exercise its functions under Part 8 of the 2011 Measure in relation to the principal council for the new principal area before the council has been established (including by way of imposing a requirement to which the council will be subject once it is established); accordingly, for those purposes that Part is to be read as if the council is, before it is established, a relevant authority,
 - (c) where the transfer date does not fall on 1 April, the references in section 142 to a financial year include a reference to part of the financial year in which the transfer date falls,
 - (d) section 143A (functions of the Independent Remuneration Panel for Wales in respect of remuneration of chief executives) does not apply by virtue of subsection (3) (but see section 145(6) in this Chapter, which applies section 143A in any event), and
 - (e) section 146 (first annual report of Panel) does not apply (but see section 143(9) in this Chapter).
- (5) In exercising functions by virtue of this section in relation to a principal council for an area which has or had a designated shadow council, the Panel may, in relation to times before and after the council will consist of councillors elected at the first ordinary election—
- (a) make different decisions under section 142(1) of the 2011 Measure;
 - (b) set different amounts under subsection (3) of that section;
 - (c) make different determinations under subsection (4) of that section;
 - (d) set different percentages or other rates or indices under subsection (6) of that section;
 - (e) make different decisions under section 143(2) and (3) of the 2011 Measure.

Commencement Information

- I13** S. 142(1) in force at 21.1.2021 for specified purposes, see s. 175(1)(f)(2)(b)(i)(7)
I14 S. 142(2)-(5) in force at 21.1.2021, see s. 175(1)(f)

143 Reports of Panel relating to shadow councils and new principal councils **E+W**

- (1) This section applies where Part 8 of the 2011 Measure applies in the case of a council by virtue of a direction under section 142.
- (2) The first report under Part 8 of the 2011 Measure that relates (wholly or partly) to the shadow council for the new principal area (“the first report”)—
- (a) must be published no later than the date specified in the direction under section 142 for that purpose, and
 - (b) may be an annual report or a supplementary report, subject to the requirement imposed by virtue of paragraph (a) and the requirements under sections 147(2) and 148(1) and (1A)(a) of the 2011 Measure.
- (3) Section 148(1A)(b) of the 2011 Measure (time limit on publication) does not apply in relation to the first report if it is a supplementary report.

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- (4) Where any annual report or supplementary report relates (wholly or partly) to—
 - (a) the shadow council, or
 - (b) the principal council for the new principal area and that council will not be established at the time of publication of the report,
 the Panel must take the step set out in subsection (5).
- (5) The Panel must, before publishing the report under section 147 of the 2011 Measure, send a draft of the report to the following (if the Panel is not already required to do so under section 147(8)(a) of the 2011 Measure)—
 - (a) the merging councils or restructuring councils whose areas are to be merged to create the new principal area;
 - (b) the shadow council (if established);
 - (c) the persons (if any) specified for that purpose in the direction under section 142.
- (6) A supplementary report may impose on the merging councils or restructuring councils whose areas are to be merged to create the new principal area, or on the shadow council—
 - (a) requirements of a kind specified in section 150(1) or (3) of the 2011 Measure;
 - (b) requirements of a kind specified in section 151(1) of that Measure.
- (7) Where a supplementary report relates (wholly or partly) to the shadow council, section 150(2) of the 2011 Measure applies in relation to that report (to the extent that it requires a payment to be made to or by the shadow council) as it applies in relation to an annual report.
- (8) The references in sections 153, 154 and 157 of the 2011 Measure to requirements imposed by an annual report include a reference to requirements imposed by a supplementary report by virtue of this section.
- (9) An annual or supplementary report must specify in relation to the council for the new principal area (whether it is a shadow council or a principal council at the time of publication) the information mentioned in section 146(3) of the 2011 Measure.
- (10) The matters required by virtue of this section and section 142 to be included in a report of the Panel in relation to the financial year in which the transfer date falls must be included in the annual report for that financial year.
- (11) But, if the Panel considers it appropriate to do so, it may at any time before the transfer date publish a supplementary report in relation to so much of that first financial year as falls on or after that date.

Commencement Information

- I15** S. 143(1)-(4)(5)(b)(c) in force at 21.1.2021, see s. 175(1)(f)
I16 S. 143(5)(a)(6) in force at 21.1.2021 for specified purposes, see s. 175(1)(f)(2)(b)(ii)(7)
I17 S. 143(7)-(11) in force at 21.1.2021 for specified purposes, see s. 175(1)(f)

144 Guidance to Panel **E+W**

The Panel must have regard to any guidance issued by the Welsh Ministers about the exercise of its functions in accordance with sections 142 and 143.

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145 Pay policy statements **E+W**

- (1) A transition committee must publish recommendations as to the pay policy statement to be prepared by the shadow council for the new principal area.
- (2) The recommendations must be published no later than six weeks before—
 - (a) where the shadow council is an elected shadow council, the date on which elections to the shadow council are to take place, or
 - (b) where the shadow council is a designated shadow council, the date on which the shadow council is to be established.
- (3) A shadow council must prepare and approve (and may amend) a pay policy statement in accordance with sections 38(2) to (5) and 39(1), (4) and (5) of the Localism Act 2011 (c. 20)—
 - (a) for the period beginning with the approval of the pay policy statement and ending immediately before the transfer date, and
 - (b) for the first financial year in which there will be a principal council for the new principal area.
- (4) Accordingly, sections 38(2) to (5) and 39(1), (4) and (5), 41(1) and (2) and 42(1) and (2) of the Localism Act 2011 apply; and where those provisions apply by virtue of this subsection—
 - (a) the shadow council is, for the purposes of those provisions, a relevant authority within the meaning of Chapter 8 of Part 1 of that Act,
 - (b) the period mentioned in subsection (3)(a) is to be treated for the purposes of those provisions as a financial year, and
 - (c) section 39(5) of that Act is to be read as if for “on the authority’s website” there were substituted “on a website”.
- (5) No chief officer (within the meaning of section 43(2) of the Localism Act 2011) may be appointed or designated by the shadow council until the pay policy statement under subsection (3) has been prepared and approved.
- (6) Section 143A of the 2011 Measure (functions of the Independent Remuneration Panel for Wales in respect of remuneration of chief executives) applies in relation to a shadow council, subject to paragraph 1(7) of Schedule 12; and accordingly a shadow council is a qualifying relevant authority for the purposes of that section.
- (7) In this section, “transition committee” means a transition committee established under Schedule 11—
 - (a) in relation to merger regulations, or
 - (b) in relation to restructuring regulations which make provision for there to be a shadow council.

Commencement Information

I18 S. 145(1)-(7)(a) in force at 21.1.2021 for, see s. 175(1)(f)

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CHAPTER 5 E+W

SUPPLEMENTARY

146 **Guidance** E+W

The following must have regard to any guidance issued by the Welsh Ministers for the purposes of this Part (and see section 123 in relation to guidance on merger applications)—

- (a) a principal council (including a shadow council and a shadow executive);
- (b) a transition committee (as to which, see Schedule 11);
- (c) a committee or body established under section 134(2)(a) or (b);
- (d) a public body—
 - (i) established by provision included in regulations under section 147(6) (a) or (b);
 - (ii) to which provision included in regulations under section 147(6)(a) or (b) relates.

147 **Other consequential etc. provision** E+W

- (1) Merger regulations and restructuring regulations may include supplementary, incidental, consequential, transitional, transitory or saving provision.
- (2) The Welsh Ministers may by regulations make supplementary, incidental, consequential, transitional, transitory or saving provision in relation to particular merger regulations or particular restructuring regulations—
 - (a) for the purposes of or in consequence of those regulations, or
 - (b) for giving full effect to those regulations.
- (3) The Welsh Ministers may by regulations of general application make supplementary, incidental, consequential, transitional, transitory or saving provision—
 - (a) for the purposes of or in consequence of merger regulations or restructuring regulations, or
 - (b) for giving full effect to merger regulations or restructuring regulations.
- (4) Regulations under subsection (3) have effect subject to any provision included in merger regulations or restructuring regulations.
- (5) In this section references to supplementary, incidental, consequential, transitional, transitory or saving provision include provision—
 - (a) for the transfer of property (real or personal), rights or liabilities (including criminal liabilities, and rights and liabilities in relation to a contract of employment) from one principal council to another principal council;
 - (b) with respect to the management or custody of property transferred to a principal council;
 - (c) for civil or criminal proceedings commenced by or against one principal council to be continued by or against another principal council;
 - (d) for the transfer of staff (subject to subsection (8)), and about other staffing matters (including remuneration, allowances, expenses, pensions or compensation for loss of office);

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- (e) for treating one principal council for some or all purposes as the same person in law as another principal council;
 - (f) with respect to charter trustees;
 - (g) in relation to preserved counties (within the meaning of section 270(1) of the 1972 Act).
- (6) In this section references to supplementary, incidental, consequential, transitional, transitory or saving provision also include provision with respect to—
- (a) the establishment or membership of public bodies in any area affected by merger regulations or restructuring regulations and the election or appointment of members of the public bodies, or
 - (b) the abolition or establishment, or the restriction or extension, of the jurisdiction of any public body in or over any part of any area affected by merger regulations or restructuring regulations.
- (7) Supplementary, incidental, consequential, transitional, transitory or saving provision in merger regulations, restructuring regulations or regulations under this section may take the form of provision—
- (a) amending, modifying, applying (with or without modifications) or disapplying any enactment, or
 - (b) repealing or revoking any enactment (with or without savings).
- (8) Merger regulations, restructuring regulations or regulations under this section containing provision for the transfer of staff must apply the provisions of the Transfer of Undertakings (Protection of Employment) Regulations 2006 (S.I. 2006/246), apart from regulations 4(6) and 10, to transfers made under the regulations under this Part (whether or not the transfer is a relevant transfer for the purposes of the Transfer of Undertakings (Protection of Employment) Regulations 2006).
- (9) “Enactment” in subsection (7) includes any charter, whenever granted.
- (10) The Welsh Ministers may—
- (a) by regulations amend or revoke regulations made under subsection (2) or (3) or regulations made under this paragraph;
 - (b) by regulations amend merger regulations, restructuring regulations or regulations made under this paragraph;
 - (c) by merger regulations or restructuring regulations amend or revoke merger regulations, restructuring regulations or regulations under this section,
- and regulations made under this subsection may make supplementary, incidental, consequential, transitional, transitory or saving provision.

Commencement Information

I19 S. 147(1)-(4)(6)-(8)(10) in force at 21.1.2021 for specified purposes, see s. 175(1)(f)(2)(b)(i)(7)

I20 S. 147(5)(9) in force at 21.1.2021, see s. 175(1)(f)

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VALID FROM 01/04/2021

148 Initial procedure for restructuring regulations **E+W**

- (1) The Welsh Ministers may not lay a draft of a statutory instrument containing restructuring regulations before Senedd Cymru in accordance with section 174(4) unless—
 - (a) they have laid the required documents before Senedd Cymru, and
 - (b) at least 60 days have passed since the day on which the required documents were laid.
- (2) In subsection (1), “the required documents” means—
 - (a) a proposed draft of the restructuring regulations, and
 - (b) a statement that—
 - (i) gives details of the consultation described in section 129(4), and
 - (ii) explains why the Welsh Ministers are satisfied as to the matter in section 129(5).
- (3) In calculating whether 60 days have passed for the purposes of subsection (1)(b), no account is to be taken of any time during which Senedd Cymru is dissolved or is in recess for more than four days.
- (4) If, having complied with subsection (1), the Welsh Ministers lay the draft statutory instrument containing the restructuring regulations before Senedd Cymru in accordance with section 174(4), the instrument must be accompanied by a statement giving details of—
 - (a) any representations they received after the proposed draft of the regulations was laid before Senedd Cymru, and
 - (b) any differences between the proposed draft of the regulations and the regulations in the draft statutory instrument.
- (5) Nothing in this section applies in relation to regulations which are made only for the purpose of amending restructuring regulations.

149 Terms used in this Part **E+W**

In this Part (including Schedule 1)—

“abolition request” (“*cais i ddi-ddymu*”) has the meaning given in section 130(1);

“council under consideration” (“*cyngor sydd o dan ystyriaeth*”) has the meaning given by section 129(4)(a);

“documents” (“*dogfennau*”) includes information recorded in any form (other than in section 148);

“form of executive” (“*ffurf y weithrediaeth*”) is to be interpreted in accordance with section 11 of the 2000 Act;

“merger application” (“*cais i uno*”) has the meaning given in section 121(1);

“merger regulations” (“*rheoliadau uno*”) has the meaning given in section 124(2);

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“merging council” (“*cyngor sy'n uno*”) means a principal council that has made a merger application and whose area is to be merged into a new principal area;

“principal area” (“*prif ardal*”) means—

- (a) a county in Wales;
- (b) a county borough (in Wales);

“restructuring council” (“*cyngor sy'n cael ei ailstrwythuro*”) means a principal council that has been given notice as described in section 129(6) of the Welsh Ministers' proposals to make restructuring regulations in relation to it;

“restructuring regulations” (“*rheoliadau ailstrwythuro*”) has the meaning given in section 131;

“shadow council” (“*cyngor cysgodol*”) (including “elected shadow council” and “designated shadow council”) means a council established as a shadow council in accordance with provision included in—

- (a) merger regulations under section 125;
- (b) restructuring regulations under section 133;

“transfer date” (“*dyddiad trosglwyddo*”)—

- (a) in relation to merger regulations, has the meaning given in section 124(1);
- (b) in relation to restructuring regulations, has the meaning given in section 131.

Commencement Information

I21 S. 149 in force at 21.1.2021 for specified purposes, see s. 175(1)(f)(2)(i)(i)

150 Repeals of other enactments **E+W**

(1) In the 2011 Measure—

- (a) omit Chapter 2 of Part 9 (amalgamation);
- (b) in section 172 (orders and regulations)—
 - (i) in subsection (2)(a) for “, Part 2, section 140, 165 or 166(2)” substitute “ or 140 or 165 or 166(2) or Part 2 ”;
 - (ii) in subsection (2)(a) omit “or 165 or 166(2)”;
 - (iii) in subsection (2)(b) for “, 158,” substitute “ or 158 or ”;
 - (iv) in subsection (2)(b) omit “or 162 or 170”;
 - (v) omit subsection (2)(c);
 - (vi) omit subsection (3).

(2) In the 2013 Act—

- (a) in section 23 (review of principal area boundaries), in subsection (4)(e) omit sub-paragraphs (ii) and (iii);
- (b) in section 44(1) (transitional agreements as to property and finance), omit “or by an order under section 162 of the 2011 Measure (power to make amalgamation order)”;
- (c) in section 48(2) (directions and guidance), omit paragraph (c);
- (d) in section 71 (orders and regulations), in subsection (2)(b) omit “or which abolishes a principal area”.

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- (3) In the Local Government (Wales) Act 2015 (anaw 6) omit—
- (a) section 1(1) and (2)(a);
 - (b) sections 2 to 39;
 - (c) sections 44 and 45.

Commencement Information

I22 S. 150(1)(b)(i)(iii)(vi) in force at 21.1.2021, see s. 175(1)(f)(2)

I23 S. 150(2)(a)(d)(3) in force at 21.1.2021, see s. 175(1)(f)

VALID FROM 20/03/2021

PART 8 **E+W**

LOCAL GOVERNMENT FINANCE

Non-domestic rating

VALID FROM 01/04/2021

151 Powers of billing authorities to require the supply of information relating to hereditaments **E+W**

- (1) Schedule 9 to the Local Government Finance Act 1988 (c. 41) (administration in relation to non-domestic rating) is amended as follows.
- (2) In paragraph 5—
- (a) in sub-paragraph (1A), for “this paragraph” substitute “ sub-paragraph (1) ”;
 - (b) after sub-paragraph (1A) (information to be contained in notice given by valuation officer) insert—

“(1B) A billing authority in Wales may serve a notice on a person to whom sub-paragraph (1D) applies, requesting the person to supply to the authority information—

 - (a) which is specified in the notice,
 - (b) which relates to a hereditament in the authority's area specified in the notice, and
 - (c) which the authority reasonably believes will assist it in carrying out functions conferred or imposed on it by or under this Part.

(1C) A notice under sub-paragraph (1B) must state that the billing authority believes the information will assist it in carrying out functions conferred or imposed on it by or under this Part.

(1D) This sub-paragraph applies to—

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- (a) a person who is an owner of the hereditament specified in the notice under sub-paragraph (1B);
 - (b) a person who is an occupier of such a hereditament;
 - (c) a person who, in relation to the hereditament specified in the notice under sub-paragraph (1B), is carrying on a business of a description specified in regulations made by the Welsh Ministers.”;
- (c) in sub-paragraph (2), for “this paragraph” substitute “ sub-paragraph (1) ”;
- (d) after sub-paragraph (2) insert—
 - “(2A) A person on whom a notice is served under sub-paragraph (1B) must supply the information requested in the form and manner specified in the notice.”;
- (e) in sub-paragraph (4), for “this paragraph” substitute “ sub-paragraph (1) ”;
- (f) after sub-paragraph (4) insert—
 - “(5) If a notice has been served on a person under sub-paragraph (1B), and in supplying information in purported compliance with sub-paragraph (2A) the person makes a statement knowing it to be false in a material particular or recklessly makes a statement which is false in a material particular, the person is liable on summary conviction to a fine not exceeding level 3 on the standard scale.”
- (3) In paragraph 5A (penalty for failure to comply with request for information within the required period)—
 - (a) in sub-paragraph (1) after “paragraph 5(2)” insert “ or (2A) ”;
 - (b) in sub-paragraph (2)—
 - (i) after “valuation officer” insert “ or, as the case may be, billing authority concerned ”;
 - (ii) in paragraph (a), after “paragraph 5(2)” insert “ or (2A) ”;
 - (c) in sub-paragraph (3), after “paragraph 5(2)” insert “ or (2A) ”.
- (4) In paragraph 5B (power to mitigate or remit penalty), after “valuation officer” insert “ or, as the case may be, billing authority ”.
- (5) In paragraph 5C(6)(a), after “paragraph 5(2)” insert “ or (2A) ”.
- (6) In paragraph 5D(1) (recovery of penalty as civil debt), for the words from “be recovered” to the end substitute “—
 - (a) in a case which relates to a request for information made by a valuation officer, be recovered by the valuation officer concerned as a civil debt due to the valuation officer;
 - (b) in a case which relates to a request for information made by a billing authority in Wales, be recovered by the authority concerned as a civil debt due to the authority.”
- (7) In paragraph 5E (destination of penalty receipts)—
 - (a) the existing text becomes sub-paragraph (1);
 - (b) after that sub-paragraph insert—
 - “(2) Any sums received by a billing authority in Wales by way of penalty under paragraph 5A above must be paid into the Welsh Consolidated Fund.”

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(8) In paragraph 5F (power of the Welsh Ministers to make regulations in relation to Wales in connection with notices issued by valuation officers), after sub-paragraph (2)(a) insert—

“(aa) provision enabling a billing authority in Wales to request or obtain information for the purpose of identifying a person to whom paragraph 5(1D) above applies;”.

(9) In paragraph 5H (power of valuation officer to require information from billing authorities), after “is to be served” insert “ by the officer ”.

(10) In section 143 (procedural requirements for orders and regulations), after subsection (9A) insert—

“(9AZA) The power of the Welsh Ministers to make regulations under paragraph 5(1D)(c) of Schedule 9 shall be exercisable by statutory instrument, and no such regulations shall be made by them unless a draft of the regulations has been laid before and approved by resolution of Senedd Cymru.”

152 Requirement to supply to billing authorities information relevant to determining liability to non-domestic rates **E+W**

(1) The Local Government Finance Act 1988 (c. 41) is amended as follows.

(2) In Schedule 9 (administration in relation to non-domestic rating), after paragraph 6A insert—

“6AA (1) The Welsh Ministers may by regulations require persons to provide to billing authorities in Wales information relevant to determining—

- (a) whether a person is, as regards a hereditament in Wales, subject to a non-domestic rate in respect of a chargeable financial year;
- (b) where a person is, as regards a hereditament in Wales, subject to a non-domestic rate, the amount the person is liable to pay.

(2) Regulations under sub-paragraph (1) must specify—

- (a) the information to be provided,
- (b) the persons who must provide the information,
- (c) the circumstances in which the information is to be provided, and
- (d) the period within which the information is to be provided.

(3) The regulations may provide that a billing authority may impose a financial penalty on a person who fails to comply with a requirement in the regulations to provide information.

(4) If provision is made under sub-paragraph (3)—

- (a) the penalty specified in the regulations must be £500;
- (b) the regulations must require any sum received by a billing authority by way of penalty to be paid into the Welsh Consolidated Fund;

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- (c) the regulations may include provision for any penalty to be recovered by the billing authority concerned as a civil debt due to the authority;
 - (d) the regulations must include provision enabling a person on whom a financial penalty is imposed to require a review of the imposition of the penalty or its amount by the billing authority that imposed the penalty;
 - (e) the regulations must include provision enabling a person on whom a financial penalty is imposed to appeal against the imposition of the penalty or its amount to a valuation tribunal established under paragraph 1 of Schedule 11.
- (5) The regulations may provide that a person who knowingly or recklessly provides information required under the regulations which is false in a material particular is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (6) The Welsh Ministers may by regulations substitute a different amount for the amount for the time being specified in sub-paragraph (4)(a).”
- (3) In section 143 (procedural requirements for orders and regulations), after subsection (9AA) insert—
- “(9AB) The power of the Welsh Ministers to make regulations under paragraph 6AA(1) or (5) of Schedule 9 shall be exercisable by statutory instrument, and no such regulations shall be made by them unless a draft of the regulations has been laid before and approved by resolution of Senedd Cymru.”
- (4) In Part 2 of Schedule 11 (valuation tribunals: Wales), after paragraph 2(ca) insert—
- “(cb) regulations under paragraph 6AA of Schedule 9 above;”.

VALID FROM 01/04/2021

153 Powers of billing authorities to inspect properties **E+W**

- (1) Schedule 9 to the Local Government Finance Act 1988 (c. 41) (administration in relation to non-domestic rating) is amended as follows.
- (2) After paragraph 7 (power of valuation officer to enter properties in Wales for the purposes of valuation), insert—
- “7A
- (1) A billing authority in Wales may enter and survey a hereditament in its area if the authority has grounds for believing that the inspection is required for the purpose of carrying out functions conferred or imposed upon it by or under this Part.
 - (2) But the billing authority must obtain the approval of a valuation tribunal established under paragraph 1 of Schedule 11 before it exercises the power under sub-paragraph (1) above.
 - (3) After the tribunal has given its approval, the billing authority must give at least 24 hours' notice in writing of the proposed exercise of the power.

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- (4) A person who proposes to exercise the power under sub-paragraph (1) above must if required produce written evidence of authority to carry out the inspection.
- (5) A person who wilfully delays or obstructs a person in the exercise of a power under this paragraph is liable on summary conviction to a fine not exceeding level 1 on the standard scale.”
- (3) In the cross-heading preceding paragraph 6B (power of valuation officer to enter properties in England for the purposes of valuation), for “Power” substitute “ Powers ”.
- (4) For the cross-heading preceding paragraph 8 (duty of valuation officers to give access to information relating to rating lists), substitute “ Access to information ”.
- (5) In Part 2 of Schedule 11 (valuation tribunals: Wales), before paragraph 2(d) insert—
 “(cc) paragraph 7A of Schedule 9 above;”.

154 Multipliers E+W

- (1) The Local Government Finance Act 1988 (c. 41) is amended as follows.
- (2) In Schedule 7 (non-domestic rating: multipliers)—
 - (a) in paragraph 5(3), at the beginning insert “ In relation to England, ”;
 - (b) in paragraph 5(4), at the beginning insert “ In relation to England, ”;
 - (c) in paragraph 5(5), after “C” insert “ , in relation to England, ”;
 - (d) after paragraph 5(5) insert—
 - “(5A) In relation to Wales—
 - (a) B is the consumer prices index for September of the financial year preceding the year concerned, and
 - (b) C is the consumer prices index for September of the financial year which precedes that preceding the year concerned.
 - (5B) But where the base month for the consumer prices index for September of the financial year which precedes that preceding the year concerned (the first year) differs from that for the index for September of the year which precedes the year concerned (the second year), C is the figure which the Welsh Ministers calculate would have been the consumer prices index for September of the first year if the base month for that index had been the same as the base month for the index for September of the second year.”;
 - (e) after paragraph 5(9) insert—
 - “(9A) References in sub-paragraphs (5A) and (5B) to the consumer prices index are to the general index of consumer prices (for all items) published by the Statistics Board or, if that index is not published for a relevant month, any substituted index or index figures published by the Board.
 - (9B) For the purposes of sub-paragraph (5B) the base month for the retail prices index for September of a particular year is the month for

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which the consumer prices index is taken to be 100 and by reference to which the index for the September in question is calculated.”;

(f) after paragraph 5(13) insert—

“(13A) The Welsh Ministers may by regulations amend, repeal or disapply sub-paragraphs (5A), (5B), (9A) and (9B) so as to—

(a) substitute for references to the consumer prices index references to another index, or

(b) provide that—

(i) B is a figure specified or described in (or calculated in a manner specified in) the regulations;

(ii) C is a figure so specified or described (or so calculated).

(13B) The power to make regulations under sub-paragraph (13A) shall be exercisable by statutory instrument.

(13C) Regulations under sub-paragraph (13A), in their application to a particular financial year (including regulations amending or revoking others) shall not be effective unless they are approved by resolution of Senedd Cymru before the approval by Senedd Cymru of the local government finance report for the year, or before 1 March in the preceding financial year (whichever is earlier).”;

(g) in paragraph 5, omit sub-paragraphs (14) and (15);

(h) after paragraph 6(2) insert—

“(2A) Where the financial year is one for which the Welsh Ministers have calculated a figure for C under paragraph 5(5B), the notice must contain the figure they have calculated.”;

(i) after paragraph 6(4B) insert—

“(4C) A calculation made by the Welsh Ministers under this paragraph is also invalid if made at a time when regulations made under paragraph 5(13A) which are effective in relation to the year have not come into force.”;

(j) in paragraph 6(5), after “calculation” insert “ made by the Secretary of State ”.

(3) In section 143 (orders and regulations)—

(a) in subsection (2), for “or the Treasury” substitute “ , the Treasury or the Welsh Ministers ”;

(b) in subsection (9), for “The power to make an order” substitute “ The powers to make an order or regulations ”.

155 Amendment of Chapter 3 of Part 5 of the Local Government Finance Act 1988 **E+W**

(1) Chapter 3 of Part 5 of the Local Government Finance Act 1988 (c. 41) (revenue support grant: Wales) is amended as follows.

(2) In section 84J (calculation of grant payable to receiving authorities), in subsection (4) after “subsection (1) or” insert “ by virtue of subsection ”.

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- (3) In section 84K (payment of grant to receiving authorities)—
- (a) in subsection (1), for “section 84J(2)” substitute “ section 84J(1) ”;
 - (b) in subsections (2) and (5), for “under section 84J(4)” substitute “ by virtue of section 84J(2) ”.
- (4) In section 84M (recalculation of grant following amending report), in subsection (6) after “subsection (2) or” insert “ by virtue of subsection ”.
- (5) In section 84N (payment of grant following amending report), in subsections (1) and (4) for “(4)” substitute “ by virtue of section 84M(4) ”.
- (6) In section 84P (information deadlines), in subsection (1) for “under section 84J(2) or (4) or 84M(2) or (4)” substitute “—
- (a) under section 84J(1) or by virtue of section 84J(2), or
 - (b) under section 84M(2) or by virtue of section 84M(4)”.

Council tax

156 Joint and several liability to pay council tax **E+W**

In Schedule 1 to the Local Government Finance Act 1992 (c. 14) (persons disregarded for the purposes of discount), after paragraph 11 (persons of other descriptions) insert—

- “12 (1) Regulations under paragraph 11 made by the Welsh Ministers may amend Chapter 1 of Part 1 (but not this Schedule) for the purpose of providing that a person who, under the regulations, is to be disregarded for the purposes of discount on a particular day is also not to be jointly or severally liable to pay council tax in respect of any chargeable dwelling and that day.
- (2) Regulations which make provision as described in sub-paragraph (1) may also make provision about how liability to pay the council tax in respect of a dwelling is to be determined.”

VALID FROM 01/04/2021

157 Removal of power to provide for imprisonment of council tax debtors **E+W**

- (1) Schedule 4 to the Local Government Finance Act 1992 (c. 14) (enforcement) is amended as follows.
- (2) In paragraph 8(1) (commitment to prison), after “provide” insert “, in relation to the recovery of any sum which has become payable to a billing authority in England,”.
- (3) In paragraph 20 (interpretation), for “paragraph 6” substitute “ paragraphs 5(1A) (b)(ii), 6 and 8 ”.

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158 Procedure for certain regulations and orders made under the Local Government Finance Act 1992 **E+W**

- (1) The Local Government Finance Act 1992 (c. 14) is amended as follows.
- (2) In section 32 (calculation of budget requirement by principal councils in Wales), after subsection (9) insert—

“(9A) A statutory instrument containing regulations under subsection (9) is subject to annulment in pursuance of a resolution of Senedd Cymru.”
- (3) In section 33 (calculation of basic amount of council tax by principal councils in Wales), after subsection (5) insert—

“(5A) A statutory instrument containing regulations under subsection (5) is subject to annulment in pursuance of a resolution of Senedd Cymru.”
- (4) In section 41 (issue of precepts by local precepting authorities in Wales), after subsection (3) insert—

“(3A) A statutory instrument containing regulations under subsection (3) is subject to annulment in pursuance of a resolution of Senedd Cymru.”
- (5) In section 43 (calculation of budget requirement by major precepting authorities in Wales), after subsection (7) insert—

“(7A) A statutory instrument containing regulations under subsection (7) is subject to annulment in pursuance of a resolution of Senedd Cymru.”
- (6) In section 44 (calculation of basic amount of council tax by major precepting authorities in Wales), after subsection (5) insert—

“(5A) A statutory instrument containing regulations under subsection (5) is subject to annulment in pursuance of a resolution of Senedd Cymru.”
- (7) In section 113 (general provision about orders and regulations made under the Act), after subsection (4) insert—

“(5) Paragraphs 33 and 34 of Schedule 11 to the Government of Wales Act 2006 make provision about the Senedd Cymru procedures that apply to any statutory instrument containing regulations or an order made in exercise of functions conferred upon the Secretary of State or the National Assembly for Wales by this Act that have been transferred to the Welsh Ministers by virtue of paragraph 30 of that Schedule.”

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PART 9 **E+W**

MISCELLANEOUS

Information sharing

159 Information sharing between regulators, the Auditor General for Wales and the Welsh Ministers **E+W**

- (1) A member of the information sharing group may, for the purposes of exercising that member's specified functions in relation to a principal council, request that another member of the information sharing group provide information or a document.
- (2) A member of the information sharing group must provide information or a document requested under subsection (1), to the extent that—
 - (a) the information or document was obtained or created by that member in exercising the member's specified functions, and
 - (b) it is reasonably practicable for that member to provide the information or document.
- (3) If the Auditor General for Wales or the Welsh Ministers, for the purpose of exercising a function specified in subsection (4), requests that another member of the information sharing group provide information or a document, and that member—
 - (a) is not required under subsection (2) or any other enactment to provide the information or document, and
 - (b) does not have a power under any enactment (other than this section) to provide the information or document,
 the member may provide that information or document.
- (4) The functions mentioned in subsection (3) are—
 - (a) functions of the Welsh Ministers under Part 5 (collaborative working by principal councils);
 - (b) functions of the Auditor General for Wales or the Welsh Ministers under Chapter 1 of Part 6 (performance and governance of principal councils);
 - (c) functions of the Welsh Ministers under Chapter 2 of Part 7 (restructuring of principal areas).
- (5) For the purposes of this section—
 - (a) a person is a member of the information sharing group if that person is mentioned in the first column of table 2;
 - (b) the specified functions of the members of the information sharing group are the functions mentioned in the second column.

TABLE 2

Members of the information sharing group	Specified functions
Auditor General for Wales	Functions under sections 13 and 41 of the Public Audit (Wales) Act 2004 (c. 23) (audit of accounts and studies for improving economy in services)

Status: Point in time view as at 21/01/2021. This version of this Act contains provisions that are not valid for this point in time.
Changes to legislation: Local Government and Elections (Wales) Act 2021 is up to date with all changes known to be in force on or before 01 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

	Functions under section 15 of the Well-being of Future Generations (Wales) Act 2015 (anaw 2) (assessments relating to the sustainable development principle)
	Functions under Chapter 1 of Part 6 of this Act (special inspections of performance of principal councils)
Her Majesty's Chief Inspector of Education and Training in Wales	Functions under section 38 of the Education Act 1997 (c. 44) (inspection of education functions etc. of principal councils)
The Welsh Ministers	Functions under section 149A and section 149B of the Social Services and Well-being (Wales) Act 2014 (anaw 4) (reviews etc. of the exercise of social services functions of principal councils)
	Functions under Part 5 (collaborative working by principal councils), Chapter 1 of Part 6 (performance of principal councils) or Chapter 2 of Part 7 (restructuring of principal areas) of this Act

-
- (6) The Welsh Ministers may by regulations amend table 2 to—
- (a) add an entry;
 - (b) amend an entry;
 - (c) omit an entry.
- (7) Regulations under subsection (6) may amend, modify, repeal or revoke any enactment in consequence of, or for the purposes of giving full effect to, any amendment made to table 2 by regulations under subsection (6).
- (8) Before making regulations under subsection (6) which amend table 2, the Welsh Ministers must consult—
- (a) such persons representing principal councils as the Welsh Ministers consider appropriate;
 - (b) the Auditor General for Wales;
 - (c) the person to whom a new or amended entry will relate;
 - (d) the person to whom an entry to be omitted relates.
- (9) In this section "document" includes information recorded in any form.
- (10) Section 33 of the 2009 Measure (information sharing) ceases to have effect, other than for the purposes of the sharing of information and documents—
- (a) obtained by or produced to the Auditor General for Wales in the course of the exercise of functions under sections 17 to 19 of the 2009 Measure, or
 - (b) for the purpose of the exercise by the Auditor General for Wales of those functions.

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Commencement Information

- I24** S. 159(1)-(3)(4)(a) in force at 21.1.2021, see s. 175(1)(g)
I25 S. 159(5) in force at 21.1.2021 for specified purposes, see s. 175(1)(g)(7)
I26 S. 159(6)-(10) in force at 21.1.2021, see s. 175(1)(g)

160 Amendment of the Public Audit (Wales) Act 2004 consequential on section 159 **E+W**

In section 54 of the Public Audit (Wales) Act 2004 (c. 23) (restriction on disclosure of information)—

- (a) in subsection (1), after paragraph (a) (and before the “or” which follows it) insert—
- “(aa) pursuant to section 159 of the Local Government and Elections (Wales) Act 2021,”;
- (b) in subsection (2), after paragraph (b) insert—
- “(ba) section 159 of the Local Government and Elections (Wales) Act 2021;
- (bb) for the purposes of any functions of the Auditor General for Wales which are specified functions within the meaning of section 159 of the Local Government and Elections (Wales) Act 2021 (and are not mentioned elsewhere in this subsection);”.

VALID FROM 04/03/2021

Head of democratic services

161 Head of democratic services **E+W**

- (1) In section 8 of the 2011 Measure, after subsection (1) insert—
- “(1A) A local authority must have regard to any guidance issued by the Welsh Ministers about the local authority's function under subsection (1)(b).”
- (2) In subsection (4) of that section—
- (a) omit paragraph (b);
- (b) in paragraph (c), for “that section” substitute “ section 5 of the Local Government and Housing Act 1989 ”.
- (3) In section 43(2) of the Localism Act 2011 (c. 20) (meaning of “chief officer” for the purposes of pay policy statements), at the end of paragraph (e) insert “;
- (f) its head of democratic services designated under section 8(1) of the Local Government (Wales) Measure 2011 (designation by council of a county or county borough in Wales).”

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VALID FROM 05/05/2022

*Polls consequent on community meetings***162 Abolition of polls consequent on a community meeting** **E+W**

Schedule 13 makes provision abolishing polls consequent on community meetings under the 1972 Act.

VALID FROM 01/04/2021

*Local Democracy and Boundary Commission***163 Appointment by Local Democracy and Boundary Commission of its chief executive** **E+W**

- (1) Section 8 of the 2013 Act (chief executive) is amended as follows.
- (2) In subsection (2)—
 - (a) for “Welsh Ministers” substitute “ Commission ”;
 - (b) for “they” substitute “ it ”.
- (3) After subsection (2) insert—

“(2A) But if the office of chief executive has been vacant for more than six months, the Welsh Ministers may appoint a chief executive on such terms and conditions as they may determine (including conditions as to remuneration, pension, allowances and expenses).”
- (4) In subsection (3) after “chief executive” insert “ under subsection (2A), ”.
- (5) After subsection (3) insert—

“(4) The chief executive may not be—

 - (a) a member of Parliament;
 - (b) a Member of the Senedd;
 - (c) a member of a local authority;
 - (d) an officer of a local authority;
 - (e) a member of a National Park authority for a National Park in Wales;
 - (f) a police and crime commissioner for a police area in Wales.

(5) The Commission must, in exercising its functions under this section, have regard to any guidance issued by the Welsh Ministers.”
- (6) In sections 4(3)(c) and (d) (membership) and 11(2)(c) and (d) (assistant commissioners) of the 2013 Act, omit “in Wales”.

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164 Directions under section 48 of the 2013 Act **E+W**

- (1) Section 48 of the 2013 Act (directions and guidance relating to reviews under Part 3 of that Act) is amended as follows.
- (2) In subsection (2)—
- (a) in paragraph (a) for “(including, where the Commission has made recommendations or proposals to them, further reviews)” substitute “(regardless of whether in the circumstances the Commission would have the power, or would be subject to a duty, to conduct the review)”;
 - (b) after paragraph (a) insert—
 - “(aa) where the Commission has made recommendations or proposals to the Welsh Ministers, to conduct a further review under this Part,
 - (ab) to stop conducting a review under this Part.”;
 - (c) in paragraph (b) for “section 28” substitute “this Part”.
- (3) In subsection (5)—
- (a) omit “to” in the first place it occurs;
 - (b) in paragraph (a), at the beginning insert “to”;
 - (c) after paragraph (a) insert—
 - “(aa) to stop conducting a review under section 25 or 31,
 - (ab) not to conduct a review under section 25 or 31 during a period specified in the direction.”;
 - (d) in paragraph (b), at the beginning insert “to”.

VALID FROM 20/03/2021

Public services boards

165 Merging and demerging public services boards under the Well-being of Future Generations (Wales) Act 2015 **E+W**

- (1) In Part 4 of the Well-being of Future Generations (Wales) Act 2015 (anaw 2), section 47 (merger of public services boards) is amended as follows.
- (2) Omit subsection (3) (requirement that the same Local Health Board is a member of each merging public services board).
- (3) After subsection (4) insert—
- “(5) A merged board must, as soon as reasonably practicable after it is established, review—
- (a) the local well-being plans in effect for its area immediately before it was established, and
 - (b) the local objectives set out in those plans.
- (6) As soon as reasonably practicable after a review under subsection (5), the board must prepare and publish a local well-being plan for its area which may adopt the plans and objectives mentioned in subsection (5)(a) and (b)—

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- (a) to the extent the board considers appropriate, and
 - (b) subject to such amendments and revisions as the board considers appropriate.
 - (7) A merged board may, if it considers that it would assist in contributing to the achievement of the well-being goals—
 - (a) demerge, or
 - (b) partially demerge (if three or more separate boards merged in the creation of the merged board).
 - (8) The Welsh Ministers may, if they consider that it would assist in contributing to the achievement of the well-being goals, direct a merged board to—
 - (a) demerge, or
 - (b) partially demerge (if three or more separate boards merged in the creation of the merged board).
 - (9) For the purposes of subsections (7) and (8), a merged board—
 - (a) demerges if it ceases to exist and a separate public services board is established for the area of each local authority that was a member of the merged board;
 - (b) partially demerges if—
 - (i) it continues to exist as the public services board for the areas of two or more local authorities, and
 - (ii) a separate public services board is established for the area of each local authority that has ceased to be a member of the merged board.
 - (10) A public services board established after a demerger or partial demerger must, as soon as reasonably practicable after it is established, review—
 - (a) the local well-being plan in effect for its area immediately before it was established, and
 - (b) the local objectives set out in that plan.
 - (11) As soon as reasonably practicable after a review under subsection (10), the board must prepare and publish a local well-being plan for its area which may adopt the plan and objectives mentioned in subsection (10)(a) and (b)—
 - (a) to the extent the board considers appropriate, and
 - (b) subject to such amendments and revisions as the board considers appropriate.
 - (12) Before publishing a plan under subsection (6) or (11), a board must consult—
 - (a) the Commissioner;
 - (b) the Welsh Ministers;
 - (c) such other persons as the board considers appropriate.
 - (13) A board must send a copy of a local well-being plan published under subsection (6) or (11) to the persons mentioned in section 44(6).”
- (4) Schedule 14 makes amendments to Acts and Measures in consequence of subsection (3).

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Fire and rescue authorities

166 Combined fire and rescue authorities: inquiries E+W

- (1) The Fire and Rescue Services Act 2004 (c. 21) is amended as follows.
- (2) In section 2 (power to create combined fire and rescue authorities)—
- (a) in subsection (8)—
 - (i) omit “must cause an inquiry to be held”;
 - (ii) in paragraph (a), at the beginning insert “ must cause an inquiry to be held ”;
 - (iii) at the end of paragraph (a), omit “or”;
 - (iv) for paragraph (b) substitute—
 - “(b) where a scheme constituted a fire and rescue authority for an area in England, must cause an inquiry to be held before varying or revoking the scheme under this section, or”;
 - (v) after that paragraph insert—
 - “(c) where a scheme constituted a fire and rescue authority for an area in Wales, must cause an inquiry to be held before—
 - (i) varying the scheme in a way which changes the combined area (and may cause an inquiry to be held before varying the scheme in any other way), or
 - (ii) revoking the scheme.”;
 - (b) in subsection (9)—
 - (i) in paragraph (b), after “(8)(b)” insert “ or (c) ”;
 - (ii) in paragraph (c), for “either” substitute “ any ”;
 - (iii) in that paragraph, after “2007” insert “ or Part 3 of the Local Government (Democracy) (Wales) Act 2013, or to regulations under Part 7 of the Local Government and Elections (Wales) Act 2021 ”;
 - (iv) in paragraph (d), for “either” substitute “ any ”;
 - (c) in subsection (10), after “2007” insert “ or Part 3 of the Local Government (Democracy) (Wales) Act 2013, or regulations are made under Part 7 of the Local Government and Elections (Wales) Act 2021, ”.
- (3) In section 4 (combined authorities under the Fire Services Act 1947 (c. 41))—
- (a) in subsection (6), for “must cause an inquiry to be held” substitute “—
 - (a) where the scheme constituted a fire and rescue authority for an area in England, must cause an inquiry to be held, and
 - (b) where the scheme constituted a fire and rescue authority for an area in Wales, must cause an inquiry to be held if under the order—
 - (i) the scheme would be varied in a way which changes the combined area (and may cause an inquiry to be held if the scheme would be varied in any other way), or
 - (ii) the scheme would be revoked.”;

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- (b) in paragraph (b) of subsection (7), after "2007" insert " or Part 3 of the Local Government (Democracy) (Wales) Act 2013, or to regulations under Part 7 of the Local Government and Elections (Wales) Act 2021 ".
- (4) In section 34(3) of the 2013 Act (pre-review procedure: mandatory consultees), after paragraph (b) insert—
- “(ba) any fire and rescue authority (constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 (c. 21), or a scheme to which section 4 of that Act applies) for an area in Wales which may be affected by the review,”.

Commencement Information

- I27** S. 166(3)(a) in force at 20.3.2021, see s. 175(3)(r)
I28 S. 166(3)(b) in force at 21.1.2021, see s. 175(1)(i)
I29 S. 166(4) in force at 20.3.2021, see s. 175(3)(r)
I30 S. 166(1)(2)(a)(b)(i)(ii) in force at 20.3.2021, see s. 175(3)(r)
I31 S. 166(2)(b)(iii)(c) in force at 21.1.2021, see s. 175(1)(i)
I32 S. 166(2)(b)(iv) in force at 20.3.2021, see s. 175(3)(r)

VALID FROM 20/03/2021

167 Performance and governance of fire and rescue authorities **E+W**

- (1) The Fire and Rescue Services Act 2004 (c. 21) is amended as follows.
- (2) After section 21 (fire and rescue national framework) insert—

“21A Fire and rescue authorities in Wales: performance and governance

- (1) The Welsh Ministers may by regulations—
- require a fire and rescue authority for an area in Wales to make a plan in relation to the exercise of the authority's functions;
 - impose requirements relating to such a plan.
- (2) The requirements which may be imposed under subsection (1)(b) include requirements about—
- a plan's content;
 - its preparation and revision;
 - when it is to be made;
 - the period to which it is to relate;
 - its publication.
- (3) Requirements about a plan's content include requirements to—
- set out an authority's priorities and objectives;
 - describe and explain the extent to which the plan reflects the Framework prepared by the Welsh Ministers under section 21;
 - set out actions the authority intends to take in relation to its priorities and objectives;

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- (d) set out how the authority intends to assess its performance.
- (4) The Welsh Ministers may by regulations make provision (including imposing requirements on an authority) for the purposes of assessing or reporting on the performance of an authority.
- (5) Before making regulations under subsection (1) or (4) the Welsh Ministers—
- (a) must consult fire and rescue authorities for areas in Wales or persons who the Welsh Ministers consider represent those authorities;
 - (b) must consult persons who the Welsh Ministers consider represent employees of fire and rescue authorities for areas in Wales;
 - (c) may consult any other persons the Welsh Ministers consider appropriate.”
- (3) In section 60(6) (procedure for orders and regulations), after paragraph (c) and before the “or” which follows it insert—
- “(ca) regulations made by the Welsh Ministers under section 21A(1) or (4).”.

VALID FROM 20/03/2021

168 Fire and rescue authorities: disapplication of the 2009 Measure E+W

- (1) In the 2009 Measure omit—
- (a) section 1(c) (meaning of “Welsh improvement authority”);
 - (b) section 4(3)(c) and (4)(b) (aspects of improvement);
 - (c) section 10 (powers of delegation);
 - (d) section 11(1)(d) (meaning of “powers of collaboration”);
 - (e) section 16(2)(c) (meaning of “relevant regulators” and “relevant functions”);
 - (f) in section 35 (interpretation of Part 1), the definition of “Welsh fire and rescue authority”;
 - (g) in Schedule 1 (minor and consequential amendments: Part 1)—
 - (i) paragraph 27;
 - (ii) paragraphs 32 and 33, and the heading which precedes them.
- (2) In section 93 of the Local Government Act 2003 (c. 26) (power to charge for discretionary services), in subsection (9)—
- (a) for paragraph (aa) substitute—

“(aa) a county council or county borough council in Wales;”;
 - (b) after paragraph (ab) insert—

“(ac) a National Park authority for a National Park in Wales;”.
- (3) In section 24 of the Fire and Rescue Services Act 2004 (c. 21) (best value), for subsections (3) to (5) substitute—
- “(3) This section does not apply to a fire and rescue authority in Wales.”.

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Commencement Information

I33 S. 168(1)(g)(i) in force at 20.3.2021, see s. 175(3)(t)

I34 S. 168(2) in force at 20.3.2021, see s. 175(3)(t)

VALID FROM 01/04/2021

*National Park authorities***169 National Park authorities: disappication of the 2009 Measure** **E+W**

In the 2009 Measure omit—

- (a) section 1(b) (meaning of “Welsh improvement authority”);
- (b) section 4(3)(b) and (4)(c) (aspects of improvement);
- (c) section 11(1)(e) (meaning of “powers of collaboration”).

PROSPECTIVE

*Local Government (Wales) Measure 2009***170 Repeal of the 2009 Measure** **E+W**

- (1) The 2009 Measure is repealed.
- (2) In consequence of subsection (1), omit the following provisions—
 - (a) in the 2011 Measure, section 161;
 - (b) in the Public Audit (Wales) Act 2013 (anaw 3)—
 - (i) section 11(2);
 - (ii) in Schedule 4, paragraphs 83 to 88 (and the cross-heading which precedes them);
 - (c) in the Well-being of Future Generations (Wales) Act 2015 (anaw 2), in Schedule 4, paragraphs 20 to 23 (and the cross-heading which precedes them);
 - (d) in the Localism Act 2011 (c. 20), in the table in Part 1 of Schedule 25, the entry for the 2009 Measure;
 - (e) in the Deregulation Act 2015 (c. 20), section 100(2)(h);
 - (f) in this Act—
 - (i) sections 113, 168(1) and 169;
 - (ii) in Schedule 3, paragraph 4.

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PART 10 E+W

GENERAL

171 Interpretation E+W

(1) In this Act—

“1972 Act” (“*Deddf 1972*”) means the Local Government Act 1972 (c. 70);

“1983 Act” (“*Deddf 1983*”) means the Representation of the People Act 1983 (c. 2);

“2000 Act” (“*Deddf 2000*”) means the Local Government Act 2000 (c. 22);

“2009 Measure” (“*Mesur 2009*”) means the Local Government (Wales) Measure 2009 (nawm 2);

“2011 Measure” (“*Mesur 2011*”) means the Local Government (Wales) Measure 2011 (nawm 4);

“2013 Act” (“*Deddf 2013*”) means the Local Government (Democracy) (Wales) Act 2013 (anaw 4);

“elected mayor” (“*maer etholedig*”) has the same meaning as in section 39(1) of the 2000 Act;

“enactment” (“*deddfiad*”) means an enactment whenever enacted or made (including this Act);

“executive” (“*gweithrediaeth*”) is to be interpreted in accordance with section 11 of the 2000 Act;

“executive arrangements” (“*trefniadau gweithrediaeth*”) has the same meaning as in section 10 of the 2000 Act;

“executive leader” (“*arweinydd gweithrediaeth*”) has the same meaning as in section 11(3)(a) of the 2000 Act;

“fire and rescue authority” (“*awdurdod tân ac achub*”) means a fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 (c. 21), or a scheme to which section 4 of that Act applies;

“leader and cabinet executive” (“*gweithrediaeth arweinydd a chabinet*”) means a leader and cabinet executive (Wales) within the meaning of section 11(3) of the 2000 Act;

“local government election” (“*etholiad llywodraeth leol*”) means the election of councillors for any electoral ward or community ward in Wales or, in the case of a community in Wales in which there are no wards, the community, for which the election of councillors is held under the 1972 Act;

“local people” (“*pobl leol*”), in relation to a principal council, means people who live, work or study in the council's area;

“mayor and cabinet executive” (“*gweithrediaeth maer a chabinet*”) has the same meaning as in section 11(2) of the 2000 Act;

“member” (“*aelod*”)—

(a) in relation to a principal council, means a councillor of the council (which includes a councillor elected as chair or presiding member, or appointed as vice-chair or deputy presiding member), and

(b) in relation to a principal council which is operating a mayor and cabinet executive, includes the elected mayor of the council;

“primary legislation” (“*deddfwriaeth sylfaenol*”) means—

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- (a) a Measure passed under Part 3 of the Government of Wales Act 2006 (c. 32);
 - (b) an Act passed under Part 4 of that Act;
 - (c) an Act of Parliament;
- “principal council” (“*prif gyngor*”) means—
- (a) the council for a county in Wales;
 - (b) the council for a county borough (in Wales).
- (2) Where this Act imposes a duty to publish a notice or other document, the notice or other document must be published—
- (a) electronically, and
 - (b) in such other manner as the person subject to the duty considers appropriate, and the duty to publish the notice or other document electronically is, where the person has its own website, a duty to publish on that website.

172 Directions **E+W**

A direction given under this Act—

- (a) must be in writing;
- (b) must be complied with.

173 Power to make consequential and transitional provision etc. **E+W**

- (1) If the Welsh Ministers consider it necessary or expedient for the purposes of, in consequence of, or for giving full effect to any provision of this Act, they may by regulations make—
- (a) supplementary, incidental or consequential provision;
 - (b) transitional, transitory or saving provision.
- (2) Regulations under subsection (1) may amend, modify, repeal or revoke any enactment.

174 Regulations under this Act **E+W**

- (1) A power to make regulations under this Act is exercisable by statutory instrument.
- (2) A power to make regulations under this Act includes power to make different provision for different purposes or areas.
- (3) A power to make regulations under this Act includes a power to make supplementary, incidental, consequential, transitional, transitory or saving provision; but this subsection does not apply to the powers under—
- (a) section 72, 74, 80 or 83 (corporate joint committees; as to which see section 83);
 - (b) section 124, 131 or 147 (mergers and restructuring; as to which see section 147).
- (4) A statutory instrument to which this subsection applies may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, Senedd Cymru
- (5) Subsection (4) applies to a statutory instrument containing regulations under any of the following provisions—

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- (a) section 28(1) or (2), where the regulations amend, modify, repeal or disapply primary legislation, unless the regulations are made only for a purpose described in subsection (8) of that section;
 - (b) section 28(3) or (4), unless the regulations are made only for a purpose described in subsection (8) of that section;
 - (c) section 35(1) or (3) (eligible community councils: eligibility requirements);
 - (d) section 46 (electronic broadcast of meetings);
 - (e) section 47(8) (attendance at local authority meetings);
 - (f) section 50 (regulations about conduct of local authority meetings, notices relating to such meetings, etc.);
 - (g) section 60(1) (job-sharing: non-executive offices in principal councils);
 - (h) section 72 (establishing requested corporate joint committees);
 - (i) section 74 (establishing corporate joint committees other than on request);
 - (j) section 80 (amendment etc. of joint committee regulations);
 - (k) section 83 (corporate joint committees: supplementary etc.);
 - (l) section 84(2)(amendment of enactments for purposes etc. of Part 5);
 - (m) section 94 (panel performance assessments: supplementary regulations);
 - (n) section 107(3) (disapplication etc. of enactments in relation to principal council functions exercisable by the Welsh Ministers etc.);
 - (o) section 110(1) or (2) (amendment etc. of enactments and conferral of new powers in relation to performance and governance of principal councils);
 - (p) section 124 (merger regulations);
 - (q) section 131 (restructuring regulations; but see section 148 for further provision about the procedure relating to a statutory instrument containing restructuring regulations);
 - (r) section 147 (further provision relating to merger regulations and restructuring regulations);
 - (s) section 159(6) (amendment of table 2 to change membership of information sharing group and their specified functions);
 - (t) section 173 (consequential etc. provision), where the regulations amend, modify or repeal primary legislation (including this Act).
- (6) A statutory instrument containing regulations under this Act and to which subsection (4) does not apply is subject to annulment in pursuance of a resolution of Senedd Cymru; but this subsection does not apply to a statutory instrument containing only regulations under paragraph 9, 10 or 11 of Schedule 1 (initial reviews).
- (7) In subsection (5), “primary legislation” includes a provision of primary legislation.

175 Coming into force **E+W**

- (1) The following provisions come into force on the day after the day on which this Act receives Royal Assent—
- (a) section 50;
 - (b) section 51;
 - (c) paragraph 17(4) of Schedule 4 (and section 49 in so far as it relates to that paragraph);
 - (d) section 61;
 - (e) Part 5;

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- (f) Part 7 (including Schedule 1), subject to subsection (2);
 - (g) section 159, other than—
 - (i) subsection (4)(b) and (c);
 - (ii) in table 2 in subsection (5), the entry relating to the Auditor General for Wales' functions under Chapter 1 of Part 6;
 - (iii) in that table, in the entry relating to the Welsh Ministers' functions under this Act, the words from “, Chapter 1” to “areas”;
 - (h) section 160;
 - (i) section 166(2)(b)(iii) and (c) and (3)(b);
 - (j) this Part;
 - (k) paragraph 2(2) of Schedule 2;
 - (l) paragraph 16(3) of Schedule 2.
- (2) Subsection (1)(f) does not apply to the following provisions in Part 7 (which come into force in accordance with subsection (6) or (7) of this section)—
- (a) Chapter 2;
 - (b) each occurrence in the Part, other than in section 147(3), of the following terms—
 - (i) “or restructuring regulations”, “and restructuring regulations”, “or particular restructuring regulations” and “, restructuring regulations”;
 - (ii) “or restructuring councils”, “or restructuring council”, “or the restructuring councils” and “and restructuring councils”;
 - (c) in section 138—
 - (i) subsection (1)(b);
 - (ii) subsection (3);
 - (d) in section 139—
 - (i) subsection (2);
 - (ii) in subsection (3), the words “or (2)”;
 - (e) in section 140—
 - (i) in subsection (1)(a), the words “to another principal council (“council B”) or”;
 - (ii) subsection (2);
 - (f) in section 141—
 - (i) in subsection (1)(a), the words “to another principal council (“council B”) or”;
 - (ii) in subsection (2)(a), the words “(including council B)”;
 - (iii) in subsection (2)(c), the words “if a new principal area containing all or part of council A's area is to be constituted,”;
 - (iv) subsection (3);
 - (g) section 145(7)(b);
 - (h) section 148;
 - (i) in section 149—
 - (i) the definitions of “abolition request”, “council under consideration” and “restructuring council”;
 - (ii) in each of the definitions of “shadow council” and “transfer date”, paragraph (b);
 - (j) section 150(1)(a) and (b)(ii), (iv) and (v) and (2)(b) and (c);

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- (k) in Schedule 1—
 - (i) each reference to “11 or”;
 - (ii) in paragraph 1(3), the words “11(3) or”;
 - (iii) paragraphs 2(2), 6(2)(a) and 12(1)(a), (2) and (4)(a);
 - (iv) paragraph 2(4) and (5);
 - (l) in Schedule 11—
 - (i) Part 2;
 - (ii) in paragraph 7(3)(a), the words “or by virtue of paragraph 4”;
 - (iii) paragraph 7(3)(c);
 - (m) in Schedule 12—
 - (i) in paragraph 1(1), the words “or after giving notice as described in section 129(6)”;
 - (ii) in paragraph 7(6), in the definition of “the relevant date”, paragraph (b).
- (3) The following provisions come into force at the end of the period of two months beginning with the day on which this Act receives Royal Assent—
- (a) section 1;
 - (b) section 2(1) and (3) (subject to section 3);
 - (c) sections 3 and 4;
 - (d) sections 13 to 17;
 - (e) section 22 (subject to section 3);
 - (f) section 23 and Schedule 2—
 - (i) other than paragraphs 1(3) to (5), 1(7), 1(9), 2(2), 2(9) and (10), 2(18) (b), 5, 13, 16(2) and 16(3), and
 - (ii) subject to section 3 in respect of paragraphs 2(12), 8(3)(b), 15 and 19;
 - (g) section 38;
 - (h) section 53;
 - (i) section 55;
 - (j) section 60;
 - (k) section 94;
 - (l) section 152;
 - (m) section 154;
 - (n) section 155;
 - (o) section 156;
 - (p) section 158;
 - (q) section 165 and Schedule 14;
 - (r) section 166, other than subsections (2)(b)(iii) and (c) and (3)(b) (as to which see subsection (1) of this section);
 - (s) section 167;
 - (t) section 168(1)(g)(i) and (2).
- (4) The following provisions come into force on 1 April 2021—
- (a) section 151;
 - (b) section 153;
 - (c) section 157.
- (5) Section 2(2) comes into force on 5 May 2022.

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- (6) The following provisions come into force on 6 May 2022—
- (a) sections 5 to 12;
 - (b) the provisions in Schedule 1 mentioned in subsection (2)(k)(i) to (iii) of this section;
 - (c) in Schedule 2, paragraphs 2(9), (10) and (18)(b).
- (7) The other provisions of this Act come into force on a day appointed by the Welsh Ministers in an order made by statutory instrument.
- (8) An order under subsection (7)—
- (a) may make transitional, transitory or saving provision;
 - (b) may appoint different days for different purposes or areas.

176 Short title **E+W**

The short title of this Act is the Local Government and Elections (Wales) Act 2021.

Status:

Point in time view as at 21/01/2021. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation:

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