

# LOCAL GOVERNMENT AND ELECTIONS (WALES) ACT 2021

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 7: Mergers and Restructuring Of Principal Areas**

##### *Chapter 2: Restructuring of Principal Areas*

##### *Section 129 – Conditions to be met before making restructuring regulations*

559. **Section 129** enables the Welsh Ministers to make regulations for the restructuring of principal councils. This section also sets out the conditions which must be met before the Welsh Ministers may make restructuring regulations.
560. As set out in section 131, restructuring regulations will provide for the abolition of a principal council and its county or county borough, and also for:
- some or all of the abolished area to become part of the area of another existing county or county borough;
    - some or all of the abolished area to be merged with the area of one or more other counties or county boroughs, to create a new county or county borough.
561. The first condition imposed by section 129 is that the Welsh Ministers must have received either a report of a special inspection of a principal council by the Auditor General, under section 95 of the Act (relating to issues with the performance or governance of the council), or an abolition request submitted by a principal council under section 130 of the Act.
562. It is not necessary for there to have been a special inspection of, or for an abolition request to have been made by, any other council whose area may be affected by restructuring regulations.
563. The receipt of a special inspection report or an abolition request will not in itself require the Welsh Ministers to start a process which leads to restructuring regulations.
564. The Welsh Ministers will need to consider the content of the report or the request and draw on such other evidence and information as is appropriate and available to them before moving on to the next stage. Not every special inspection report will give rise to concerns which lead the Welsh Ministers to consider restructuring regulations as an option; it will depend entirely on the circumstances of the principal council in question.
565. If the Welsh Ministers wish to take forward the process of making restructuring regulations, they must comply with the second condition. The second condition is that the Welsh Ministers must give notice to affected councils that they have received a special inspection report or an abolition request.

566. The affected councils would be the principal council which was the subject of the special inspection report or had submitted the abolition request and any other principal council which could be affected by any proposal to restructure the principal council in question. The Welsh Ministers must publish such a notice.
567. The third condition is that the Welsh Ministers must then (if they wish to proceed) consult specified persons about the course of action which they are considering taking in respect of the council in question.
568. The persons who must be consulted are set out in this section and include the principal council which was the subject of the special inspection report or which submitted the abolition request (referred to as the “council under consideration”), and other potentially affected councils.
569. The fourth condition is that following such consultation the Welsh Ministers, on weighing up all the evidence and information, must conclude that effective and convenient local government is not likely to be achieved by the council under consideration before they may propose that restructuring regulations should be made in respect of the council.
570. If all the preceding conditions are fulfilled, the Welsh Ministers may move on to comply with the fifth condition.
571. The fifth condition is that if the Welsh Ministers propose to make restructuring regulations they must give notice of those proposals to the council under consideration and:
- any other principal council to which will be transferred part of the area of the council under consideration;
  - any other principal council which will be merged with all or part of the area of the council under consideration to form a completely new principal area; and
  - any other principal council which had been consulted under the third condition and might be affected by the consequences of the restructuring regulations.
572. All the conditions must be complied with before the Welsh Ministers may make restructuring regulations.