

# LOCAL GOVERNMENT AND ELECTIONS (WALES) ACT 2021

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 3 of Schedule 11: Transition committees of merging councils and restructuring councils**

##### *Chapter 5: Supplementary*

##### *Section 147 - Other consequential etc. provision*

660. [Section 147](#) enables the Welsh Ministers to include in merger and restructuring regulations supplementary, incidental, consequential, transitional and saving provision (see subsection (5)). They may also make separate regulations containing supplementary etc. provision in order to give full effect to the specific merger or restructuring regulations, or for the purposes of or in consequence of specific regulations.
661. The Welsh Ministers may make regulations of general application (that is, applying in relation to all merger or restructuring regulations) for the same reasons. The section identifies some of the specific uses of these powers, including for the transfer of staff, property and liabilities (including criminal liabilities) from merging or restructuring authorities to the successor authority or authorities.
662. Subsection (8) provides that the Transfer of Undertakings (Protection of Employment) Regulations 2006 ([S.I. 2006/246](#)) (commonly referred to as “TUPE”) apply to a transfer of staff made under these regulations, apart from regulations 4(6) and 10.
663. Excluding TUPE regulation 4(6) means that the liability of an abolished council to be prosecuted for, convicted of and sentenced for any offence will be transferred to the new council. Without this provision any criminal liability of an abolished council under or in connection with contracts of employment transferred to the new council would disappear when the councils are abolished.
664. Excluding TUPE regulation 10 preserves the occupational pension rights of staff being transferred under or by virtue of merger or restructuring regulations. Without this provision, the new council would not be under a legal obligation to honour pension rights, duties or liabilities under existing contracts of employment.