

LOCAL GOVERNMENT AND ELECTIONS (WALES) ACT 2021

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 9: Miscellaneous

Section 165 and Schedule 14 – Merging and demerging public services boards under the Well-being of Future Generations (Wales) Act 2015

709. **Section 165** amends Chapter 3 of Part 4 of the WFG Act.
710. Subsection (2) removes section 47(3) of the WFG Act which states that Public Services Board (PSBs) may only merge if the same Local Health Board is a member of each board seeking or being directed to merge, and no other Local Health Board is a member of any of those boards.
711. Subsection (3) adds additional subsections to section 47 of the WFG Act. The new sections 47(7) to 47(9) provide that a merged board can demerge, or partially demerge (or be directed by Welsh Ministers to do so) if it is considered that it would assist in contributing to the achievement of the well-being goals. This mirrors the existing provisions for the merger of PSBs.
712. The WFG Act has previously been silent on what happens following a merger. The act of merger does not trigger the production of a new well-being plan. These are only triggered by local government elections (“ordinary elections” under section 26 of the 1972 Act).
713. This left doubt as to what local well-being plan a newly merged PSB would be working to until the next set of local government elections took place; which depending on the point at which a merger took place could be a number of years.
714. The new subsections (5), (6), (10) and (11) of section 47 of the WFG Act set out what steps need to be taken regarding the review and preparation of local well-being plans following the merger, demerger or partial demerger of boards.
715. Following a merger or demerger, the PSB is given the flexibility to adopt and adapt the local well-being plans in effect for its area immediately before it was established) to whatever extent the newly formed PSB considers appropriate (which could be entirely, not at all, or anything in between). There is no requirement to revisit the assessment of local well-being. This is only triggered by the production of a new local well-being plan published under section 39(7) of the WFG Act (i.e. in relation to a local government election).
716. On the whole the assessments are produced to provide a reliable evidence base for a whole government election cycle. PSBs are entitled to draw on evidence additional to the assessments so if there are factual changes which they think should be reflected in

their plans post-merger/demerger, they are able to draw on that information without having to produce new assessments of well-being.

717. The new subsection (12) provides that before publishing a plan following a merger or demerger, a board must consult the Future Generations Commissioner and the Welsh Ministers. Since a merger or demerger may be triggered by a direction from the Welsh Ministers, being consulted on revised plans gives the Welsh Ministers a formal opportunity to satisfy themselves that, among other things, the revised plans are likely to promote the purpose behind any Ministerial direction.
718. The PSB will have discretion over whoever else it consults. Guidance under the WFG Act may give guidance about the bodies a board might consult.
719. If a PSB considers it appropriate to consult its invited partners, the duty to prepare and publish “as soon as reasonably practicable” must be read in the light of the time it will take for the board to consult them.
720. This section also introduces Schedule 14 which amends existing legislation in light of the changes made to section 47 of the WFG Act.
721. [Paragraph 1](#) makes consequential amendments to the WFG Act, for example, adding references to the demerger of PSBs where there is a reference to a merger.
722. Subsection (6) of section 39 is removed (and any other references to this subsection in the WFG Act) because boards have already produced their first well-being plans following commencement of the section.
723. [Paragraphs 2 to 9](#) make amendments to other Acts which refer to local well-being plans.