



Local Government and Elections (Wales) Act 2021

2021 asc 1

PART 2

GENERAL POWER OF COMPETENCE

CHAPTER 2

ELIGIBLE COMMUNITY COUNCILS

30 **Becoming an eligible community council**

- (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
 - (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.

31 Continuing to be an eligible community council

- (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.

32 Ceasing to be an eligible community council

- (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.

33 Community councils that cease to be eligible: exercise of general power of competence

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.

34 Common community councils established after this Act is passed

- (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

Status: This is the original version (as it was originally enacted).

- (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

- (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.

36 Guidance on exercise of functions under this Chapter

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

37 Amendments relating to this Chapter

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