



Local Government and Elections (Wales) Act 2021

2021 asc 1

PART 7

MERGERS AND RESTRUCTURING OF PRINCIPAL AREAS

CHAPTER 1

VOLUNTARY MERGERS OF PRINCIPAL AREAS

Merger regulations

124 Merger regulations

- (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

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- (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

- (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.
- (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—

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- (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

- (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—
- (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

- (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—

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- (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;
 - (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.