



Local Government and Elections (Wales) Act 2021

2021 asc 1

PART 7

MERGERS AND RESTRUCTURING OF PRINCIPAL AREAS

CHAPTER 5

SUPPLEMENTARY

146 Guidance

The following must have regard to any guidance issued by the Welsh Ministers for the purposes of this Part (and see section 123 in relation to guidance on merger applications)—

- (a) a principal council (including a shadow council and a shadow executive);
- (b) a transition committee (as to which, see Schedule 11);
- (c) a committee or body established under section 134(2)(a) or (b);
- (d) a public body—
 - (i) established by provision included in regulations under section 147(6)(a) or (b);
 - (ii) to which provision included in regulations under section 147(6)(a) or (b) relates.

147 Other consequential etc. provision

- (1) Merger regulations and restructuring regulations may include supplementary, incidental, consequential, transitional, transitory or saving provision.

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- (2) The Welsh Ministers may by regulations make supplementary, incidental, consequential, transitional, transitory or saving provision in relation to particular merger regulations or particular restructuring regulations—
 - (a) for the purposes of or in consequence of those regulations, or
 - (b) for giving full effect to those regulations.
- (3) The Welsh Ministers may by regulations of general application make supplementary, incidental, consequential, transitional, transitory or saving provision—
 - (a) for the purposes of or in consequence of merger regulations or restructuring regulations, or
 - (b) for giving full effect to merger regulations or restructuring regulations.
- (4) Regulations under subsection (3) have effect subject to any provision included in merger regulations or restructuring regulations.
- (5) In this section references to supplementary, incidental, consequential, transitional, transitory or saving provision include provision—
 - (a) for the transfer of property (real or personal), rights or liabilities (including criminal liabilities, and rights and liabilities in relation to a contract of employment) from one principal council to another principal council;
 - (b) with respect to the management or custody of property transferred to a principal council;
 - (c) for civil or criminal proceedings commenced by or against one principal council to be continued by or against another principal council;
 - (d) for the transfer of staff (subject to subsection (8)), and about other staffing matters (including remuneration, allowances, expenses, pensions or compensation for loss of office);
 - (e) for treating one principal council for some or all purposes as the same person in law as another principal council;
 - (f) with respect to charter trustees;
 - (g) in relation to preserved counties (within the meaning of section 270(1) of the 1972 Act).
- (6) In this section references to supplementary, incidental, consequential, transitional, transitory or saving provision also include provision with respect to—
 - (a) the establishment or membership of public bodies in any area affected by merger regulations or restructuring regulations and the election or appointment of members of the public bodies, or
 - (b) the abolition or establishment, or the restriction or extension, of the jurisdiction of any public body in or over any part of any area affected by merger regulations or restructuring regulations.
- (7) Supplementary, incidental, consequential, transitional, transitory or saving provision in merger regulations, restructuring regulations or regulations under this section may take the form of provision—
 - (a) amending, modifying, applying (with or without modifications) or disapplying any enactment, or
 - (b) repealing or revoking any enactment (with or without savings).
- (8) Merger regulations, restructuring regulations or regulations under this section containing provision for the transfer of staff must apply the provisions of the Transfer of Undertakings (Protection of Employment) Regulations 2006 (S.I. 2006/246), apart

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from regulations 4(6) and 10, to transfers made under the regulations under this Part (whether or not the transfer is a relevant transfer for the purposes of the Transfer of Undertakings (Protection of Employment) Regulations 2006).

- (9) “Enactment” in subsection (7) includes any charter, whenever granted.
- (10) The Welsh Ministers may—
- (a) by regulations amend or revoke regulations made under subsection (2) or (3) or regulations made under this paragraph;
 - (b) by regulations amend merger regulations, restructuring regulations or regulations made under this paragraph;
 - (c) by merger regulations or restructuring regulations amend or revoke merger regulations, restructuring regulations or regulations under this section,
- and regulations made under this subsection may make supplementary, incidental, consequential, transitional, transitory or saving provision.

Commencement Information

- 11** S. 147(1)-(4)(6)-(8)(10) in force at 21.1.2021 for specified purposes, see s. 175(1)(f)(2)(b)(i)(7)
- 12** S. 147(5)(9) in force at 21.1.2021, see s. 175(1)(f)

VALID FROM 01/04/2021

148 Initial procedure for restructuring regulations

- (1) The Welsh Ministers may not lay a draft of a statutory instrument containing restructuring regulations before Senedd Cymru in accordance with section 174(4) unless—
- (a) they have laid the required documents before Senedd Cymru, and
 - (b) at least 60 days have passed since the day on which the required documents were laid.
- (2) In subsection (1), “the required documents” means—
- (a) a proposed draft of the restructuring regulations, and
 - (b) a statement that—
 - (i) gives details of the consultation described in section 129(4), and
 - (ii) explains why the Welsh Ministers are satisfied as to the matter in section 129(5).
- (3) In calculating whether 60 days have passed for the purposes of subsection (1)(b), no account is to be taken of any time during which Senedd Cymru is dissolved or is in recess for more than four days.
- (4) If, having complied with subsection (1), the Welsh Ministers lay the draft statutory instrument containing the restructuring regulations before Senedd Cymru in accordance with section 174(4), the instrument must be accompanied by a statement giving details of—
- (a) any representations they received after the proposed draft of the regulations was laid before Senedd Cymru, and

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- (b) any differences between the proposed draft of the regulations and the regulations in the draft statutory instrument.
- (5) Nothing in this section applies in relation to regulations which are made only for the purpose of amending restructuring regulations.

149 Terms used in this Part

In this Part (including Schedule 1)—

“abolition request” (“*cais i ddiddymu*”) has the meaning given in section 130(1);

“council under consideration” (“*cyngor sydd o dan ystyriaeth*”) has the meaning given by section 129(4)(a);

“documents” (“*dogfennau*”) includes information recorded in any form (other than in section 148);

“form of executive” (“*ffurf y weithrediaeth*”) is to be interpreted in accordance with section 11 of the 2000 Act;

“merger application” (“*cais i uno*”) has the meaning given in section 121(1);

“merger regulations” (“*rheoliadau uno*”) has the meaning given in section 124(2);

“merging council” (“*cyngor sy'n uno*”) means a principal council that has made a merger application and whose area is to be merged into a new principal area;

“principal area” (“*prif ardal*”) means—

- (a) a county in Wales;
- (b) a county borough (in Wales);

“restructuring council” (“*cyngor sy'n cael ei ailstrwythuro*”) means a principal council that has been given notice as described in section 129(6) of the Welsh Ministers' proposals to make restructuring regulations in relation to it;

“restructuring regulations” (“*rheoliadau ailstrwythuro*”) has the meaning given in section 131;

“shadow council” (“*cyngor cysgodol*”) (including “elected shadow council” and “designated shadow council”) means a council established as a shadow council in accordance with provision included in—

- (a) merger regulations under section 125;
- (b) restructuring regulations under section 133;

“transfer date” (“*dyddiad trosglwyddo*”)—

- (a) in relation to merger regulations, has the meaning given in section 124(1);
- (b) in relation to restructuring regulations, has the meaning given in section 131.

Commencement Information

I3 S. 149 in force at 21.1.2021 for specified purposes, see s. 175(1)(f)(2)(i)(i)

150 Repeals of other enactments

- (1) In the 2011 Measure—

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- (a) omit Chapter 2 of Part 9 (amalgamation);
 - (b) in section 172 (orders and regulations)—
 - (i) in subsection (2)(a) for “, Part 2, section 140, 165 or 166(2)” substitute “ or 140 or 165 or 166(2) or Part 2 ”;
 - (ii) in subsection (2)(a) omit “or 165 or 166(2)”;
 - (iii) in subsection (2)(b) for “, 158,” substitute “ or 158 or ”;
 - (iv) in subsection (2)(b) omit “or 162 or 170”;
 - (v) omit subsection (2)(c);
 - (vi) omit subsection (3).
- (2) In the 2013 Act—
- (a) in section 23 (review of principal area boundaries), in subsection (4)(e) omit sub-paragraphs (ii) and (iii);
 - (b) in section 44(1) (transitional agreements as to property and finance), omit “or by an order under section 162 of the 2011 Measure (power to make amalgamation order)”;
 - (c) in section 48(2) (directions and guidance), omit paragraph (c);
 - (d) in section 71 (orders and regulations), in subsection (2)(b) omit “or which abolishes a principal area”.
- (3) In the Local Government (Wales) Act 2015 (anaw 6) omit—
- (a) section 1(1) and (2)(a);
 - (b) sections 2 to 39;
 - (c) sections 44 and 45.

Commencement Information

- I4** S. 150(1)(b)(i)(iii)(vi) in force at 21.1.2021, see s. 175(1)(f)(2)
- I5** S. 150(2)(a)(d)(3) in force at 21.1.2021, see s. 175(1)(f)

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