

Status: Point in time view as at 01/04/2021.

Changes to legislation: There are currently no known outstanding effects for the Local Government and Elections (Wales) Act 2021, Cross Heading: Restraining transactions and recruitment etc. by direction. (See end of Document for details)

SCHEDULE 12

RESTRAINTS ON TRANSACTIONS AND RECRUITMENT ETC. BY MERGING COUNCILS AND RESTRUCTURING COUNCILS

Restraining transactions and recruitment etc. by direction

- 1 (1) After receiving a merger application or after giving notice as described in section 129(6), the Welsh Ministers may direct a merging council or restructuring council that—
- (a) the council must not carry out a restricted activity unless it has considered the opinion of a specified person or persons on the appropriateness of carrying out the activity;
 - (b) the council must not carry out a restricted activity unless the written consent of a specified person or persons has been given for the activity to be carried out.
- (2) The restricted activities are—
- (a) making a relevant land acquisition or disposal;
 - (b) entering into a relevant contract or agreement;
 - (c) making a relevant capital acquisition;
 - (d) giving a relevant grant or other financial assistance;
 - (e) making a relevant loan;
 - (f) including an amount of financial reserves in a calculation under section 32 of the Local Government Finance Act 1992 (c. 14);
 - (g) starting the process of recruiting (including by way of internal recruitment)
—
 - (i) a non-statutory chief officer mentioned in section 2(7) of the Local Government and Housing Act 1989 (c. 42);
 - (ii) a deputy chief officer mentioned in section 2(8) of that Act.
- (3) The Welsh Ministers may direct a merging council or restructuring council seeking to appoint or designate a person to a restricted post (including from among its existing officers) to comply with specified requirements about the appointment or designation.
- (4) “Restricted post”, in relation to a merging council or restructuring council, means—
- (a) its chief executive appointed under section 54;
 - (b) its monitoring officer designated under section 5(1) of the Local Government and Housing Act 1989;
 - (c) a statutory chief officer mentioned in section 2(6) of that Act;
 - (d) its head of democratic services designated under section 8(1) of the 2011 Measure.
- (5) A merging council or restructuring council given a direction under sub-paragraph (1) must—
- (a) provide details of any proposal to carry out a restricted activity to any person or persons specified for the purpose of sub-paragraph (1)(a) or (b) in respect of that activity;

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- (b) provide the Welsh Ministers with details of a proposal to appoint or designate a person to a restricted post where any requirements apply in relation to the appointment or designation by virtue of a direction under sub-paragraph (3).
- (6) If an opinion given for the purposes of sub-paragraph (1)(a) is that it would not be appropriate for a merging council or restructuring council to carry out a restricted activity but the council decides to carry it out, the council must publish its reasons for making that decision.
- (7) Where a direction has been given under sub-paragraph (3), section 143A(1)(b) and (3) of the 2011 Measure (recommendations of Independent Remuneration Panel for Wales on remuneration) does not apply to a proposal to provide to the chief executive of a merging council or restructuring council remuneration which is different to that provided to the chief executive's predecessor.
- (8) A direction given under this paragraph takes effect from the date specified.
- (9) In this paragraph, “specified” means specified in a direction given under this paragraph.
- (10) Until section 54 comes into force—
 - (a) the reference in sub-paragraph (4)(a) to a council's chief executive appointed under section 54 is to be read as a reference to the council's head of paid service designated under section 4(1) of the Local Government and Housing Act 1989 (c. 42), and
 - (b) the references in sub-paragraph (7) to a council's chief executive are to be read as references to a council's head of paid service.

Commencement Information

- I1** [Sch. 12 para. 1](#) in force at 21.1.2021 for specified purposes, see [s. 175\(1\)\(f\)\(2\)\(b\)\(ii\)\(m\)\(7\)](#)
- I2** [Sch. 12 para. 1](#) in force at 1.4.2021 in so far as not already in force by [S.I. 2021/297](#), [art. 2\(j\)](#)

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