

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;

Status: This is the original version (as it was originally enacted).

- (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.