



Local Government and Elections (Wales) Act 2021

2021 asc 1

PART 7

MERGERS AND RESTRUCTURING OF PRINCIPAL AREAS

CHAPTER 2

RESTRUCTURING OF PRINCIPAL AREAS

Restructuring regulations

131 Restructuring regulations

Restructuring regulations are regulations which provide for the abolition of the principal area of a council under consideration on a date specified in the regulations (“the transfer date”), and either or both of the following—

- (a) for a part or parts of the principal area being abolished to become, on the transfer date, part of another existing principal area or parts of other existing principal areas;
- (b) for the constitution of a new principal area on the transfer date by—
 - (i) abolishing the principal area of one or more other principal councils (as well as the area of the council under consideration), and
 - (ii) merging, to create a new principal area, all or part of the area of the council under consideration with the area of the other principal council or councils (whether or not the other council or councils are also councils under consideration).

132 Restructuring regulations which provide for part of a principal area to become part of another existing principal area

- (1) Restructuring regulations which include provision under section 131(a) must—
- (a) specify, by reference to each part of the area being abolished which is transferred to an existing principal area, the new area of that principal area,
 - (b) provide for the transfer of functions from the council under consideration to another principal council,
 - (c) provide for the winding up and dissolution of the council under consideration, and
 - (d) provide for the voting system (see section 134(4)) which applies in relation to a part of the area of the council under consideration which is transferred to another principal area (“principal area A”) to be, at the first ordinary election of councillors after the transfer date, the voting system applying in the rest of principal area A.
- (2) Restructuring regulations may, for the purposes of providing for part of the area of the council under consideration to become part of another principal area, make provision about—
- (a) the assignment of councillors of the council under consideration to another principal council;
 - (b) the election and terms of office of councillors of a restructuring council;
 - (c) the voting system which is to apply, in relation to a part of the area of the council under consideration which is transferred to another principal area, at an election to fill a casual vacancy held after the transfer date and before the first ordinary election of councillors to the council after the transfer date;
 - (d) the election and terms of office of councillors to community councils in the area of a restructuring council;
 - (e) the executive arrangements of a restructuring council;
 - (f) the form of executive operated by a restructuring council;
 - (g) the area, term of office and election of an elected mayor of a restructuring council;
 - (h) the arrangements for the remuneration of members of a restructuring council, including provision conferring functions on the Independent Remuneration Panel for Wales;
 - (i) a change to the name of a restructuring council;
 - (j) whether the principal area of a restructuring council is a county or county borough.

133 Restructuring regulations which constitute a new principal area

- (1) Restructuring regulations which include provision as described in section 131(b) 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 paragraph (e) or subsections (4) to (7)),

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- (e) (subject to subsection (4)) there to be an elected 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),
 - (f) the functions of the shadow council,
 - (g) the funding of the shadow council,
 - (h) the appointment of a shadow executive by the shadow council, in the form of a leader and cabinet executive (which, from the transfer date, is and has all the functions of, the executive for the principal council),
 - (i) the functions of the shadow executive,
 - (j) the transfer of functions to the new principal council from the restructuring councils whose areas are to be merged to create the new principal area,
 - (k) the winding up and dissolution of the restructuring councils whose areas are to be merged to create the new principal area,
 - (l) which of the voting systems (see section 134(4)) is to apply to the first ordinary election of councillors to the new principal council,
 - (m) the date of the first ordinary election of councillors to the new principal council, and
 - (n) the terms of office of councillors returned at that election.
- (2) Where a new principal area constituted by restructuring regulations is to be a county, the 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”.
- (3) Where a new principal area constituted by restructuring regulations is to be a county borough, the 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”.
- (4) The Welsh Ministers may, if they consider it appropriate, make provision in the restructuring regulations for the shadow council to be a designated shadow council until the pre-election period.
- (5) If the Welsh Ministers make such provision, they must also, in the restructuring regulations—
- (a) make provision specifying the composition of the shadow executive to be appointed by the shadow council;
 - (b) provide that 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.
- (6) In subsections (4) and (5), “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.
- (7) For the purposes of this section—
- (a) an elected shadow council—
 - (i) consists of the councillors elected in the first ordinary election of councillors to the new principal council, and
 - (ii) is established on the fourth day after that election, when those councillors assume office as shadow members;

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- (b) a designated shadow council—
 - (i) consists of such members of the restructuring councils as are specified in the restructuring regulations, appointed in accordance with the regulations, and
 - (ii) is established on the date specified in the restructuring regulations as the date on which those members assume office as shadow members.

134 Restructuring regulations: supplementary

- (1) Restructuring regulations may make provision that corresponds to, or applies (with or without modifications) provision made by or under, or that may or must be made under—
 - (a) Chapter 4 (remuneration arrangements), where the regulations make provision in accordance with section 131(b);
 - (b) section 127 (elections);
 - (c) paragraphs 2 and 3 of Schedule 11 (transition committees).
- (2) Restructuring regulations may provide for—
 - (a) the establishment of a committee or other body to provide advice and recommendations to persons specified in the regulations about the transfer of functions, liabilities and property, and about staffing matters;
 - (b) the establishment of a body corporate for the purpose of taking over, and disposing of, any property, rights or liabilities of a principal council which is to be abolished under the regulations, and exercising any related functions of such a council; and restructuring regulations may—
 - (i) provide for such a body to acquire property, make levies, borrow and lend money, and
 - (ii) make provision about the winding up of such a body;
 - (c) the provision of information or documents by a restructuring council to persons specified in the regulations;
 - (d) the giving of directions by the Welsh Ministers to persons specified in the regulations for purposes connected to a restructuring, and for their enforcement;
 - (e) the Welsh Ministers to determine, in circumstances specified in the regulations, matters connected to the restructuring.
- (3) If the Welsh Ministers decide not to make restructuring regulations after—
 - (a) having received a report of a special inspection of a principal council by the Auditor General for Wales under section 95(7) and having consulted as described in section 129(4), or
 - (b) having received an abolition request,
 they must notify the council under consideration and any other principal council they have given notice or consulted as described in section 129.
- (4) For the purposes of sections 132 and 133, the voting systems are—
 - (a) the simple majority system provided for by rules made, or having effect as if made, under section 36A of the 1983 Act;
 - (b) the single transferable vote system provided for by rules made under section 36A of the 1983 Act.

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- (5) If, before section 7 comes into force, notice is given as described in section 129(6) and the creation of a new principal area is proposed—
- (a) section 133(1) does not apply in relation to the restructuring regulations relating to the notice, 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.