

Status: Point in time view as at 01/04/2021.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, SCHEDULE 1. (See end of Document for details)

SCHEDULE 1

(introduced by sections 11 and 138)

INITIAL REVIEWS OF ELECTORAL ARRANGEMENTS ETC.

Initial reviews

- 1 (1) For the purposes of this Act, an “initial review” is a review conducted by the Local Democracy and Boundary Commission for Wales (“the Commission”) for the purpose of recommending electoral arrangements for the area under review.
- (2) In an initial review the Commission may also recommend relevant consequential changes.
- (3) This paragraph is subject to anything specified, under section 11(3) or 138(3), in the direction requiring the Commission to conduct an initial review.

Commencement Information

- I1** Sch. 1 para. 1(1)(2) in force at 21.1.2021, see s. 175(1)(f)(t)
- I2** Sch. 1 para. 1(3) in force at 21.1.2021 for specified purposes, see s. 175(1)(f)

“Area under review”

- 2 (1) In this Schedule, “area under review” is to be interpreted in accordance with this paragraph.
- (2) Where the Commission is directed under section 11 to conduct an initial review, the area under review is the area of the principal council that has exercised its power under section 8 to change the voting system that applies to the election of its councillors.
- (3) Where, after the Welsh Ministers receive a merger application, the Commission is directed under section 138 to conduct an initial review, the area under review is the new principal area that is to be, or is, constituted by merger regulations.
- (4) Where—
 - (a) after the Welsh Ministers have given notice of their proposals as described in section 129(6), the Commission is directed under section 138 to conduct an initial review, and
 - (b) the transfer of part of the principal area to be abolished to another principal area is proposed, or provided for in restructuring regulations,the area under review is the area specified in the direction under section 138.
- (5) Where—
 - (a) after the Welsh Ministers have given notice of their proposals as described in section 129(6), the Commission is directed under section 138 to conduct an initial review, and
 - (b) the constitution of a new principal area is proposed, or provided for in restructuring regulations,the area under review is the new principal area that is to be constituted by restructuring regulations.

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Commencement Information

- I3** Sch. 1 para. 2(1)(3) in force at 21.1.2021, see s. 175(1)(f)(2)
I4 Sch. 1 para. 2(2) in force at 6.5.2022, see s. 175(2)(k)(iii)(6)(b)
I5 Sch. 1 para. 2(4)(5) in force at 1.4.2021 by S.I. 2021/297, art. 2(g)

Other terms used in this Schedule

- 3 (1) In this Schedule—
- “electoral arrangements” (“*trefniadau etholiadol*”) means—
- (a) in relation to an area under review—
- (i) the number of councillors of the principal council for the area;
 - (ii) the number, type and boundaries of the electoral wards into which the area is divided for the purpose of the election of councillors of the principal council;
 - (iii) the number of councillors to be elected for each electoral ward;
 - (iv) the name of each electoral ward;
- (b) in relation to a community in an area under review—
- (i) the number of councillors of a council for the community;
 - (ii) its division into community wards for the purpose of the election of councillors of a council for the community;
 - (iii) the number, type and boundaries of any community wards;
 - (iv) the number of councillors to be elected for any community ward;
 - (v) the name of any community ward;
- “relevant consequential changes” (“*newidiadau canlyniadol perthnasol*”), in relation to an area under review, means—
- (a) changes in the boundaries of communities in the area;
 - (b) changes to the name of a community, or the council for a community, for which a boundary change is recommended;
 - (c) changes to the electoral arrangements for a community in the area.
- (2) In sub-paragraph (1), in the definition of “electoral arrangements” the references to the type of ward are to whether the ward is a single member ward or a multiple member ward; and for this purpose—
- “multiple member ward” (“*ward amlaelod*”) means a ward in respect of which a specified number (greater than one) of councillors are to be elected for the ward;
- “single member ward” (“*ward un aelod*”) means a ward in respect of which only one councillor is to be elected.
- (3) Section 149 makes provision about the meanings of terms used in this Schedule.

Directions and guidance to Commission

- 4 (1) A direction under section 11 or 138 must specify the date by which the Commission must submit its final report to the Welsh Ministers under paragraph 8(3)(a).
- (2) A direction under section 11 or 138 may require the Commission to have regard to particular matters specified in the direction when conducting the initial review.

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- (3) The Welsh Ministers may give general directions about the conduct of initial reviews, including—
 - (a) directions as to the order in which different initial reviews required by directions under section 11 or 138 are to be conducted and as to whether different reviews are to be conducted at the same time, and
 - (b) directions specifying matters to which the Commission must have regard in conducting initial reviews.
- (4) Before giving a direction under sub-paragraph (3), the Welsh Ministers must consult—
 - (a) the Commission, and
 - (b) such other persons as the Welsh Ministers consider appropriate.
- (5) The Welsh Ministers may direct the Commission to stop conducting an initial review, and to take no further steps in relation to the review.
- (6) The Welsh Ministers may, after the publication by the Commission of an interim report under paragraph 7(2) in relation to an area under review, direct the Commission under section 11 or 138 to conduct another initial review in relation to the same area.
- (7) The Commission must have regard to any guidance issued by the Welsh Ministers about the conduct of initial reviews.

Commencement Information

- 16** Sch. 1 para. 4(1)-(3)(6) in force at 21.1.2021 for specified purposes otherwise 6.5.2022, see s. 175(1)(f)(2)(k)(i)(6)(b)
- 17** Sch. 1 para. 4(4)(5)(7) in force at 21.1.2021, see s. 175(1)(f)(2)

Conduct of initial review

- 5 (1) The Commission, in considering the electoral arrangements for an area under review, must—
- (a) seek to ensure that the ratio of local government electors to the number of councillors of the principal council to be elected for the area under review is, as nearly as may be, the same in every electoral ward of the area of the council, and
 - (b) have regard to—
 - (i) the desirability of setting boundaries for electoral wards which are and will remain easily identifiable, and
 - (ii) the desirability of not breaking local ties when setting boundaries for electoral wards.
- (2) For the purposes of sub-paragraph (1)(a) account is to be taken of—
- (a) any discrepancy between the number of local government electors and the number of persons who are eligible to be local government electors (as indicated by relevant official statistics), and
 - (b) any change in the number or distribution of local government electors in the area under review which is likely to take place in the period of five years beginning immediately after recommendations are made.

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- (3) The Welsh Ministers may, for the purposes of an initial review, direct a principal council for an area under review or a council for a community in an area under review to provide the Commission with any information or documents which the Welsh Ministers consider appropriate.
- (4) In this paragraph and paragraph 6—
- “local government elector” (“*etholwr llywodraeth leol*”) means a person registered as a local government elector in the register of electors in accordance with the provisions of the Representation of the People Acts;
- “relevant official statistics” (“*ystadegau swyddogol perthnasol*”) means the official statistics within the meaning of section 6 of the Statistics and Registration Service Act 2007 (c. 18) which the Commission considers appropriate.

Pre-review procedure

- 6 (1) Before conducting an initial review, the Commission must take the steps it considers appropriate—
- (a) to make the mandatory consultees, and any other persons it considers likely to be interested in the review, aware of the direction to conduct the review and any other directions given by the Welsh Ministers which are relevant to the review, and
- (b) to consult the mandatory consultees on its intended procedure and methodology for the initial review and, in particular, on how it proposes to determine the appropriate number of councillors of the principal council for the area under review.
- (2) In this Schedule, “the mandatory consultees” means—
- (a) in the case of an initial review conducted in accordance with a direction under section 11, the principal council of the area under review;
- (b) in the case of an initial review conducted in accordance with a direction under section 138, the merging councils or the restructuring councils;
- (c) the councils for the existing communities (if any) in the area under review;
- (d) such other persons as are specified by the Welsh Ministers in a direction to conduct an initial review.

Commencement Information

- I8** Sch. 1 para. 6(1)(2)(b)-(d) in force at 21.1.2021 for specified purposes, see s. 175(1)(f)(2)
- I9** Sch. 1 para. 6(2)(a) in force at 6.5.2022, see s. 175(2)(k)(iii)(6)(b)
- I10** Sch. 1 para. 6(2)(b) in force at 1.4.2021 in so far as not already in force by S.I. 2021/297, art. 2(g)

Investigation and interim report

- 7 (1) In conducting an initial review, the Commission must carry out the investigations it considers appropriate.
- (2) After carrying out the investigations under sub-paragraph (1), the Commission must make an interim report containing—
- (a) its proposals for the electoral arrangements for the area under review and any proposals for relevant consequential changes, and

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- (b) details of the review it conducted.
- (3) The Commission must—
 - (a) send the report to the Welsh Ministers and the mandatory consultees,
 - (b) publish the report,
 - (c) inform any person it considers appropriate of how to access the report,
 - (d) invite representations on the report, and
 - (e) notify the Welsh Ministers, the mandatory consultees and any other person it considers appropriate of the period for representations.
- (4) Where a principal council is sent a report under sub-paragraph (3)(a), it must—
 - (a) publish the report,
 - (b) make the report available for inspection (without charge) at its offices during the period for representations, and
 - (c) take the steps it considers necessary to make the local government electors in its area aware of—
 - (i) the report,
 - (ii) how to access the report, and
 - (iii) the period for representations.
- (5) For the purposes of sub-paragraphs (3) and (4), “the period for representations” is a period of not less than six, nor more than 12, weeks (as determined by the Commission) beginning no earlier than one week after notice of the period is given under sub-paragraph (3)(e).

Final report

- 8
- (1) After the period for representations under paragraph 7(3) has ended, the Commission must consider its proposals having regard to any representations received by it during the period.
 - (2) The Commission must then make a final report containing—
 - (a) its recommendations for the electoral arrangements for the area under review and any recommendations for relevant consequential changes,
 - (b) details of the review it conducted, and
 - (c) details of any changes to the proposals in the interim report made in the light of the representations received, and an explanation of why those changes have been made.
 - (3) The Commission must—
 - (a) submit the final report to the Welsh Ministers,
 - (b) send a copy of the report to the other mandatory consultees and such other persons as it considers appropriate,
 - (c) publish the report, and
 - (d) inform any other person who submitted evidence or made representations in relation to the interim report published under paragraph 7, and such other persons as it considers appropriate, of how to access the report.
 - (4) Where a principal council is sent a final report under sub-paragraph (3)(b), it must—
 - (a) publish the final report,

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- (b) make the report available for inspection (without charge) at its offices for at least six weeks after the date on which it received the report, and
 - (c) take the steps it considers necessary to make the local government electors in its area aware of the report, and how to access the report.
- (5) Section 29(8) of the 2013 Act (no recommendations to be made or published in nine months before ordinary election) does not apply in the case of a recommendation contained in a final report under sub-paragraph (2).

Power to make regulations where recommendations are made

- 9 (1) After receiving a final report under paragraph 8 containing recommendations from the Commission in relation to an initial review, the Welsh Ministers may by regulations—
- (a) implement any recommendation contained in the report, with or without modifications;
 - (b) make other provision they consider appropriate for the electoral arrangements and for relevant consequential changes for the area under review.
- (2) The Welsh Ministers, in considering the electoral arrangements for an area under review for the purpose of making regulations under sub-paragraph (1), must do the things set out in paragraph 5(1)(a) and (b) (and paragraph 5(2) and (4) apply accordingly).
- (3) No regulations may be made under sub-paragraph (1) until the end of the period of six weeks beginning with the date on which the report under paragraph 8 is published by the Commission.
- (4) The Welsh Ministers may require the Commission to provide them with any further information or documents they consider appropriate in relation to the Commission's recommendations.

Power to make regulations where no recommendations are made

- 10 (1) If the Commission has not submitted a final report to the Welsh Ministers under paragraph 8(3) by the date specified in the direction requiring the initial review to be conducted, the Welsh Ministers may make regulations under sub-paragraph (2).
- (2) Regulations under this sub-paragraph may make the provision the Welsh Ministers consider appropriate for the electoral arrangements for the area under review and any provision they consider appropriate for relevant consequential changes.
- (3) The Welsh Ministers, in considering the electoral arrangements for an area under review for the purpose of making regulations under sub-paragraph (2), must do the things set out in paragraph 5(1)(a) and (b) (and paragraph 5(2) and (4) apply accordingly).
- (4) The Welsh Ministers may require the Commission to provide them with any information or documents they consider appropriate in relation to any matters which have come to the Commission's attention in consequence of—
- (a) any steps taken under paragraph 6,
 - (b) any investigation under paragraph 7,
 - (c) the preparation of a report under paragraph 7 or 8, or

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- (d) anything else done in the conduct of the initial review.

Regulations under paragraph 9 or 10: supplementary

- 11 (1) The Welsh Ministers may, for the purposes of making regulations under paragraph 9 or 10 or sub-paragraph (3), direct a principal council for an area under review or a council for a community in an area under review to provide the Welsh Ministers with any information or documents which the Welsh Ministers consider appropriate.
- (2) The Welsh Ministers must, before the end of the period of 7 days beginning with the day after the day on which regulations under paragraph 9 or 10 or sub-paragraph (3) are made, send a copy of the regulations to—
- (a) the Commission,
 - (b) the principal council or councils for the area under review, and
 - (c) the community councils for communities to which relevant consequential changes have been made under the regulations (if any).
- (3) The Welsh Ministers may by regulations amend or revoke regulations made under paragraph 9 or 10 (or this sub-paragraph).

Subsequent reviews by the Commission where regulations are made under paragraph 9(1)(b) or 10(2)

- 12 (1) Where the Welsh Ministers make regulations under paragraph 9(1)(b) or 10(2) the Commission must—
- (a) if the regulations follow from a direction under section 11 to conduct an initial review of a principal area, comply with sub-paragraph (2);
 - (b) if the regulations follow from a direction under section 138 to conduct an initial review of all or part of a principal area, comply with sub-paragraph (3).
- (2) The Commission must conduct a review under section 29(1) of the 2013 Act of the electoral arrangements for the principal area—
- (a) as soon as possible after the day of the first ordinary election of councillors to the principal council for that area in which the new voting system is applied, and
 - (b) in any event, before the day of the next ordinary election.
- (3) The Commission must conduct a review under section 29(1) of the 2013 Act of the electoral arrangements for the relevant principal area—
- (a) as soon as possible after the day of the first ordinary election of councillors to the principal council for that area following the coming into force of the regulations, and
 - (b) in any event, before the day of the next ordinary election.
- (4) In this paragraph—
- (a) in sub-paragraph (2), “the new voting system” means the voting system that applies to the election of councillors of the council as a consequence of the exercise of the power to change the voting system under section 8;
 - (b) in sub-paragraph (3), “the relevant principal area” means the principal area which was, or any part of which was, the area under review.

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Commencement Information

- I11** Sch. 1 para. 12(1)(a)(2) in force at 6.5.2022, see s. 175(2)(k)(iii)(6)(b)
- I12** Sch. 1 para. 12(1)(b)(3) in force at 21.1.2021, see s. 175(1)(f)(2)
- I13** Sch. 1 para. 12(4)(a) in force at 6.5.2022, see s. 175(2)(k)(iii)(6)(b)
- I14** Sch. 1 para. 12(4)(b) in force at 21.1.2021, see s. 175(1)(f)

Delegation by the Commission of functions under this Schedule

- 13 In section 13(1) of the 2013 Act—
- (a) after “Part 3” insert “ of this Act ”;
 - (b) after “or local inquiries” insert “ , or Schedule 1 to the Local Government and Elections (Wales) Act 2021 (functions relating to initial reviews), ”.

Orders under Part 3 of the Local Government (Democracy) (Wales) Act 2013 (anaw 4)

- 14 In section 43 of the 2013 Act (variation and revocation of orders), after subsection (12) insert—
- “(12A) The Welsh Ministers may by order vary or revoke an order under this section or section 37, 38 or 39 (regardless of whether they made the order) in consequence of regulations under paragraph 9 or 10 of Schedule 1 to the Local Government and Elections (Wales) Act 2021.”

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