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# Local Government (Wales) Measure 2011

## 2011 nawm 4

A Measure of the National Assembly for Wales to make provision for and in connection with the promotion of, and support for, membership of county and county borough councils; the provision of staff and other resources by county and county borough councils in connection with the councils' democratic services; family absence for members of county and county borough councils; governance arrangements of county and county borough councils; the discharge of functions of county and county borough councils by committees and members; overview and scrutiny committees of county and county borough councils; audit committees of county and county borough councils; communities and community councils; pensions and other payments for members of county and county borough councils, community councils, National Park authorities, and fire and rescue authorities; collaboration in local government; and for connected purposes.

**This Measure, passed by the National Assembly for Wales on 15 March 2011 and approved by Her Majesty in Council on 10 May 2011, enacts the following provisions:—**

### PART 1

#### STRENGTHENING LOCAL DEMOCRACY

#### CHAPTER 1

##### PROMOTING AND SUPPORTING MEMBERSHIP OF LOCAL AUTHORITIES

*Survey of councillors and unsuccessful candidates for election as councillors*

#### **1 Duty to conduct a survey**

(1) A local authority must, in accordance with regulations under this section, conduct a survey of—

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- (a) councillors in its area, and
  - (b) unsuccessful candidates for election to the office of councillor in its area.
- (2) A local authority must conduct a survey after each ordinary election to—
- (a) the council of the county or county borough, and
  - (b) a community council in the local authority's area.
- (3) The survey must be conducted by—
- (a) asking prescribed questions in any prescribed form or manner, and
  - (b) collating the information in any prescribed form or manner.
- (4) The questions that may be prescribed under subsection (3) include (but are not limited to) questions about the individual to whom they are addressed which relate to—
- (a) gender;
  - (b) sexual orientation;
  - (c) language;
  - (d) race;
  - (e) age;
  - (f) disability;
  - (g) religion or belief;
  - (h) health;
  - (i) education and qualifications;
  - (j) employment;
  - (k) work as a councillor.
- (5) Nothing in this section places a duty on a councillor or an unsuccessful candidate for election to the office of councillor to provide any information.
- (6) A local authority must make arrangements for councillors and unsuccessful candidates for election to the office of councillor to provide information under this section anonymously.
- (7) section—
- “belief” (“*cred*”) means any religious or philosophical belief and a reference to belief includes a reference to a lack of belief;
  - “councillor” (“*cyngorydd*”) includes community councillor;
  - “disability” (“*anabledd*”) means a physical or mental impairment that has a substantial and long-term adverse effect on a person's ability to carry out normal day to day activities;
  - “race” (“*hil*”) means colour, nationality or ethnic or national origins;
  - “religion” (“*crefydd*”) means any religion and a reference to religion includes a reference to a lack of religion;
  - “sexual orientation” (“*cyfeiriadedd rhywiol*”) means a person's sexual orientation towards—
- (a) persons of the same sex,
  - (b) persons of the opposite sex, or
  - (c) persons of either sex.

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#### Commencement Information

**11** S. 1 in force at 31.8.2011 by S.I. 2011/2011, art. 2(a)

## 2 Completion of a survey and publication of information

- (1) A local authority must complete its survey and provide the information collated in it to the Welsh Ministers within six months of the date of the ordinary election to which it relates.
- (2) A local authority must provide the information in any prescribed form or manner.
- (3) A local authority may publish the information collated in a survey in such manner as it considers appropriate, subject to subsection (6).
- (4) The Welsh Ministers must—
  - (a) collate the information they receive from local authorities under this section, and
  - (b) publish it within twelve months of the date of the ordinary election to which it relates.
- (5) The Welsh Ministers may—
  - (a) publish information under subsection (4)(b) in such manner as they consider appropriate, subject to subsection (6);
  - (b) share any information provided to them under subsection (1) with any body representing the interests of county, county borough or community councils in Wales.
- (6) No information received under section 1 or this section is to be published or shared in any form that, either by itself or in combination with any other information, identifies any individual to whom it relates or enables that individual to be identified.

#### Commencement Information

**12** S. 2 in force at 31.8.2011 by S.I. 2011/2011, art. 2(a)

## 3 Guidance about surveys

In exercising its functions under sections 1 and 2, a local authority must have regard to guidance given by the Welsh Ministers.

#### Commencement Information

**13** S. 3 in force at 31.8.2011 by S.I. 2011/2011, art. 2(a)

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*Supporting membership*

VALID FROM 28/02/2014

**4 Remote attendance at meetings**

- (1) A reference in any enactment to a meeting of a local authority is not limited to a meeting of persons all of whom are present in the same place.
- (2) For the purposes of any such enactment, a member of a local authority who is not present in the place where a meeting of that authority is held (a “member in remote attendance”) attends the meeting at any time if all of the conditions in subsection (3) are satisfied.
- (3) Those conditions are that—
  - (a) the member in remote attendance is able at that time—
    - (i) to see and hear, and be seen and heard by, the members in actual attendance,
    - (ii) to see and hear, and be seen and heard by, any members of the public entitled to attend the meeting who are present in that place and who exercise a right to speak at the meeting, and
    - (iii) to be seen and heard by any other members of the public so entitled who are present in that place;
  - (b) the member in remote attendance is able at that time to hear, and be heard by, any other member in remote attendance in respect of whom the condition in paragraph (a) is satisfied at that time;
  - (c) use of facilities enabling the conditions in paragraphs (a) and (b) to be satisfied in respect of the member in remote attendance is not prohibited by the standing orders or any other rules of the authority governing the meeting.
- (4) The standing orders of a local authority must secure that there is no quorum for a meeting of the local authority at any time when the number of members in [<sup>F1</sup>actual attendance constitutes less than 30% of the total number of members in attendance at the meeting. ]
- [<sup>F2</sup>(4A) Subsection (4) does not prevent a local authority from making standing orders which require more than 30% of the total number of members in attendance at a meeting to be in actual attendance for the meeting to be quorate.]
- (5) A local authority may make other standing orders about remote attendance at meetings of a local authority.
- (6) A local authority must have regard to guidance given by the Welsh Ministers in relation to meetings of the authority attended remotely in accordance with this section.
- (7) This section applies in relation to a meeting of a committee or sub-committee of a local authority as it applies in relation to a meeting of a local authority.
- <sup>F3</sup>(8) .....
- (9) For the purpose of this section—

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- (a) a reference to a person (A) seeing another person (B) is to be interpreted as a reference to A seeing B when B is speaking at the meeting;
- (b) a reference to a person (C) being seen by another person (D) is to be interpreted as a reference to C being seen by D when C is speaking at the meeting.

(10) In this section—

<sup>F4</sup>  
.....

“member in actual attendance” (“*aelod sy'n mynychu'r fangre*”), in relation to a meeting of a local authority, means a member of the authority who is attending the meeting at the place where the meeting is held.

#### Textual Amendments

- F1** Words in s. 4(4) substituted (30.9.2013) by Local Government (Democracy) (Wales) Act 2013 (anaw 4), ss. 59(2), 75(2)(d)
- F2** S. 4(4A) inserted (30.9.2013) by Local Government (Democracy) (Wales) Act 2013 (anaw 4), ss. 59(3), 75(2)(d)
- F3** S. 4(8) repealed (30.9.2013) by Local Government (Democracy) (Wales) Act 2013 (anaw 4), s. 75(2)(d), Sch. 2 Table 1
- F4** Words in s. 4(10) repealed (30.9.2013) by Local Government (Democracy) (Wales) Act 2013 (anaw 4), s. 75(2)(d), Sch. 2 Table 1

## 5 Annual reports by members of a local authority

- (1) A local authority must make arrangements for—
  - (a) each person who is a member of the authority to make an annual report about the person's activities as a member of the authority during the year to which the report relates,
  - (b) each person who is a member of the authority's executive to make an annual report about the person's activities as a member of the executive during the year to which the report relates, and
  - (c) the authority to publish all annual reports produced by its members and by the members of its executive.
- (2) The arrangements may include conditions as to the content of a report that must be satisfied by the person making it.
- (3) A local authority must publicise its arrangements.
- (4) In exercising its functions under this section a local authority must have regard to guidance given by the Welsh Ministers.

#### Commencement Information

- I4** S. 5 in force at 30.4.2012 by S.I. 2012/1187, art. 2(1)(a)

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## 6 Timing of council meetings

- (1) The Welsh Ministers may give guidance about the times at which meetings of a local authority are held.
- (2) A local authority must have regard to guidance given under subsection (1).
- (3) In subsection (1), “meetings of a local authority” means—
  - (a) meetings of the local authority;
  - (b) meetings of any committee or sub-committee of the authority.

### Commencement Information

**I5** S. 6 in force at 30.4.2012 by S.I. 2012/1187, art. 2(1)(a)

## 7 Training and development of members of a local authority

- (1) A local authority must secure the provision of reasonable training and development opportunities for its members.
- (2) A local authority must make available to each member of the authority an annual review of the member's training and development needs.
- (3) The review must include an opportunity for an interview with a person who is, in the opinion of the authority, suitably qualified to provide advice about the training and development needs of a member of a local authority.
- (4) In exercising its functions under this section a local authority must have regard to guidance given by the Welsh Ministers.
- (5) In the case of an authority which operates a leader and cabinet executive (Wales), a reference in this section to a member of a local authority does not include the executive leader.

### Commencement Information

**I6** S. 7 in force at 30.4.2012 by S.I. 2012/1187, art. 2(1)(a)

## CHAPTER 2

### LOCAL AUTHORITY DEMOCRATIC SERVICES

## 8 Head of democratic services

- (1) A local authority must—
  - (a) designate one of its officers to discharge the functions in section 9 (“democratic services functions”);
  - (b) provide that officer with such staff, accommodation and other resources as are, in its opinion, sufficient to allow his or her functions to be discharged.
- (2) A head of democratic services may arrange for the discharge of democratic services functions by staff provided under this section.

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- (3) An officer designated by a local authority under this section is to be known as the head of democratic services.
- (4) A local authority may not designate any of the following under this section—
- (a) the head of the authority's paid service designated under section 4 of the Local Government and Housing Act 1989;
  - (b) the authority's monitoring officer designated under section 5 of that Act;
  - (c) the authority's chief finance officer, within the meaning of that section.

#### Commencement Information

I7 S. 8 in force at 30.4.2012 by S.I. 2012/1187, art. 2(1)(b)

## 9 Democratic services functions

- (1) The functions of the head of democratic services are—
- (a) to provide support and advice to the authority in relation to its meetings, subject to subsection (2);
  - (b) to provide support and advice to committees of the authority (other than the committees mentioned in paragraph (e)) and the members of those committees, subject to subsection (2);
  - (c) to provide support and advice to any joint committee which a local authority is responsible for organising and the members of that committee, subject to subsection (2);
  - (d) to promote the role of the authority's overview and scrutiny committee or committees;
  - (e) to provide support and advice to—
    - (i) the authority's overview and scrutiny committee or committees and the members of that committee or those committees, and
    - (ii) the authority's democratic services committee and the members of that committee;
  - (f) to provide support and advice in relation to the functions of the authority's overview and scrutiny committee or committees to each of the following—
    - (i) members of the authority;
    - (ii) members of the executive of the authority;
    - (iii) officers of the authority;
  - (g) to provide support and advice to each member of the authority in carrying out the role of member of the authority, subject to subsection (3);
  - (h) to make reports and recommendations in respect of any of the following—
    - (i) the number and grades of staff required to discharge democratic services functions;
    - (ii) the appointment of staff to discharge democratic services functions;
    - (iii) the organisation and proper management of staff discharging democratic services functions;
  - (i) such other functions as may be prescribed.
- (2) The references to “advice” in paragraphs (a) to (c) do not include advice about whether or how the authority's functions should be, or should have been, exercised.

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- (3) The following kinds of support and advice are not to be considered as support and advice for the purposes of subsection (1)(g)—
- (a) support and advice to a member of the authority in discharging that member's functions as part of the executive of the authority (except as provided for under subsection (1)(f));
  - (b) advice about whether or how the authority's functions should be, or should have been, exercised in relation to any matter under consideration, or to be considered, at a meeting of the authority, a committee referred to in subsection (1)(b) or a joint committee which a local authority is responsible for organising.
- (4) Nothing in subsection (1)(h) affects the duty of the head of paid service in section 4(2) of the Local Government and Housing Act 1989.
- (5) In this section, references to a committee (or joint committee) include references to any sub-committee of that committee.

**Commencement Information**

**I8** S. 9 in force at 30.4.2012 by S.I. 2012/1187, art. 2(1)(b)

**10 Duty to adopt standing orders about management of staff**

- (1) The Welsh Ministers may by regulations require a local authority—
- (a) to incorporate prescribed provision relating to the management of staff provided under section 8(1)(b) in its standing orders;
  - (b) to make other modifications of those of its standing orders which relate to the management of staff.
- (2) In this section “management of staff” does not include appointment of staff or dismissal of staff or the taking of other disciplinary action against staff.

**Commencement Information**

**I9** S. 10 in force at 30.4.2012 by S.I. 2012/1187, art. 2(1)(b)

**11 Local authorities to appoint democratic services committees**

- (1) A local authority must appoint a committee (“a democratic services committee”) to—
- (a) exercise the function of the local authority under section 8(1)(a) (designation of head of democratic services),
  - (b) review the adequacy of provision by the authority of staff, accommodation and other resources to discharge democratic services functions, and
  - (c) make reports and recommendations to the authority in relation to such provision.
- (2) It is for a democratic services committee to determine how to exercise those functions.



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#### Commencement Information

**I10** S. 11 in force at 30.4.2012 by S.I. 2012/1187, art. 2(1)(b)

## 12 Membership

- (1) A local authority is to appoint the members of its democratic services committee.
- (2) A local authority must secure that—
  - (a) each member of its democratic services committee is a member of the authority;
  - (b) no more than one of the members of its democratic services committee is a member of the authority's executive;
  - (c) in the case of a local authority which operates a leader and cabinet executive (Wales), the executive leader is not a member of its democratic services committee.
- (3) The appointment of a person as a member of a democratic services committee has no effect if the membership of the committee breaches subsection (2) immediately after the appointment (whether or not by virtue of the appointment).
- (4) In a case where one or more persons are to become, or to cease to be, members of a democratic services committee at a particular time, all those changes of membership are to be taken into account in determining whether the membership of the committee breaches subsection (2).
- (5) A democratic services committee of a local authority is to be treated as a body to which section 15 of the Local Government and Housing Act 1989 (duty to allocate seats to political groups) applies.

#### Commencement Information

**I11** S. 12 in force at 30.4.2012 by S.I. 2012/1187, art. 2(1)(b)

## 13 Sub-committees

- (1) A democratic services committee—
  - (a) may appoint one or more sub-committees, and
  - (b) may arrange for the discharge of any of its functions by such a sub-committee.
- (2) A sub-committee of a democratic services committee may not discharge functions other than those conferred on it under subsection (1)(b).

#### Commencement Information

**I12** S. 13 in force at 30.4.2012 by S.I. 2012/1187, art. 2(1)(b)

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## 14 Proceedings etc

- (1) A local authority is to appoint the person who is to chair the democratic services committee (who must not be a member of an executive group).
- (2) If there are no opposition groups, the person who is to chair the democratic services committee may be a member of an executive group but must not be a member of the local authority's executive.
- (3) A democratic services committee is to appoint the person who is to chair any sub-committee of such a committee.
- (4) All members of a democratic services committee, or of a sub-committee of such a committee, may vote on any question that falls to be decided by the committee.
- (5) A democratic services committee of a local authority, or a sub-committee of such a committee—
  - (a) may require members and officers of the authority to attend before it to answer questions, and
  - (b) may invite other persons to attend meetings of the committee.
- (6) It is the duty of any member or officer of a local authority to comply with any requirement imposed under subsection (5)(a).
- (7) A person is not obliged by subsection (6) to answer any question which the person would be entitled to refuse to answer in, or for the purposes of, proceedings in a court in England and Wales.
- (8) A democratic services committee, or a sub-committee of such a committee, is to be treated as a committee, or sub-committee, of a principal council for the purposes of Part 5A of the Local Government Act 1972 (access to meetings and documents of certain authorities, committees and sub-committees).
- (9) For the purposes of subsections (1) and (2), the expressions “executive group” and “opposition group” have the same meaning as in section 75.

### Commencement Information

**I13** S. 14 in force at 30.4.2012 by S.I. 2012/1187, art. 2(1)(b)

## 15 Frequency of meetings

- (1) A democratic services committee must meet once in every calendar year.
- (2) The democratic services committee of a local authority must also meet if—
  - (a) the local authority resolves that the committee should meet, or
  - (b) at least one-third of the members of the committee requisition a meeting by one or more notices in writing given to the person who chairs the committee.
- (3) It is the duty of the person who chairs a democratic services committee to secure that meetings of the committee are held as required by subsections (1) and (2).
- (4) This section does not prevent a democratic services committee from meeting otherwise than as required by this section.

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**Commencement Information**

**I14** S. 15 in force at 30.4.2012 by S.I. 2012/1187, art. 2(1)(b)

**16 Discharging functions**

- (1) A democratic services committee may not exercise any functions other than its functions under this Chapter.
- (2) In exercising, or deciding whether to exercise any of its functions, a democratic services committee, or a sub-committee of such a committee, must have regard to guidance given by the Welsh Ministers.

**Commencement Information**

**I15** S. 16 in force at 30.4.2012 by S.I. 2012/1187, art. 2(1)(b)

**17 Termination of membership on ceasing to be member of authority**

- (1) This section applies to a person (P) who is—
  - (a) appointed to be a member of a democratic services committee of a local authority, or of a sub-committee of such a committee, and
  - (b) is a member of the authority at the time of that appointment.
- (2) If P ceases to be a member of the authority, P also ceases to be a member of the democratic services committee or sub-committee.
- (3) But subsection (2) does not apply if P—
  - (a) ceases to be a member of the authority by reason of retirement, and
  - (b) is re-elected a member of the authority not later than the day of retirement.
- (4) Subsection (3) is subject to the standing orders of the authority or the democratic services committee or sub-committee.

**Commencement Information**

**I16** S. 17 in force at 30.4.2012 by S.I. 2012/1187, art. 2(1)(b)

**18 Reports and recommendations by head of democratic services**

- (1) The head of democratic services for a local authority must, as soon as practicable after preparing a report or making a recommendation under section 9(1)(h), send to each member of the authority's democratic services committee a copy of the report or recommendation.
- (2) A democratic services committee must consider any report or recommendation sent to the members of the committee under this section at a meeting held not more than three months after copies of the report are first sent to members of the committee.

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**Commencement Information**

**I17** S. 18 in force at 30.4.2012 by S.I. 2012/1187, art. 2(1)(b)

**19 Reports and recommendations by democratic services committees**

- (1) A democratic services committee for a local authority must, as soon as practicable after it has prepared a report or made a recommendation under section 11(1)(c), arrange for a copy of it to be sent to each member of the authority who is not a member of the committee.
- (2) A local authority must consider any report or recommendations at a meeting held not more than three months after copies of the report or recommendation are first sent to members of the authority.

**Commencement Information**

**I18** S. 19 in force at 30.4.2012 by S.I. 2012/1187, art. 2(1)(b)

**20 Local authority functions not to be delegated**

The functions of a local authority under sections 8(1), 11, 12(1) and (2), 14(1), 15(2) (a) and 19(2) are not to be delegated under section 101 of the Local Government Act 1972.

**Commencement Information**

**I19** S. 20 in force at 30.4.2012 by S.I. 2012/1187, art. 2(1)(b)

**21 Head of democratic services to be a politically restricted post**

- (1) Section 2(1) of the Local Government and Housing Act 1989 is amended as follows.
- (2) In paragraph (f) omit “and”.
- (3) After “delegated)” in paragraph (g) insert—
  - “; and
  - (h) the head of democratic services designated under section 8 of the Local Government (Wales) Measure 2011”.

**Commencement Information**

**I20** S. 21 in force at 30.4.2012 by S.I. 2012/1187, art. 2(1)(b)

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## CHAPTER 3

### INTERPRETATION

#### 22 Meaning of “member”

In this Part, a reference to a member of a local authority includes a reference to an elected executive member (within the meaning of section 39(4) of the Local Government Act 2000).

#### Commencement Information

**I21** S. 22 in force at 30.4.2012 by S.I. 2012/1187, art. 2(1)(b)

## PART 2

### FAMILY ABSENCE FOR MEMBERS OF LOCAL AUTHORITIES

#### 23 Right to family absence

- (1) A member of a local authority who is entitled to a period of family absence may be absent from meetings of the authority during that period of family absence.
- (2) If the member is a member of the local authority's executive, the member may be absent from meetings of the executive during that period of family absence.
- (3) Subsections (1) and (2) are subject to regulations under this Part.
- (4) For the purposes of this Part, a member is entitled to a period of family absence if the member is entitled to a period of—
  - (a) maternity absence (see section 24),
  - (b) newborn absence (see section 25),
  - (c) adopter's absence (see section 26),
  - (d) new adoption absence (see section 27), or
  - (e) parental absence (see section 28).

#### Commencement Information

**I22** S. 23 in force at 30.4.2012 by S.I. 2012/1187, art. 2(1)(c)

#### 24 Maternity absence

- (1) A member of a local authority is entitled to a period of absence (“maternity absence”) if the member satisfies prescribed conditions as to maternity.
- (2) The period of maternity absence to which the member is entitled is to be calculated in accordance with regulations.
- (3) The regulations must not provide for a period of maternity absence to exceed 26 weeks.

*Status: Point in time view as at 04/05/2012. This version of this Measure contains provisions that are not valid for this point in time.*

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- (4) Regulations must include provision for determining when maternity absence may be taken.
- (5) Regulations may allow a member to choose, subject to prescribed restrictions, the date on which a period of maternity absence starts.
- (6) Regulations may prescribe circumstances in which a member of a local authority, or the local authority, may—
  - (a) bring a period of maternity absence to an end, or
  - (b) cancel a period of maternity absence.

#### Commencement Information

**I23** S. 24 in force at 30.4.2012 by S.I. 2012/1187, art. 2(1)(c)

## 25 Newborn absence

- (1) This section applies to a member of a local authority who satisfies prescribed conditions—
  - (a) as to relationship with a newborn, or expected, child, and
  - (b) as to relationship with the child's mother.
- (2) The member is entitled to a period of absence (“newborn absence”) for the purpose of—
  - (a) caring for the child, or
  - (b) supporting the mother.
- (3) Regulations must include provision for determining—
  - (a) the extent of a member's entitlement to newborn absence in respect of a child;
  - (b) when newborn absence may be taken.
- (4) Regulations must not provide for a period of newborn absence in respect of a child to exceed two weeks.
- (5) Regulations must require newborn absence to be taken before the end of a prescribed period.
- (6) That period must be a period of at least 56 days beginning with the date of the child's birth.
- (7) Regulations may prescribe circumstances in which a member of a local authority, or the local authority, may—
  - (a) bring a period of newborn absence to an end, or
  - (b) cancel a period of newborn absence.
- (8) Regulations may—
  - (a) (for the purpose of subsection (2)) prescribe things which are, or are not, to be taken as done for the purpose of caring for a child or supporting the child's mother;
  - (b) allow a member to choose, subject to prescribed restrictions, the date on which a period of newborn absence starts;

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- (c) make provision excluding an entitlement to newborn absence in respect of a child where more than one child is born as a result of the same pregnancy;
  - (d) make provision about how newborn absence may be taken.
- (9) Where more than one child is born as a result of the same pregnancy, the reference in subsection (6) to the date of the child's birth is to be read as a reference to the date of birth of the first child born as a result of the pregnancy.
- (10) In this section—
- “newborn child” (“*plentyn newydd-anedig*”) includes a child stillborn after 24 weeks of pregnancy;
  - “week” (“*wythnos*”) means any period of seven days.

#### Commencement Information

**I24** S. 25 in force at 30.4.2012 by S.I. 2012/1187, art. 2(1)(c)

## 26 Adopter's absence

- (1) A member of a local authority is entitled to a period of absence (“adopter's absence”) if the member satisfies prescribed conditions as to adoption of a child.
- (2) Regulations must include provision for determining—
  - (a) the extent of a member's entitlement to adopter's absence in respect of a child;
  - (b) when adopter's absence may be taken.
- (3) Regulations must not provide for a period of adopter's absence in respect of a child to exceed two weeks.
- (4) Regulations may allow a member to choose, subject to prescribed restrictions, the date on which a period of adopter's absence starts.
- (5) Regulations may prescribe circumstances in which a member of a local authority, or the local authority, may—
  - (a) bring a period of adopter's absence to an end, or
  - (b) cancel a period of adopter's absence.

#### Commencement Information

**I25** S. 26 in force at 30.4.2012 by S.I. 2012/1187, art. 2(1)(c)

## 27 New adoption absence

- (1) This section applies to a member of a local authority who satisfies prescribed conditions—
  - (a) as to relationship with a child placed, or expected to be placed, for adoption under the law of any part of the United Kingdom, and
  - (b) as to relationship with a person with whom the child is, or is expected to be, so placed for adoption.

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- (2) The member is entitled to a period of absence (“new adoption absence”) for the purpose of—
  - (a) caring for the child, or
  - (b) supporting the person by reference to whom the member satisfies the condition under subsection (1)(b).
- (3) Regulations must include provision for determining—
  - (a) the extent of a member's entitlement to new adoption absence in respect of a child;
  - (b) when new adoption absence may be taken.
- (4) Regulations must not provide for a period of new adoption absence in respect of a child to exceed two weeks.
- (5) Regulations must require new adoption absence to be taken before the end of a prescribed period.
- (6) That period must be a period of at least 56 days beginning with the date of the child's placement for adoption.
- (7) Regulations may prescribe circumstances in which a member of a local authority, or the local authority, may—
  - (a) bring a period of new adoption absence to an end, or
  - (b) cancel a period of new adoption absence.
- (8) Regulations may—
  - (a) (for the purpose of subsection (2)) prescribe things which are, or are not, to be taken as done for the purpose of caring for a child or supporting a person with whom a child is placed for adoption;
  - (b) allow a member to choose, subject to prescribed restrictions, the date on which a period of new adoption absence starts;
  - (c) make provision excluding the right to be absent under this section in the case of a member who exercises a right to be absent on adopter's absence;
  - (d) make provision excluding an entitlement to new adoption absence in respect of a child where more than one child is placed for adoption as part of the same arrangement;
  - (e) make provision about how new adoption absence may be taken.
- (9) Where more than one child is placed for adoption as part of the same arrangement, the reference in subsection (6) to the date of the child's placement is to be read as a reference to the date of placement of the first child to be placed as part of the arrangement.
- (10) In this section, “week” means any period of seven days.
- (11) The Welsh Ministers may by regulations provide for this section to apply in relation to cases which involve adoption, but not the placement of a child for adoption under the law of any part of the United Kingdom.

**Commencement Information**

**I26** S. 27 in force at 30.4.2012 by S.I. 2012/1187, art. 2(1)(c)



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## 28 Parental absence

- (1) This section applies to a member of a local authority who satisfies prescribed conditions as to—
  - (a) having responsibility for a child, or
  - (b) expecting to have responsibility for a child.
- (2) The member is entitled to a period of absence (“parental absence”) for the purpose of caring for the child.
- (3) Regulations must include provision for determining—
  - (a) the extent of a member's entitlement to parental absence in respect of a child;
  - (b) when parental absence may be taken.
- (4) Regulations must not provide for parental absence in respect of a child to exceed a period, or a total period, of three months.
- (5) Provision under subsection (3)(b) may (amongst other things) refer to—
  - (a) a child's age, or
  - (b) a prescribed period of time starting from a prescribed event.
- (6) Regulations may prescribe circumstances in which a member of a local authority, or the local authority, may—
  - (a) bring a period of parental absence to an end, or
  - (b) cancel a period of parental absence.
- (7) Regulations may—
  - (a) (for the purpose of subsection (2)) prescribe things which are, or are not, to be taken as done for the purpose of caring for a child;
  - (b) require parental absence to be taken as a single period of absence in all cases or in prescribed cases;
  - (c) require parental absence to be taken as a series of periods of absence in all cases or in prescribed cases;
  - (d) require all or prescribed parts of a period of parental absence to be taken at or by prescribed times;
  - (e) allow a member to choose, subject to prescribed restrictions, the date on which a period of parental absence starts;
  - (f) make provision about the postponement by a local authority of a period of parental absence which a member wishes to take;
  - (g) prescribe a minimum or maximum period of absence which may be taken as part of a period of parental absence;
  - (h) prescribe a maximum aggregate of periods of parental absence which may be taken during a prescribed period of time.

### Commencement Information

127 S. 28 in force at 30.4.2012 by S.I. 2012/1187, art. 2(1)(c)

## 29 Regulations: supplemental

Regulations under this Part may—

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- (a) make provision about notices to be given, evidence to be produced, records to be kept and other procedures to be followed by a member of a local authority or a local authority;
- (b) make provision for the consequences of failure to give notices, to produce evidence, to keep records or to comply with other procedural requirements;
- (c) make provision for the consequences of failure to act in accordance with a notice given by virtue of paragraph (a);
- (d) make provision entitling a member of a local authority (or of the executive) to present a complaint about a decision by a local authority to bring a period of absence to an end or to postpone or cancel a period of absence;
- (e) make provision in connection with an entitlement conferred by virtue of paragraph (d) including, amongst other things, provision about—
  - (i) the grounds on which a complaint may be presented;
  - (ii) the person to whom a complaint may be presented;
  - (iii) procedural conditions to be satisfied;
  - (iv) the making, determination and effect of a complaint;
- (f) make provision about the extent to which a member of a local authority (or of the executive)—
  - (i) may act as a member of the authority (or the executive) during a period of absence;
  - (ii) is entitled to any benefits arising from membership of the authority (or the executive) during a period of absence;
  - (iii) is bound by any duty arising from membership of the authority (or the executive) during a period of absence.
- (g) apply, or make modifications of, an enactment.

**Commencement Information**

**I28** S. 29 in force at 30.4.2012 by S.I. 2012/1187, art. 2(1)(c)

**30 Guidance**

When exercising its functions, a local authority must have regard to guidance given by the Welsh Ministers in relation to the rights of members of the authority under this Part.

**Commencement Information**

**I29** S. 30 in force at 30.4.2012 by S.I. 2012/1187, art. 2(1)(c)

**31 Amendment of Local Government Act 1972**

- (1) Section 85 of the Local Government Act 1972 (vacation of office by failure to attend meetings) is amended as follows.
- (2) After subsection (3A) insert—
  - “(3B) Subsections (3C) and (3D) apply for the purpose of calculating the period of six consecutive months under subsection (1) or (2A).

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- (3C) Any period during which a member of a local authority in Wales is exercising a right to absence under Part 2 of the Local Government (Wales) Measure 2011 is to be disregarded.
- (3D) The following two periods are to be treated as consecutive—
- (a) the period during which a member of a local authority in Wales fails to attend meetings of the authority or, as the case may be, meetings of the executive that falls immediately before the period described in subsection (3C), and
  - (b) the period that falls immediately after the period described in subsection (3C)."

#### Commencement Information

**I30** S. 31 in force at 30.4.2012 by S.I. 2012/1187, art. 2(1)(c)

### 32 Amendment of Local Government Act 2000

- (1) Section 11 of the Local Government Act 2000 (local authority executives) is amended as follows.
- (2) After subsection (8) insert—
- “(8A) For the purposes of subsection (8), no account is to be taken of a member appointed to the executive on a temporary basis to cover the absence of a member exercising a right to a family absence under Part 2 of the Local Government (Wales) Measure 2011.”.

#### Commencement Information

**I31** S. 32 in force at 30.4.2012 by S.I. 2012/1187, art. 2(1)(c)

### 33 Interpretation of Part 2

In this Part—

“executive” (“*gweithrediaeth*”) means any of the following—

- (a) a leader and cabinet executive (Wales);
- (b) a mayor and cabinet executive;

“meeting of the authority” (“*cyfarfod o'r awrdurdod*”) means any of the following—

- (a) a meeting of the local authority;
- (b) a meeting of any committee or sub-committee of the authority;
- (c) a meeting of any joint-committee, joint board or other body by whom for the time being functions of the authority are being discharged;
- (d) a meeting of any body appointed to advise the authority on any matter relating to the discharge of the authority's functions;
- (e) a meeting of any body at which the authority is represented.

“meeting of the executive” (“*cyfarfod o'r weithrediaeth*”) means any of the following—

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- (a) a meeting of the executive;
- (b) a meeting of any committee of the executive;
- (c) discharge by a member, acting alone, of any function which is the responsibility of the executive;

“member of a local authority” (“*aelod o awrdurdod lleol*”) includes an elected mayor (within the meaning of section 39(1) of the Local Government Act 2000) or elected executive member (within the meaning of section 39(4) of that Act) of the authority;

“regulations” (“*rheoliadau*”) means regulations made by the Welsh Ministers.

#### **Commencement Information**

**I32** S. 33 in force at 30.4.2012 by S.I. 2012/1187, art. 2(1)(c)

## **PART 3**

### **AVAILABLE GOVERNANCE ARRANGEMENTS**

#### *Mayor and council manager executive*

#### **34 Abolition of mayor and council manager executive**

- (1) The Local Government Act 2000 is amended as follows.
- (2) In section 11 (local authority executives)—
  - (a) omit subsection (4) (mayor and council manager executive);
  - (b) in subsection (10)—
    - (i) omit “or an officer”;
    - (ii) omit “or (4)(b)”.
- (3) Omit section 16.
- (4) In section 26 (proposals not requiring referendum), in subsection (2)—
  - (a) at the end of paragraph (a) insert “ or ”;
  - (b) omit paragraph (b).
- (5) In section 48 (interpretation of Part 2), in subsection (1), omit the definition of “council manager”.
- (6) In Schedule 1 (executive arrangements: further provision), omit paragraph 3.
- (7) In the Local Government Act 1972—
  - (a) in section 21 (constitution of principal councils in Wales), in subsection (1A), omit “or a mayor and council manager executive”;
  - (b) in section 22 (chairman), in subsection (4A), omit “or a mayor and council manager executive”;
  - (c) in section 25A (title of chairman or vice-chairman of county borough council), in subsection (3), omit “or a mayor and council manager executive”;

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- (d) in section 245 (status of certain districts, parishes and communities), in subsections (1A) and (4A), omit “or a mayor and council manager executive”;
  - (e) in section 270 (general provisions as to interpretation), in subsection (1), in the definition “ “mayor and cabinet executive” and “mayor and council manager executive”” omit “and “mayor and council manager executive””.
- (8) In the Local Government and Housing Act 1989—
- (a) in section 5 (designation and reports of monitoring officer), in subsection (3)(b), omit the words from “and, in a case where” to the end of paragraph (b);
  - (b) in section 5A (reports of monitoring officer — local authorities operating executive arrangements), in subsection (5)(b), omit the words from “and, where” to the end of paragraph (b);
  - (c) in section 13 (voting rights of members of certain committees: England and Wales)—
    - (i) omit subsection (5A);
    - (ii) in subsection (9), omit “and “mayor and council manager executive””;
  - (d) in section 21 (interpretation of Part 1), in subsection (3), omit “ “council manager”” and “and “mayor and council manager executive””.
- (9) In section 106 of the Local Government Finance Act 1992 (council tax and community charge: restrictions on voting)—
- (a) in subsection (1), omit “or a council manager within the meaning of section 11(4)(b) of the Local Government Act 2000”;
  - (b) in subsection (2), omit “or a council manager”.

#### *Alternative arrangements*

### **35 Authorities to replace alternative arrangements with executive arrangements**

- (1) A local authority that is operating alternative arrangements must—
- (a) cease to operate alternative arrangements, and
  - (b) start to operate executive arrangements.
- (2) Schedule 1 contains provision supplementing this section.
- (3) In complying with this section and Schedule 1, a local authority must comply with directions given by the Welsh Ministers.

### **36 Consequential provision etc**

- (1) In the Local Government Act 2000—
- (a) in section 29 (operation of, and publicity for, executive arrangements), omit subsection (3);
  - <sup>F5</sup>(b) .....
  - <sup>F5</sup>(c) .....
  - (d) omit section 33 (operation of alternative arrangements);
  - (e) in section 34 (referendum following petition), in subsection (3), for “29 or 33” substitute “ or 29 ”;

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- (f) in section 35 (referendum following direction), in subsection (3), for “29 or 33” substitute “ or 29 ”;
  - (g) in section 36 (referendum following order), in subsection (3), for “29 or 33” substitute “ or 29 ”.
- (2) In this Measure, omit section 87(3).
- (3) In the Local Government Act 1972—
- (a) in section 70 (restriction on promotion of Bills for changing local government areas, etc), in subsection (3), omit “or alternative arrangements”;
  - (b) in section 270 (general provisions as to interpretation), in subsection (1) omit the definition of “alternative arrangements”.
- (4) The following regulations are revoked—
- (a) the Local Authorities (Proposals for Alternative Arrangements) (Wales) Regulations 2001 (S.I. 2001/2293);
  - (b) the Local Authorities (Changing Executive Arrangements and Alternative Arrangements) (Wales) Regulations 2004 (S.I. 2004/3158);
  - (c) the Local Authorities (Alternative Arrangements) (Wales) Regulations 2007 (S.I. 2007/397).
- (5) Subsections (1) to (4) do not prevent a local authority which is operating alternative arrangements on the commencement day from continuing to operate those arrangements on and after that day.
- (6) Subsections (1) to (4) do not have effect in relation to a local authority if, and for as long as, the local authority continues to operate alternative arrangements on and after the commencement day.
- (7) Subsections (5) and (6) do not affect a local authority's duty under section 35.
- (8) In this section “commencement day”, in relation to an amendment made by this section, means the day on which that amendment comes into force.

#### **Textual Amendments**

- F5** S. 36(1)(b)(c) repealed (4.5.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 25 Pt. 4**; S.I. 2012/1008, art. 4(c); S.I. 2012/1008, art. 4(c)

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## PART 4

### CHANGES TO EXECUTIVE ARRANGEMENTS

#### CHAPTER 1

##### ADOPTING A DIFFERENT FORM OF EXECUTIVE

###### *General provisions*

#### **37 Power to adopt a different form of executive**

- (1) A local authority which is operating executive arrangements—
  - (a) may vary or replace the arrangements so that its executive arrangements provide for a different form of executive, and
  - (b) if it makes such a variation of the arrangements, may vary the arrangements in such other respects (if any) as it considers appropriate.
- (2) The powers conferred by subsection (1) are exercisable in accordance with the following provisions of this Chapter.
- (3) A local authority may not use the power conferred by subsection (1)(a) to vary or replace its executive arrangements more than once in any electoral cycle.
- (4) For that purpose, a local authority is to be taken to use the power conferred by subsection (1)(a) at the time when the authority passes a resolution under section 38.
- (5) In this section “electoral cycle”, in relation to a local authority, means each period that—
  - (a) begins with ordinary elections to the authority, and
  - (b) ends with the next ordinary elections to the authority.
- (6) For the definition of “form of executive”, see section 53.

#### **38 Proposals for adopting a different form of executive**

- (1) The local authority must draw up, and approve by resolution, proposals to vary or replace its executive arrangements (if it is intended to use the powers conferred by section 37).
- (2) In drawing up the proposals, the local authority must consider the extent to which the proposals, if implemented, are likely to assist in securing continuous improvement in the way in which the authority's functions are exercised, having regard to a combination of economy, efficiency and effectiveness.
- (3) The local authority must send the Welsh Ministers—
  - (a) a copy of the proposals that it has approved, and
  - (b) (with the copy of the proposals) a statement which describes the reasons why the authority considers that its proposals would be likely, if implemented, to ensure that decisions of the authority are taken in an efficient, transparent and accountable way.
- (4) The Welsh Ministers must decide whether to approve, or not approve, the proposals.

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- (5) The Welsh Ministers must give the local authority notice in writing of their decision.
- (6) If the Welsh Ministers give notice of a decision not to approve the proposals, the local authority must not take any further steps to implement the proposals after the notice is given.

### **39 Contents of proposals**

A local authority's proposals must include all of the following—

- (a) a statement of the extent to which functions specified in regulations under section 13(3)(b) of the Local Government Act 2000 are to be the responsibility of the executive under the proposed executive arrangements,
- (b) a timetable with respect to the implementation of the proposals, and
- (c) details of any transitional arrangements which are necessary for the implementation of the proposals.

### **40 Referendums**

- (1) The proposals must provide for the change of executive arrangements to be subject to approval in a referendum if the change of executive arrangements is one that requires approval in a referendum.
- (2) But, in any other case, the proposals may not provide for the change of executive arrangements to be subject to approval in a referendum.
- (3) For provision about referendums under this section, see section 45 of the Local Government Act 2000.

### **41 Timetable for implementation of proposals: no referendum**

- (1) This section applies to a local authority's proposals if the change of executive arrangements is not subject to approval in a referendum.
- (2) The timetable with respect to the implementation of the proposals must be such as to secure that the local authority makes the change of executive arrangements no later than the end of the period of six months beginning with the day on which the local authority sends the Welsh Ministers the copy of the proposals.

### **42 Timetable for implementation of proposals: referendum**

- (1) This section applies to a local authority's proposals if the proposed form of executive is subject to approval in a referendum.
- (2) The timetable with respect to the implementation of the proposals must comply with subsections (3) and (4).
- (3) The timetable must be such as to secure that the local authority will hold the referendum within the period that—
  - (a) begins two months after, and
  - (b) ends six months after,
 the day on which the local authority sends the Welsh Ministers the copy of the proposals.



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- (4) The timetable must be such as to secure that, if the result of the referendum is to approve the change of executive arrangements, the local authority will make that change within the period of six months beginning with the day on which the referendum is held.

#### **43 Publicity for proposals**

- (1) This section applies to a local authority which has approved proposals by a resolution.
- (2) The local authority must secure that copies of a document setting out the provisions of the proposed executive arrangements are available at its principal office for inspection by members of the public at all reasonable times.
- (3) The local authority must publish a notice which—
- (a) states that the local authority has resolved to operate the proposed executive arrangements,
  - (b) if the proposed form of executive is subject to approval in a referendum, states—
    - (i) that it is subject to such approval, and
    - (ii) the date of the referendum,
  - (c) states the date on which the local authority intends to begin operating those arrangements,
  - (d) describes the main features of those arrangements,
  - (e) states that copies of a document setting out the provisions of those arrangements are available at the local authority's principal office for inspection by members of the public at such times as may be specified in the notice, and
  - (f) specifies the address of the local authority's principal office.
- (4) The local authority must comply with subsections (2) and (3) as soon as practicable after it passes the resolution approving the proposals.

#### **44 Implementing proposals**

- (1) y must implement its proposals in accordance with the timetable included in the proposals.
- (2) But if the change of executive arrangements—
- (a) is subject to approval in a referendum, and
  - (b) is not approved by the referendum,
- the local authority must not implement the change.

#### **45 Action if referendum rejects change**

- (1) This section applies to a local authority if the change of executive arrangements—
- (a) is subject to approval in a referendum, and
  - (b) is not approved in the referendum.
- (2) The local authority must publish a notice which—
- (a) summarises the local authority's proposals which were the subject of the referendum,

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- (b) states that a referendum on the local authority's proposals rejected those proposals, and
  - (c) states that the local authority will continue to operate the form of executive provided for by its existing executive arrangements.
- (3) The local authority must comply with subsection (2) as soon as practicable after the referendum.

### *Interpretation*

#### **46 Changes of executive arrangements requiring approval in a referendum**

For the purposes of this Chapter, a change of executive arrangements requires approval in a referendum if—

- (a) the existing form of executive, or
  - (b) the proposed form of executive,
- is a mayor and cabinet executive.

#### **47 Interpretation**

In this Chapter—

“existing form of executive” (“*ffurf bresenol ar weithrediaeth*”) means the form of executive operated by a local authority which makes proposals;

“change of executive arrangements” (“*newid mewn trefniadau gweithrediaeth*”) means the change of executive arrangements proposed in proposals;

“proposals” (“*cynigion*”) means proposals under section 38;

“proposed form of executive” (“*ffurf arfaethedig ar weithrediaeth*”) means the form of executive which a local authority is, in proposals, proposing to begin operating.

## **CHAPTER 2**

### OTHER VARIATIONS OF EXISTING EXECUTIVE ARRANGEMENTS

#### **48 Power to vary the existing form of executive**

- (1) A local authority which is operating executive arrangements may vary the arrangements so that they—
- (a) differ from the existing arrangements in any respect, but
  - (b) still provide for the same form of executive.
- (2) The power conferred by subsection (1) is exercisable in accordance with the following provisions of this Chapter.
- (3) For the definition of “form of executive”, see section 53.

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#### **49 Proposals for varying the form of executive**

- (1) The local authority must draw up, and approve by resolution, proposals to vary its executive arrangements (if it is intended to use the powers conferred by section 48).
- (2) But, if the local authority is operating a mayor and cabinet executive, the local authority may not approve proposals for varying its executive arrangements unless the elected mayor has given written consent to the proposed change.

#### **50 Contents of proposals**

A local authority's proposals must include all of the following—

- (a) a timetable with respect to the implementation of the proposals, and
- (b) details of any transitional arrangements which are necessary for the implementation of the proposals.

#### **51 Implementing proposals**

A local authority must implement its proposals in accordance with the timetable included in the proposals.

### **CHAPTER 3**

#### **SUPPLEMENTARY**

#### **52 Powers under which executive arrangements may be varied**

A local authority which is operating executive arrangements may not vary or replace those arrangements except as provided for in—

- (a) Chapter 1 or 2 of this Part, or
- (b) regulations under section 34, 35 or 36 of the Local Government Act 2000.

#### **53 Forms of executive**

For the purposes of this Part, each of the following is a form of executive—

- (a) a leader and cabinet executive (Wales);
- (b) a mayor and cabinet executive.

#### **54 Consequential provision etc**

- (1) The Local Government Act 2000 is amended as follows.
- (2) Omit section 30 (operation of different executive arrangements).
- (3) Before section 33A insert—

##### **“33ZA Wales: changing governance arrangements**

For provision about changing the governance arrangements of local authorities in Wales, see Part 4 of the Local Government (Wales) Measure 2011.”.

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(4) In section 45 (provisions with respect to referendums), in subsection (9), after “this Part” insert “ or under section 40 of the Local Government (Wales) Measure 2011 ”.

## PART 5

### LOCAL AUTHORITY FUNCTIONS: DISCHARGE BY COMMITTEES AND COUNCILLORS

#### *Area committees*

#### **55 Area covered and membership**

(1) Section 18 of the Local Government Act 2000 (discharge of functions by area committees) is amended as follows.

(2) In subsection (3), for the definition of “area committee” substitute—

““area committee” means—

- (a) in relation to a local authority in England, a committee or sub-committee of the authority which satisfies the conditions in subsection (4);
- (b) in relation to a local authority in Wales, a committee or sub-committee of the authority which satisfies the conditions in subsection (6);”.

(3) In subsection (4), after “a local authority” insert “ in England ”.

(4) After subsection (5) insert—

“(6) A committee or sub-committee of a local authority in Wales satisfies the conditions in this subsection if—

- (a) the committee or sub-committee is established to discharge functions in respect of part of the area of the authority,
- (b) that part consists of the whole of one or more electoral divisions of the authority,
- (c) all the members of the authority who are elected for that electoral division, or those electoral divisions, are entitled to be members of the committee or sub-committee,
- (d) no members of the authority, other than those mentioned in paragraph (c), may be members of the committee or sub-committee, and
- (e) either or both of the conditions in subsection (7) are satisfied in relation to that part.

(7) Those conditions are—

- (a) that the area of that part does not exceed one-half of the total area of the authority;
- (b) that the population of that part, as estimated by the authority, does not exceed one-half of the total population of the area of the authority as so estimated.”.

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*Exercise of functions by councillors*

## 56 Exercise of functions by councillors

- (1) The senior executive member of a local authority may make arrangements for a non-executive member of the authority to exercise a function of the local authority which is the responsibility of the executive.
- (2) A local authority may make arrangements for a non-executive member of the authority to exercise any other function of the authority.
- (3) Arrangements under this section may only provide for a non-executive member (N) to exercise functions—
  - (a) in relation to the electoral division for which N is elected, or
  - (b) in relation to N's official membership of a body other than the local authority.
- (4) No arrangements may be made under this section for the exercise of a function—
  - (a) if, or to the extent that, it is specified in an order made by the Welsh Ministers, or
  - (b) in a manner, or in circumstances, specified in an order made by the Welsh Ministers.
- (5) Arrangements made under this section for the exercise of a function do not prevent the ordinary exercise of the function.
- (6) In making arrangements under this section, the senior executive member, or local authority, must have regard to guidance given by the Welsh Ministers.
- (7) In this section—
  - (a) a reference to the exercise of a function includes a reference to the doing of anything which is calculated to facilitate, or is conducive or incidental to, the exercise of the function;
  - (b) a reference to a function which is the responsibility of the executive of a local authority is to be construed in accordance with section 13(8) of the Local Government Act 2000;
  - (c) a reference to N's official membership of a body is a reference to membership of the body which N holds by virtue of—
    - (i) a local authority appointment,
    - (ii) an appointment, other than a local authority appointment, made on a local authority nomination or recommendation or with local authority approval, or
    - (iii) an appointment, other than a local authority appointment, made in compliance with a requirement to appoint a member of a local authority;
  - (d) a reference (in relation to N) to a local authority appointment, nomination or recommendation, or local authority approval, is a reference to an appointment, nomination or recommendation made by, or approval given by—
    - (i) the local authority of which N is a member, or
    - (ii) the executive of that local authority;
  - (e) a reference to the ordinary exercise of a function is a reference to its exercise by the person or persons by whom it is exercisable in the absence of arrangements made under this section.

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(8) References in this section to a local authority are references to a local authority which operates executive arrangements.

(9) In this section—

“non-executive member” (“*aelod nad yw'n aelod gweithrediaeth*”) means a member of a local authority who is not a member of the executive of the authority;

“senior executive member” (“*aelod gweithrediaeth hŷn*”) means—

- (a) in the case of a local authority operating a leader and cabinet executive (Wales), the executive leader;
- (b) in the case of a local authority operating a mayor and cabinet executive, the elected mayor.

#### Commencement Information

**I33** S. 56 in force at 30.4.2012 by S.I. 2012/1187, art. 2(1)(d)

## 57 Consequential provision

(1) In section 100EA of the Local Government Act 1972 (inspection of records relating to functions exercisable by members)—

(a) in subsection (1)—

(i) for “Secretary of State” substitute “ appropriate authority ”;

(ii) after “2007” insert “ or under section 56 of the Local Government (Wales) Measure 2011 ”;

(b) after subsection (2) insert—

“(2A) In this section “appropriate authority” means—

- (a) in relation to local authorities in England, the Secretary of State;
- (b) in relation to local authorities in Wales, the Welsh Ministers.
- (c) in subsection (3), after “Parliament” insert “ (in the case of regulations made by the Secretary of State) or a resolution of the National Assembly for Wales (in the case of regulations made by the Welsh Ministers) ”.”;

(2) In the Local Government Act 2000—

(a) in section 13 (functions which are the responsibility of an executive), in subsection (9)(b), after “in England” insert “ or under section 56 of the Local Government (Wales) Measure 2011 ”;

(b) in section 21 (overview and scrutiny committees), in subsection (13)(aa), after “in England” insert “ or under section 56 of the Local Government (Wales) Measure 2011 ”.

#### Commencement Information

**I34** S. 57 in force at 30.4.2012 by S.I. 2012/1187, art. 2(1)(d)

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## PART 6

### OVERVIEW AND SCRUTINY

#### CHAPTER 1

#### OVERVIEW AND SCRUTINY COMMITTEES

##### *Joint overview and scrutiny committees*

#### **58 Joint overview and scrutiny committees**

- (1) The Welsh Ministers may by regulations make provision under which any two or more local authorities may—
  - (a) appoint a joint committee (a “joint overview and scrutiny committee”), and
  - (b) arrange for the committee to exercise any functions of making reports or recommendations about any matter which is not an excluded matter to—
    - (i) any of the local authorities appointing the committee, and
    - (ii) in the case of a local authority operating executive arrangements under Part 2 of the Local Government Act 2000, the local authority's executive.
- (2) In subsection (1)(b) “excluded matter” means any matter with respect to which a crime and disorder committee could make a report or recommendations—
  - (a) by virtue of subsection (1)(b) of section 19 of the Police and Justice Act 2006 (local authority scrutiny of crime and disorder matters), or
  - (b) by virtue of subsection (3)(a) of that section.
- (3) The provision that may be made in regulations under this section includes (but is not limited to)—
  - (a) provision for arrangements to be made only in prescribed circumstances, or subject to prescribed conditions or limitations;
  - (b) provision for the appointment of sub-committees of joint overview and scrutiny committees;
  - (c) in relation to joint overview and scrutiny committees (or sub-committees of such committees), provision applying, or corresponding to, any provision of—
    - (i) subsections (4) to (15A) and (18) of section 21 of the Local Government Act 2000,
    - (ii) sections 21A, 21B, 21D, 21F and 21G of that Act,
    - (iii) section 186 of, and Schedule 11 to, the National Health Service (Wales) Act 2006.
- (4) A local authority and a joint overview and scrutiny committee must, in exercising or deciding whether to exercise any function conferred on it by or under this section, have regard to guidance given by the Welsh Ministers.
- (5) In section 21 of the Local Government Act 2000 (overview and scrutiny committees), in subsection (2A)(e)—
  - (a) after “committee” insert “—

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- (i)”;
- (b) after “concerned” insert “, or
  - (ii) a joint overview and scrutiny committee within the meaning of section 58 of the Local Government (Wales) Measure 2011 appointed by two or more local authorities, one of which is the authority concerned”.

### *Powers of committees*

PROSPECTIVE

## **59 Scrutinising designated persons**

- (1) Section 21 of the Local Government Act 2000 (overview and scrutiny committees) is amended as follows.
- (2) In subsection (2)(e), at the end insert “ (insofar as the committee is not, or committees are not, under a duty to do those things by virtue of subsection (2ZA)) ”.
- (3) After subsection (2) insert—
 

“(2ZA) Executive arrangements by a local authority in Wales must ensure that their overview and scrutiny committee is required (or their overview and scrutiny committees, and any joint overview and scrutiny committees, are required between them) to make reports or recommendations on matters which relate to designated persons and affect the authority's area or the inhabitants of that area.”.
- (4) In subsection (2A), after “(2)” insert “ or (2ZA) ”.
- (5) In subsection (13)—
  - (a) in paragraph (aa), omit the final “and”;
  - (b) after paragraph (b) insert—
    - “(c) if it is a committee or sub-committee of a local authority in Wales may, in connection with making a report or recommendations of the kind referred to subsection (2ZA)—
      - (i) require a designated person to provide the committee or sub-committee with information, except information that relates to an excluded matter, and
      - (ii) require an officer, employee or other representative of a designated person to attend meetings of the committee, except in relation to an excluded matter.”.
- (6) After subsection (15) insert—
 

“(15A) It is the duty of a person to comply with the requirement mentioned in subsection (13)(c)(i) or (ii); but that does not require a designated person to provide information which is not reasonably required in connection with the making of the report or recommendations.”.



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(7) After subsection (17) insert—

“(18) In this section—

“designated person” means a person—

- (a) who is designated by the Welsh Ministers in accordance with section 21G, or
- (b) who falls within a category of person so designated;

“excluded matter” means any matter with respect to which a crime and disorder committee could make a report or recommendations—

- (a) by virtue of subsection (1)(b) of section 19 of the Police and Justice Act 2006 (local authority scrutiny of crime and disorder matters), or
- (b) by virtue of subsection (3)(a) of that section.”.

PROSPECTIVE

## 60 Notifying designated persons of report or recommendations

After section 21E of the Local Government Act 2000 insert—

### “21F Wales: notifying designated body of report or recommendations

- (1) This section applies if an overview and scrutiny committee of a local authority in Wales, or a sub-committee of such a committee, makes a report or recommendations under section 21(2ZA).
- (2) The committee or sub-committee may—
  - (a) send a copy of the report or recommendations to a designated person, and
  - (b) request the designated person to have regard to the report or recommendations.
- (3) In sending a copy of the report or recommendations to the designated person, the committee or sub-committee—
  - (a) must exclude any confidential information, and
  - (b) may exclude any relevant exempt information.
- (4) If information is excluded under subsection (3), in producing the copy of the report or recommendations the committee or sub-committee—
  - (a) may replace so much of the report or recommendations as discloses the information with a summary which does not disclose that information, and
  - (b) must do so if, in consequence of excluding the information, the report or recommendations would be misleading or not reasonably comprehensible.
- (5) In this section—
  - “confidential information” has the meaning given by section 100A(3) of the Local Government Act 1972 (admission to meetings of principal councils);

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“designated person” has the same meaning as in section 21;

“exempt information” has the meaning given by section 100I of that Act, and, in relation to any report or recommendations of a committee or joint committee which has functions under section 21(2) (f) of this Act, also includes information which is exempt information under section 186 of the National Health Service (Wales) Act 2006;

“relevant exempt information” means exempt information of a description specified in a resolution of the committee or sub-committee under section 100A(4) of the Local Government Act 1972 which applied to the proceedings, or part of the proceedings, at any meeting of the committee or sub-committee at which the report was, or recommendations were, considered.”.

## 61 Designated persons

After section 21F of the Local Government Act 2000 insert—

### “21G Wales: designated persons

- (1) The Welsh Ministers may, by order, designate for the purposes of section 21—
  - (a) one or more persons, and
  - (b) one or more categories of person.
- (2) But—
  - (a) the designation of a person has effect only if that person meets the following conditions, and
  - (b) the designation of a category of persons has effect only if, and to the extent that, each person in that category meets the following conditions.
- (3) Condition A is that the person provides the public, or a section of the public, with services, goods or facilities of any description (whether on payment or not).
- (4) Condition B is that the person—
  - (a) provides those services, goods or facilities in the exercise of functions of a public nature, or
  - (b) is wholly or partly funded by public money.
- (5) Condition C is that the person is not a local authority.”.

#### Commencement Information

**I35** S. 61 in force at 30.4.2012 by S.I. 2012/1187, art. 2(1)(e)

*Taking into account the views of the public*

## 62 Taking into account the views of the public

- (1) A local authority must make arrangements of the kind referred to in subsection (2) in relation to each relevant overview and scrutiny committee of the authority.

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- (2) Those arrangements are arrangements that enable all persons who live or work in the local authority's area to bring to the attention of the relevant overview and scrutiny committee their views on any matter under consideration by the committee.
- (3) A relevant overview and scrutiny committee must, when exercising its functions, take into account any views brought to its attention in accordance with arrangements made under this section.
- (4) In complying with subsection (1), a local authority must have regard to guidance given by the Welsh Ministers.
- (5) In complying with subsection (3), a relevant overview and scrutiny committee must have regard to guidance given by the Welsh Ministers.
- (6) In this section—
  - “joint overview and scrutiny committee” (*“cyd-bwyllgor trosolwg a chraffu”*) has the same meaning as in section 21(2A) of the Local Government Act 2000;
  - “matter under consideration” (*“mater sy'n cael ei ystyried”*), in relation to a relevant overview and scrutiny committee, means a matter in respect of which the committee is exercising any function;
  - “relevant overview and scrutiny committee” (*“pwyllgor trosolwg a chraffu perthnasol”*), in relation to a local authority, means—
    - (a) an overview and scrutiny committee of the authority,
    - (b) a sub-committee of such a committee,
    - (c) a joint overview and scrutiny committee of the authority, or
    - (d) a sub-committee of such a joint committee.

#### Commencement Information

**I36** S. 62 in force at 30.4.2012 by S.I. 2012/1187, art. 2(1)(f)

### *Powers of councillors*

#### **63 Reference of matters to overview and scrutiny committee etc**

- (1) Section 21A of the Local Government Act 2000 (reference of matters to overview and scrutiny committee etc) is amended as follows.
- (2) In subsection (1)(c) omit “in the case of a local authority in England.”.
- (3) In subsection (3)—
  - (a) after “issued” insert “ (in the case of a local authority in England) ”;
  - (b) after “Secretary of State” insert “ or (in the case of a local authority in Wales) by the Welsh Ministers ”.
- (4) In subsection (6)(a)—
  - (a) after “2007” insert “ or section 56 of the Local Government (Wales) Measure 2011 ”.
  - (b) omit “in England”.

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(5) In subsection (10), after “local authority” insert “ in England ”.

(6) After subsection (11) insert—

“(12) In this section “local government matter”, in relation to a member of a local authority in Wales, means a matter which is not an excluded matter and which—

- (a) relates to the discharge of any function of the authority, or
- (b) affects all or part of the electoral area for which the member is elected or any person who lives or works in that area.

(13) In subsection (12) “excluded matter” means any matter which is—

- (a) a local crime and disorder matter within the meaning of section 19 of the Police and Justice Act 2006 (local authority scrutiny of crime and disorder matters), or
- (b) a matter of any description specified in an order made by the Welsh Ministers for the purposes of this section.”.

**Commencement Information**

**I37** S. 63 in force at 30.4.2012 by S.I. 2012/1187, art. 2(1)(g)

*Duty to respond to overview and scrutiny committee*

**64 Duty to respond to overview and scrutiny committee**

In section 21B of the Local Government Act 2000 (duty of authority or executive to respond to overview and scrutiny committee), in subsection (1) omit “in England”.

**Commencement Information**

**I38** S. 64 in force at 30.4.2012 by S.I. 2012/1187, art. 2(1)(g)

*Provision consequential on sections 63 and 64*

**65 Provision consequential on sections 63 and 64**

(1) The Local Government Act 2000 is amended as follows.

(2) In section 21D (publication etc of reports, recommendations and responses: confidential and exempt information), in subsection (6) in the definition of “exempt information”, after “2006” insert “ or section 186 of the National Health Service (Wales) Act 2006 ”.

(3) In section 22 (access to information etc), in subsection (12A)—

- (a) after “State” insert “ (in relation to local authorities in England), or the Welsh Ministers (in relation to local authorities in Wales), ”;
- (b) in paragraph (a), omit “in England”.

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**Commencement Information**

**I39** S. 65 in force at 30.4.2012 by S.I. 2012/1187, art. 2(1)(g)

*Appointing persons to chair committees*

**66 Provision in standing orders about appointment of persons to chair committees**

- (1) The standing orders of a local authority must make provision (“appointment provision”) for the appointment of the persons who are to chair the local authority’s overview and scrutiny committee or committees (“committee chairs”).
- (2) The appointment provision must comply with—
  - (a) section 67,
  - (b) section 68, and
  - (c) section 69 (and accordingly with sections 70 to 73 or with section 74).
- (3) Appointment provision must not prevent a person from being appointed as a committee chair because the person—
  - (a) is, or is not, a member of any political group, or
  - (b) is, or is not, a member of a particular political group.

**Commencement Information**

**I40** S. 66 in force at 30.4.2012 by S.I. 2012/1187, art. 2(1)(h)

**67 When appointments to be made by committee**

- (1) The appointment provision must provide for the appointment of committee chairs in cases A to C set out in this section.
- (2) The appointment provision must provide that, in those cases, the committee chair, or each committee chair, is to be appointed by the committee which that person is to chair.
- (3) Case A is where there are no political groups on the authority.
- (4) Case B is where there is only one political group on the authority.
- (5) Case C is where—
  - (a) there are two (but not more) political groups on the authority,
  - (b) the authority has only one overview and scrutiny committee, and
  - (c) the authority’s executive—
    - (i) includes members of both political groups, or
    - (ii) does not include any member of either political group.

**Commencement Information**

**I41** S. 67 in force at 30.4.2012 by S.I. 2012/1187, art. 2(1)(h)

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## 68 When appointments to be made by non-executive group

- (1) The appointment provision must provide for the appointment of the committee chair in the case set out in this section.
- (2) The appointment provision must provide that, in that case, the committee chair is to be appointed by the non-executive political group.
- (3) That case is where—
  - (a) there are two (but not more) political groups on the authority,
  - (b) the authority has only one overview and scrutiny committee, and
  - (c) the authority's executive—
    - (i) includes one or more members of one political group, but
    - (ii) does not include any member of the other political group.
- (4) In this section “non-executive political group” means the group described in subsection (3)(c)(ii).

### Commencement Information

**I42** S. 68 in force at 30.4.2012 by S.I. 2012/1187, art. 2(1)(h)

## 69 How appointments to be made in other cases

- (1) The appointment provision must provide for the appointment of committee chairs in cases other than those set out in section 67 and 68.
- (2) The appointment provision applicable in the other cases must comply with—
  - (a) sections 70 to 73, or
  - (b) section 74.

### Commencement Information

**I43** S. 69 in force at 30.4.2012 by S.I. 2012/1187, art. 2(1)(h)

## 70 Appointments to be made by political groups

- (1) A local authority's appointment provision complies with this section if it provides—
  - (a) for the authority to be required, on each occasion when all of its committee chairs fall to be appointed, to make a determination under subsection (2) of which political groups on the authority are entitled to make which appointments, and
  - (b) for the groups to be able to make the appointments accordingly.
- (2) The determination referred to in subsection (1) is a determination which, so far as reasonably practicable, gives effect to the following principles.
- (3) The first principle is that—
  - (a) if there is only one executive group, the proportion of committee chairs which the executive group is entitled to appoint corresponds to the proportion of members of the authority who are in the group;

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- (b) if there are two or more executive groups, the proportion of committee chairs which the executive groups are (when taken together) entitled to appoint corresponds to the proportion of members of the authority who are members of those groups (when taken together).
- (4) The second principle is that—
- (a) if there is only one opposition group, the group is entitled to appoint all the opposition allocation of committee chairs, or
  - (b) if there are two or more opposition groups—
    - (i) the opposition groups are (when taken together) entitled to appoint all the opposition allocation of committee chairs, and
    - (ii) the proportion of the opposition allocation of committee chairs which each opposition group (a “relevant group”) is entitled to appoint corresponds to the proportion of members of the opposition groups who are members of the relevant group.
- (5) In giving effect to the principles in subsections (3)(a) and (b) and (4)(b)(ii), the appointment provision—
- (a) must provide for a political group's entitlement to appoint committee chairs to be an entitlement to appoint a whole number of committee chairs, and
  - (b) accordingly, must provide for an entitlement to be rounded off to the nearest whole number if it would not otherwise be a whole number.
- (6) In giving effect to the principles in subsection (3)(a) and (b), the appointment provision made in accordance with subsection (5)(b) must provide for the entitlement of the executive group, or executive groups, to be rounded down to the nearest whole number.
- (7) For the purposes of subsections (5) and (6), zero is to be taken to be a whole number.
- (8) In this section—
- “executive allocation of committee chairs” (“*dyraniad y weithrediaeth o gadeiryddion pwyllgor*”) means the number of committee chairs which—
    - (a) the executive group is entitled to appoint in accordance with subsection (3)(a), or
    - (b) the executive groups are entitled to appoint in accordance with subsection (3)(b);
  - “opposition allocation of committee chairs” (“*dyraniad yr wrthblaid o gadeiryddion pwyllgor*”) means the number of committee chairs remaining after deducting the executive allocation of committee chairs.

#### Commencement Information

**I44** S. 70 in force at 30.4.2012 by S.I. 2012/1187, art. 2(1)(h)

## 71 Failure to make appointments in accordance with section 70

- (1) A local authority's appointment provision complies with this section if it provides—
- (a) for the authority to be required, on each occasion when some or all of the committee chairs (“the unappointed chairs”) which fall to be appointed in accordance with appointment provision that complies with section 70 are

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- not so appointed, to make a determination under subsection (2) of how the unappointed chairs are to be appointed, and
- (b) for the unappointed chairs to be appointed accordingly.
- (2) The determination referred to in subsection (1) is a determination which, so far as reasonably practicable, gives effect to the following principles.
- (3) The first principle is that no executive group is entitled to appoint any of the unappointed chairs.
- (4) The second principle is that—
- (a) if there is only one opposition group and it has made all of its initial appointments, or
- (b) if there are two or more opposition groups and one or more of them have made all of their initial appointments,
- each appointing group is entitled to appoint the proportion of unappointed committee chairs which corresponds to the proportion of completed initial appointments which were appointments made by that group.
- (5) The third principle is that if—
- (a) there are unappointed committee chairs, but
- (b) none of them fall to be appointed as mentioned in subsection (4),
- each unappointed committee chair is to be appointed by the committee which that person is to chair.
- (6) The fourth principle is that if—
- (a) one or more unappointed committee chairs fall to be appointed as mentioned in subsection (4), but
- (b) one or more of them are not so appointed,
- each committee chair not so appointed is to be appointed by the committee which that person is to chair.
- (7) In this section—
- “appointing group” (“*grŵp penodi*”) means an opposition group which makes all of its initial appointments;
- “completed initial appointment” (“*penodiad cychwynnol gorffenedig*”) means an initial appointment that is made;
- “initial appointment” (“*penodiad cychwynnol*”), in relation to a political group, means an appointment which the group is entitled to make in accordance with appointment provision that complies with section 70.

#### Commencement Information

**I45** S. 71 in force at 30.4.2012 by S.I. 2012/1187, art. 2(1)(h)

## 72 Changes in composition of executive

- (1) A local authority's appointment provision complies with this section if it provides for the case set out in subsection (2) by means of provision of the kind referred to in subsections (3) and (4).
- (2) That case is where either or both of the following happen—



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- (a) a political group ceases to be an executive group;
  - (b) a political group begins to be an executive group;
- and it is not the case set out in section 70.
- (3) The appointment provision must provide for the making of—
- (a) a section 70 determination (as if all of the local authority's committee chairs had fallen to be appointed), and
  - (b) a determination of whether there is a difference between—
    - (i) the number of committee chairs that a political group would be entitled to appoint in accordance with the section 70 determination, and
    - (ii) the number of committee chairs holding office at that time who were appointed by that group.
- (4) The appointment provision must provide for any difference of the kind referred to in subsection (3)(b) to be eliminated by either or both of the following—
- (a) the termination of existing appointments of committee chairs;
  - (b) the making of new appointments of committee chairs.
- (5) For the purposes of this section, a political group is to be taken to cease to be an executive group only if, after ceasing to be an executive group, the period of two months (beginning with the day on which it ceases to be an executive group) passes without it becoming an executive group again.

#### Commencement Information

**I46** S. 72 in force at 30.4.2012 by S.I. 2012/1187, art. 2(1)(h)

### 73 Occasional vacancies in committee chairs

- (1) A local authority's appointment provision complies with this section if it provides for the case set out in subsection (2) by means of provision of the kind referred to in subsections (3) and (4).
- (2) That case is where—
- (a) some, but not all, of the authority's committee chairs fall to be appointed, and
  - (b) it is not the case set out in section 72.
- (3) The appointment provision must provide for the making of—
- (a) a section 70 determination (as if all of the local authority's committee chairs had fallen to be appointed), and
  - (b) a determination of whether there is a difference between—
    - (i) the number of committee chairs that a political group would be entitled to appoint in accordance with the section 70 determination, and
    - (ii) the number of committee chairs holding office at that time who were appointed by that group.
- (4) The appointment provision must provide for any difference of the kind referred to in subsection (3)(b) to be eliminated, so far as possible, by the appointment of the committee chair or chairs.

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#### Commencement Information

**I47** S. 73 in force at 30.4.2012 by S.I. 2012/1187, art. 2(1)(h)

### 74 Appointment provision determined by authority

- (1) A local authority's appointment provision complies with this section if the provision—
  - (a) is no less favourable to opposition groups than section 70, and
  - (b) is approved by a resolution of the local authority which has cross-group support.
- (2) Appointment provision is no less favourable to opposition groups than section 70 if it provides—
  - (a) for opposition groups on the local authority (when taken together) to be given the opportunity to appoint a greater number of committee chairs than would be the case with provision made in accordance with section 70, and
  - (b) for each opposition group on the local authority to be given the opportunity to appoint at least the number of committee chairs as would be the case with provision made in accordance with section 70.
- (3) A resolution of the local authority has cross-group support if—
  - (a) the persons voting in favour of the resolution include members of every political group on the authority, and
  - (b) each political group on the authority gives majority support to the resolution.
- (4) A political group on the authority gives majority support to the resolution if the number of members of that group who vote in favour of the resolution is greater than the number of members of that group who vote against the resolution.

#### Commencement Information

**I48** S. 74 in force at 30.4.2012 by S.I. 2012/1187, art. 2(1)(h)

### 75 Supplementary provision and interpretation

- (1) The Welsh Ministers may, by regulations, make provision about—
  - (a) appointment provision, and
  - (b) the appointment of committee chairs in accordance with appointment provision.
- (2) A local authority must, in exercising or deciding whether to exercise a function in connection with appointment provision or the appointment of committee chairs—
  - (a) have regard to guidance given by the Welsh Ministers, and
  - (b) comply with any directions given by the Welsh Ministers.
- (3) In sections 66 to 74 and this section—
 

“appointment provision” (“*darpariaeth benodi*”) has the meaning given in section 66;

“committee chair” (“*cadeirydd pwyllgor*”) has the meaning given in section 66;

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“executive group” (“*grŵp gweithrediaeth*”) means a political group some or all of whose members comprise, or are included in, the executive of the authority;

“opposition group” (“*grŵp gwrthblaid*”) means a political group none of whose members are included in the executive of the authority;

“political group” (“*grŵp gwleidyddol*”), in relation to a local authority, means a group of members of the authority that is a political group for the purposes of Part 1 of the Local Government and Housing Act 1989;

“section 70 determination” (“*dyfarniad adran 70*”) means a determination of the kind referred to in section 70.

- (4) In section 21 of the Local Government Act 2000 (overview and scrutiny committees), after subsection (10) insert—

“(10A) For provision about the appointment of persons to chair overview and scrutiny committees of local authorities in Wales, see sections 66 to 75 of the Local Government (Wales) Measure 2011.”.

#### Commencement Information

**149** S. 75 in force at 30.4.2012 by S.I. 2012/1187, art. 2(1)(h)

### *Co-opted members of overview and scrutiny committees*

## **76 Guidance and directions about co-option**

- (1) A local authority must, in exercising or deciding whether to exercise a co-option function—
- have regard to guidance given by the Welsh Ministers, and
  - comply with directions given by the Welsh Ministers.
- (2) In this section “co-option function” means a function of a local authority that relates to co-opted members of—
- overview and scrutiny committees, or
  - sub-committees of such committees.
- (3) That includes (but is not limited to) a function that relates to appointment of such co-opted members.

### *Provision of information*

## **77 Forward plans and other information**

- (1) The Welsh Ministers may by regulations make provision for or in connection with requiring prescribed information about the exercise of the functions of—
- an overview and scrutiny committee of a local authority, or
  - a sub-committee of such a committee,
- to be made available to members of the public or members of the authority.
- (2) The provision that may be made under subsection (1) includes (but is not limited to)—

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- (a) provision requiring prescribed information to be made available in advance of the exercise of functions mentioned in that subsection, and
- (b) provision as to the way or form in which prescribed information is to be made available.

### *Restricting party control of committees*

## **78 Prohibition of whipped votes & declaration of party whips**

- (1) A member of an overview and scrutiny committee must not vote on a question at a meeting of the committee if, before the meeting, the member has been given a party whip relating to the question (a “prohibited party whip”).
- (2) A vote that is given in breach of subsection (1) must be disregarded.
- (3) Standing orders must provide that, at each meeting of an overview and scrutiny committee of a local authority, each member of the committee must declare any prohibited party whip which the member has been given in relation to the meeting.
- (4) Standing orders must require the minutes of each meeting of an overview and scrutiny committee to record all such declarations of prohibited party whips made at the meeting.
- (5) It is for the person chairing a meeting of an overview and scrutiny committee to determine whether a member of the committee has been given a prohibited party whip in relation to the meeting.
- (6) If the decision of a question by an overview and scrutiny committee is materially affected by a breach of this section, the decision is to be treated as if it had not been made.
- (7) Subsection (6) does not affect any act or omission of any person apart from the overview and scrutiny committee.
- (8) For the purposes of subsection (6), the decision of a question by an overview and scrutiny committee is materially affected by a breach of this section if—
  - (a) one or more members of the committee vote on the question in breach of subsection (1),
  - (b) one or more of the votes mentioned in paragraph (a) is not disregarded in accordance with subsection (2), and
  - (c) the decision on the question would have been different if the vote or votes mentioned in paragraph (b) had been disregarded in accordance with subsection (2).
- (9) This section applies in relation to a sub-committee of an overview and scrutiny committee as it applies to the overview and scrutiny committee (and references in this section to an overview and scrutiny committee are accordingly to be read as including references to such a sub-committee).
- (10) In this section—
  - “party whip” (“*cyfarwyddyd chwip plaid*”) means an instruction (however expressed) which—
    - (a) is given on behalf of a political group on a local authority;
    - (b) is given to a person (P) who is—

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- (i) a member of the political group, and
  - (ii) a member of an overview and scrutiny committee of the local authority;
  - (c) is an instruction as to how P should vote on a question falling to be decided by the committee; and
  - (d) if not complied with by P, would be likely to make P liable to disciplinary action by the political group which gives the instruction;
- “political group” (“*grŵp gwleidyddol*”) means a group of members of a local authority that is a political group for the purposes of Part 1 of the Local Government and Housing Act 1989;
- “standing orders” (“*rheolau sefydlog*”), in relation to an overview and scrutiny committee, means standing orders regulating the proceedings and business of that committee.

#### Commencement Information

**I50** S. 78 in force at 30.4.2012 by S.I. 2012/1187, art. 2(1)(i)

### *Overview and scrutiny committee structure*

## 79 Guidance and directions

- (1) The Welsh Ministers may give a local authority—
  - (a) guidance about the authority's overview and scrutiny committee structure, or
  - (b) directions about the authority's overview and scrutiny committee structure.
- (2) A local authority must have regard to guidance given by the Welsh Ministers under this section.
- (3) A local authority must comply with directions given by the Welsh Ministers under this section.
- (4) In this section, references to a local authority's overview and scrutiny committee structure include (but are not limited to) references to the following things—
  - (a) the number of overview and scrutiny committees which the authority has;
  - (b) the number of sub-committees (if any) which overview and scrutiny committees of the authority have;
  - (c) the functions of overview and scrutiny committees of the authority;
  - (d) the functions of sub-committees of overview and scrutiny committees of the authority.

### *Interpretation*

## 80 Interpretation of this Chapter

In this Chapter—

“co-opted member” (“*aelod cyfetholedig*”), in relation to an overview and scrutiny committee of a local authority, or a sub-committee of such a committee, means a person who is—

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- (a) a member of the committee or sub-committee, but
- (b) not a member of the local authority;

“overview and scrutiny committee” (“*pwyllogor trosolwg a chraffu*”) has the same meaning as in Part 2 of the Local Government Act 2000 (see section 21 of that Act).

## CHAPTER 2

### AUDIT COMMITTEES

#### 81 Local authorities to appoint audit committees

- (1) A local authority must appoint a committee (an “audit committee”) to—
  - (a) review and scrutinise the authority's financial affairs,
  - (b) make reports and recommendations in relation to the authority's financial affairs,
  - (c) review and assess the risk management, internal control and corporate governance arrangements of the authority,
  - (d) make reports and recommendations to the authority on the adequacy and effectiveness of those arrangements,
  - (e) oversee the authority's internal and external audit arrangements, and
  - (f) review the financial statements prepared by the authority.
- (2) A local authority may confer on its audit committee such other functions as the authority considers suitable to be exercised by such a committee.
- (3) It is for an audit committee to determine how to exercise its functions.

#### Commencement Information

**I51** S. 81 in force at 30.4.2012 by S.I. 2012/1187, art. 2(1)(j)

#### 82 Membership

- (1) A local authority is to appoint the members of its audit committee.
- (2) A local authority must secure that—
  - (a) at least two-thirds of the members of its audit committee are members of the authority;
  - (b) at least one member of its audit committee is a lay member;
  - (c) no more than one of the members of its audit committee is a member of the authority's executive;
  - (d) the senior member of its executive is not a member of its audit committee.
- (3) Subsection (2)(c) does not require the membership of a local authority's audit committee to include a member of the authority's executive.
- (4) The appointment of a person as a member of an audit committee has no effect if the membership of the committee breaches subsection (2) immediately after the appointment (whether or not by virtue of the appointment).

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- (5) In a case where one or more persons are to become, or to cease to be, members of an audit committee at a particular time, all those changes of membership are to be taken into account in determining whether the membership of the committee breaches subsection (2).
- (6) An act of an audit committee is invalid if the membership of the committee breaches subsection (2).

#### Commencement Information

**I52** S. 82 in force at 30.4.2012 by S.I. 2012/1187, art. 2(1)(j)

### 83 Proceedings etc

- (1) An audit committee is to appoint the person who is to chair the committee (who may be a member of the authority or a lay member but who must not be a member of an executive group).
- (2) If there are no opposition groups, the person who is to chair the audit committee may be a member of an executive group but must not be a member of the local authority's executive.
- (3) All members of an audit committee may vote on any question that falls to be decided by the committee.
- (4) An audit committee of a local authority—
  - (a) may require members and officers of the authority to attend before it to answer questions, and
  - (b) may invite other persons to attend meetings of the committee.
- (5) It is the duty of any member or officer of a local authority to comply with any requirement imposed under subsection (4)(a).
- (6) A person is not obliged by subsection (5) to answer any question which the person would be entitled to refuse to answer in, or for the purposes of, proceedings in a court in England and Wales.
- (7) An audit committee is to be treated as a committee of a principal council for the purposes of Part 5A of the Local Government Act 1972 (access to meetings and documents of certain authorities, committees and sub-committees).
- (8) For the purposes of subsections (1) and (2), the expressions “executive group” and “opposition group” have the same meaning as in section 75.

#### Commencement Information

**I53** S. 83 in force at 30.4.2012 by S.I. 2012/1187, art. 2(1)(j)

### 84 Frequency of meetings

- (1) An audit committee must meet once in every calendar year.
- (2) The audit committee of a local authority must also meet if—

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- (a) the local authority resolves that the committee should meet, or
  - (b) at least one-third of the members of the committee requisition a meeting by one or more notices in writing given to the person who chairs the committee.
- (3) It is the duty of the person who chairs an audit committee to secure that meetings of the committee are held as required by subsections (1) and (2).
- (4) This section does not prevent an audit committee from meeting otherwise than as required by this section.

#### Commencement Information

**I54** S. 84 in force at 30.4.2012 by S.I. 2012/1187, art. 2(1)(j)

## 85 Guidance

- (1) The Welsh Ministers may give guidance to local authorities—
- (a) about the functions of audit committees and the exercise of those functions, or
  - (b) about the membership of audit committees.
- (2) A local authority and its audit committee must have regard to guidance given by the Welsh Ministers under subsection (1).

#### Commencement Information

**I55** S. 85 in force at 30.4.2012 by S.I. 2012/1187, art. 2(1)(j)

## 86 Termination of membership on ceasing to be member of authority

- (1) This section applies to a person (P) who is—
- (a) appointed to be a member of an audit committee of a local authority, and
  - (b) is a member of the authority at the time of that appointment.
- (2) If P ceases to be a member of the authority, P also ceases to be a member of the audit committee.
- (3) But subsection (2) does not apply if P—
- (a) ceases to be a member of the authority by reason of retirement, and
  - (b) is re-elected a member of the authority not later than the day of retirement.
- (4) Subsection (3) is subject to the standing orders of the authority or the audit committee.

#### Commencement Information

**I56** S. 86 in force at 30.4.2012 by S.I. 2012/1187, art. 2(1)(j)



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## 87 Interpretation etc

(1) Expressions used in this Chapter and in Part 2 of the Local Government Act 2000 (or in an instrument made under that Part of that Act) have the same meanings in this Chapter as in that Part of that Act (or in that instrument).

(2) In this Chapter—

“audit committee” (“*pwyllgor archwilio*”) has the meaning given in section 81;

“lay member” (“*aelod lleyg*”) means a person who is not a member of a local authority;

“senior member of a local authority” (“*aelod hŷn awdurdod lleol*”) means—

(a) in the case of a local authority which operates a leader and cabinet executive (Wales), the executive leader;

(b) in the case of a local authority which operates a mayor and cabinet executive, the mayor.

<sup>F6</sup>(3) .....

### Textual Amendments

**F6** S. 87(3) repealed (10.7.2011) by [Local Government \(Wales\) Measure 2011 \(nawm 4\)](#), s. 178(2), [Sch. 4 Pt. B](#) (with s. 36(5)-(8))

### Commencement Information

**I57** S. 87 in force at 30.4.2012 by [S.I. 2012/1187](#), [art. 2\(1\)\(j\)](#)

## PART 7

### COMMUNITIES AND COMMUNITY COUNCILS

#### CHAPTER 1

#### COMMUNITY MEETINGS AND COMMUNITY POLLS

## 88 Convening of community meetings by local government electors

(1) Paragraph 30 of Schedule 12 to the Local Government Act 1972 is amended as follows—

(a) for sub-paragraph (1) substitute—

“(1) Where there is a community council for a community, a community meeting may be convened at any time by the chairman of the council or by any two councillors representing the community on the council.”;

(b) in sub-paragraph (2), for “any community meeting” substitute “ a community meeting convened under sub-paragraph (1) above ”;

(c) in sub-paragraphs (3) and (4), for “a community meeting” substitute “ a community meeting convened under sub-paragraph (1) above ”;

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- (d) in sub-paragraph (3), for “any of the matters mentioned in section 29B(4) of this Act” substitute “the existence of the community council or the grouping of the community with other communities”;
- (e) at the end of the paragraph insert—

“(5) For the purposes of sub-paragraph (3) above, business relates to the existence of the community council or the grouping of the community with other communities if it relates to any function of a community meeting under sections 27A to 27L of this Act.”.

- (2) After paragraph 30 of Schedule 12 to the Local Government Act 1972 insert the following—

- “30A A community meeting may also be convened at any time by not less than—
- (a) 10% of the local government electors for the community, or
  - (b) 50 of the electors (if 10% of the electors exceeds 50 electors).”.

**Commencement Information**

**I58** S. 88 in force at 30.4.2012 by S.I. 2012/1187, art. 2(1)(k)

**89 Notice of community meeting convened by local government electors**

After paragraph 30A of Schedule 12 to the Local Government Act 1972 insert the following—

- “30B (1) Where a group of individuals assert that they have convened a community meeting under paragraph 30A above, those individuals must ensure that a notice which complies with the following requirements of this paragraph is given—
- (a) in a case where there is a community council for the community, to the community council, or
  - (b) in a case where there is no community council for the community, to the principal council within whose area the community lies.
- (2) The notice must contain—
- (a) unless sub-paragraph (5) below applies to an individual, the name and address of each of the individuals who assert that they have convened a community meeting under paragraph 30A;
  - (b) unless sub-paragraph (5) below applies to an individual, the signature of each of those individuals;
  - (c) the business which is proposed to be transacted at the meeting;
  - (d) the proposed time and place at which the meeting is to be held.
- (3) The notice must—
- (a) where it is given under sub-paragraph (1)(a) above, be in writing (but not in an electronic form);
  - (b) where it is given under sub-paragraph (1)(b) above, be—

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- (i) in writing (but not in an electronic form), or
  - (ii) in an electronic form which meets the technical requirements set by the principal council under paragraph 30C below.
- (4) In sub-paragraph (2) above—
- (a) “address” means the individual's qualifying address for the purposes of the register of local government electors maintained under section 9(1)(b) of the Representation of the People Act 1983 for the local government area (within the meaning of that Act) in which the community lies;
  - (b) “signature” means—
    - (i) where a notice is in writing, an individual's signature or, if the individual cannot give a signature, a signature given on the individual's behalf by a duly authorised individual who, in giving that signature, declares that he or she is so authorised;
    - (ii) where a notice is in an electronic form, an electronic signature in respect of an individual which meets the authentication requirements for such signatures set by the principal council under paragraph 30C below.
- (5) This sub-paragraph applies to an individual in respect of whom an anonymous entry under section 9B of the Representation of the People Act 1983 has been made in a register of local government electors.
- (6) Where sub-paragraph (5) above applies to an individual, the notice referred to in sub-paragraph (2) above—
- (a) need not include the individual's name and address and, if it does not do so, must instead include the contents of the anonymous entry made in respect of the individual in the register of local government electors, and
  - (b) need not include a signature in respect of the individual.
- (7) Where a notice is in electronic form, it is to be treated as given to a principal council when the notice is given in accordance with whatever requirements the council has set as to the giving of such notices under paragraph 30C(2) below.”.

**Commencement Information**

**159** S. 89 in force at 30.4.2012 by S.I. 2012/1187, art. 2(1)(k)

**90 Facility for the provision of electronic notices of the convening of community meetings**

After paragraph 30B of Schedule 12 to the Local Government Act 1972 insert the following—

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- “30C (1) A principal council must provide a facility so that notices under paragraph 30B(1)(b) above may be given to the council in electronic form (“electronic notices”).
- (2) The council must set and, to such extent as the council considers appropriate, publicise the following requirements for electronic notices—
- (a) the authentication requirements to be met by an electronic signature included within an electronic notice, and
  - (b) the other technical requirements to be met by and in relation to an electronic notice.”.

**Commencement Information**

**I60** S. 90 in force at 30.4.2012 by S.I. 2012/1187, art. 2(1)(k)

**91 Action following receipt of notice of the convening of a community meeting**

After paragraph 30C of Schedule 12 to the Local Government Act 1972 insert the following—

- “30D (1) Where a principal council or a community council has been given a notice under paragraph 30B above, the council must consider—
- (a) whether the group of individuals to whom the notice relates is comprised of—
    - (i) at least 50 local government electors for the community in question, or
    - (ii) at least 10% of the local government electors for the community in question, and
  - (b) whether the notice meets the requirements of paragraph 30B above.
- (2) If the council is of the opinion that—
- (a) the group of individuals to whom the notice relates is comprised of electors as described in paragraph (1)(a)(i) or (ii) above, and
  - (b) the notice meets the requirements of paragraph 30B above,
- the council must give a public notice in accordance with paragraph 30E below.
- (3) If the council is not of the opinion described in paragraph (2) above, the council must take all reasonable steps to give notice to the individuals to whom the notice relates as to why the council is not of that opinion.
- (4) The relevant registration officer must supply the council with any information in relation to an individual in respect of whom the notice under paragraph 30B includes an anonymous entry, by virtue of sub-paragraph (6) (a) of that paragraph, that it is necessary for the council to have in order to perform the council's functions under this paragraph.
- (5) In sub-paragraph (4) above, “relevant registration officer” means the registration officer under section 8 of the Representation of the People Act

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1983 in relation to the register of local government electors maintained under section 9(1)(b) of that Act for the local government area (within the meaning of that Act) in which the community in question lies.”.

#### Commencement Information

I61 S. 91 in force at 30.4.2012 by S.I. 2012/1187, art. 2(1)(k)

## 92 Public notice of community meeting

After paragraph 30D of Schedule 12 to the Local Government Act 1972 insert the following—

- “30E (1) The public notice required by paragraph 30D(2) above must be given within a period of 30 days beginning with the day on which the council became of the opinion described in that paragraph.
- (2) Except in a case falling within sub-paragraph (3) below, the public notice must be given not less than seven clear days before the community meeting.
- (3) Where any business proposed to be transacted at the meeting relates to the existence of the community council or the grouping of the community with other communities, the public notice must be given not less than 30 clear days before the meeting.
- (4) The public notice must—
- specify the time and place of the intended meeting;
  - specify the business to be transacted at the meeting;
  - be signed by the proper officer.
- (5) In specifying a time and place for the purposes of sub-paragraph (4)(a) above, the council must take into account the proposed time and place contained in the notice given to the council under paragraph 30B(2)(d) above.
- (6) The business specified for the purposes of sub-paragraph (4)(b) above must be the same as that contained in the notice given to the council under paragraph 30B(2)(c) above.
- (7) Public notice of a community meeting shall be given—
- by posting a notice of the meeting in some conspicuous place or places in the community,
  - in such other manner, if any, as appears to the council to be desirable for giving publicity to the meeting.
- (8) For the purposes of sub-paragraph (3) above, business relates to the existence of the community council or the grouping of the community with other communities if it relates to any function of a community meeting under sections 27A to 27L of this Act.”.

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**Commencement Information**

**I62** S. 92 in force at 30.4.2012 by S.I. 2012/1187, art. 2(1)(k)

**93 Demands for community polls**

For sub-paragraph (4) of paragraph 34 of Schedule 12 to the Local Government Act 1972 substitute the following—

- “(4) A poll may be demanded before the conclusion of a community meeting on any question arising at the meeting; but no poll shall be taken unless—
- (a) the poll is demanded by a majority of the local government electors present at the meeting, and
  - (b) the electors demanding a poll constitute not less than—
    - (i) 10% of the local government electors for the community, or
    - (ii) 150 of the electors (if 10% of the electors exceeds 150 electors).”.

**Commencement Information**

**I63** S. 93 in force at 30.4.2012 by S.I. 2012/1187, art. 2(1)(k)

**94 Notice to be given by returning officer following taking of a poll consequent on a community meeting**

After paragraph 38 of Schedule 12 to the Local Government Act 1972 insert the following—

- “38A (1) This paragraph applies to a poll (other than a poll to which sub-paragraph (2) below refers) consequent on a community meeting where a majority of those voting were in favour of the question in relation to which the poll was taken.
- (2) This paragraph does not apply to a poll taken on a question of a type specified in regulations made by the Welsh Ministers.
  - (3) The returning officer in relation to the poll must give notice in writing to the monitoring officer (within the meaning of section 5 of the Local Government and Housing Act 1989) of the relevant principal council of—
    - (a) the question posed by the poll, and
    - (b) the fact that that a majority of those voting were in favour of that question.
  - (4) In sub-paragraph (3) above, “relevant principal council” means the principal council in whose area lies the community of the community meeting at which the poll was demanded.
  - (5) The power of the Welsh Ministers to make regulations under sub-paragraph (2) above is exercisable by statutory instrument.

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- (6) A statutory instrument which contains regulations under sub-paragraph (2) above is subject to annulment in pursuance of a resolution of the National Assembly for Wales.”.

#### Commencement Information

I64 S. 94 in force at 30.4.2012 by S.I. 2012/1187, art. 2(1)(k)

### 95 Determination of monitoring officer as to the council to whose functions a poll relates

- (1) After paragraph 38A of Schedule 12 to the Local Government Act 1972 insert the following—

“38B (1) Within a period of 14 days beginning with the day on which notice was given under paragraph 38A(3) above, the monitoring officer must determine whether, in the officer's opinion, the question in relation to which the poll was taken corresponds to any of the descriptions in sub-paragraph (2) below.

(2) Those descriptions are—

- (a) a question which relates only to the functions of the principal council,
- (b) a question which relates only to the functions of a community council for the relevant community,
- (c) a question which relates to the functions of the principal council and the functions of a community council for the relevant community.

(3) If the monitoring officer determines that the question in relation to which the poll was taken corresponds to the description in sub-paragraph (2)(a) above, the officer must give notice of that determination to the principal council (see section 33B of this Act for the duties of the council upon being given such notice).

(4) If the monitoring officer determines that the question in relation to which the poll was taken corresponds to the description in sub-paragraph (2) (b) above, the officer must give notice of that determination to the community council (see paragraphs 26A and 29A above for the duties arising following the giving of such a notice).

(5) If the monitoring officer determines that the question in relation to which the poll was taken corresponds to the description in sub-paragraph (2)(c) above, the officer must—

- (a) to the extent that the determination concludes that the question relates to the functions of the principal council, give notice of the determination to the principal council (see section 33B of this Act for the duties of the council upon being given such notice), and
- (b) to the extent that the determination concludes that the question relates to the functions of the community council, give notice of the determination to the community council (see paragraphs 26A

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and 29A above for the duties arising following the giving of such a notice).

(6) A notice required to be given by this paragraph must—

- (a) be given in writing,
- (b) be given as soon as is reasonably practicable after the date of determination, and
- (c) include the monitoring officer's reasons for the determination to which the notice relates.”.

(2) After subsection (8A) of section 5 of the Local Government and Housing Act 1989 (designation and reports of monitoring officer) insert the following—

“(8B) Any reference in this section to the duties of a monitoring officer imposed by this section, or to the duties of a monitoring officer under this section, shall include a reference to duties conferred on a monitoring officer by paragraph 38B of Schedule 12 to the Local Government Act 1972 (duties of monitoring officer for principal council in Wales in relation to polls consequent on community meetings).”.

**Commencement Information**

**I65** S. 95 in force at 30.4.2012 by S.I. 2012/1187, art. 2(1)(k)

**96 Consideration of result of community poll by community council**

After paragraph 26 of Schedule 12 to the Local Government Act 1972 insert the following—

- “26A (1) This paragraph applies where a community council has been given a notice under sub-paragraph (4) or (5)(b) of paragraph 38B below.
- (2) The community council must ensure that the question of what action (if any) the council should take in response to the community poll, or the part of the community poll, to which the notice relates is included within the business to be transacted at a meeting of the community council held within the relevant period.
- (3) If it is necessary for the chairman of the community council to exercise his power under paragraph 25(1) above to call an extraordinary meeting of a community council in order for the community council to comply with sub-paragraph (2) above, the chairman must so exercise that power.
- (4) In sub-paragraph (2) “relevant period” means the period of six weeks beginning with the day following that on which the notice referred to in sub-paragraph (1) was given.”.

**Commencement Information**

**I66** S. 96 in force at 30.4.2012 by S.I. 2012/1187, art. 2(1)(k)



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**97 Action to be taken following community council's consideration of results of certain community polls**

After paragraph 29 of Schedule 12 to the Local Government Act 1972 insert the following—

“29A (1) applies where—

- (a) a meeting of a community council has considered the question of what action (if any) the council is to take in response to a poll consequent on a community meeting,
  - (b) that question was included within the business to be transacted at the meeting in order to comply with paragraph 26A(2) above, and
  - (c) the poll was taken following a demand being made at a community meeting which was convened under paragraph 30A below.
- (2) The council must take all reasonable steps to give notice to each of the individuals who convened the community meeting referred to in sub-paragraph (1) above of what action (if any) the council intends to take in response to the poll, or that part of the poll which was considered at the meeting.
- (3) Notice under sub-paragraph (2) above must be given—
- (a) subject to sub-paragraph (4) below, in writing by sending it to the address given in respect of an individual in the relevant convening notice, and
  - (b) as soon as is reasonably practicable after the meeting of the community council was held.
- (4) Where an individual falling within sub-paragraph (2) above is an anonymous registrant in the register of local government electors, sub-paragraph (3)(a) above does not apply and the notice must instead be given in writing to the principal council within whose area the community in question lies.
- (5) The notice under sub-paragraph (4) above must include the entry in respect of the individual which was included in the relevant convening notice.
- (6) Where a principal council is given notice under sub-paragraph (4)—
- (a) the council must, as soon as reasonably practicable, send the notice to the individual concerned, and
  - (b) for that purpose and for the purposes of paragraph 30D below, section 9B(8) of the Representation of the People Act 1983 (communications with anonymous registrants) shall have effect as if the council were an officer referred to in that section.
- (7) The relevant registration officer must supply the principal council with any information that it is necessary for the council to have in order to comply with the duty under sub-paragraph (6) above.
- (8) In this paragraph—
- “anonymous registrant in the register of local government electors” means an individual in respect of whom the relevant

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convening notice included an entry referred to in paragraph 30B(6) (a) below;

“relevant convening notice” means the notice given to the council under paragraph 30B below which preceded the holding of the community meeting at which the poll in question was demanded;

“relevant registration officer” means the registration officer under section 8 of the Representation of the People Act 1983 in relation to the register of electors for the local government area (within the meaning of that Act) in which the community in question lies.”.

#### Commencement Information

**I67** S. 97 in force at 30.4.2012 by S.I. 2012/1187, art. 2(1)(k)

## 98 Consideration of result of community poll by principal council

After section 33A of the Local Government Act 1972 insert the following—

### “33B Principal council's response to a community poll

- (1) This section applies where a principal council has been given a notice under paragraph 38B(3) or (5)(a) of Schedule 12 to this Act which contains a determination that a question in relation to which a poll consequent on a community meeting was taken relates to the council's functions.
- (2) The council must, during the relevant period, perform one of the actions described in subsection (4).
- (3) If the council chooses to perform more than one action, the council may do so during or after the relevant period.
- (4) The actions referred to in subsection (2) are as follows—
  - (a) to exercise the council's functions in accordance with the question in relation to which the poll was taken;
  - (b) to include the question of what action (if any) the council should take in response to the community poll within the business to be transacted at a meeting of the principal council held within the relevant period (and for this purpose a meeting of a committee or sub-committee of the council does not count);
  - (c) to initiate a consultation exercise which seeks the views of such members of the public as the council considers appropriate about what action (if any) the council should take in response to the community poll;
  - (d) to hold a meeting open to members of the public, at such venue as the council considers appropriate, for the purpose of seeking the views of members of the public about what action (if any) the council should take in response to the community poll;
  - (e) to initiate research for the purpose of assisting the council to decide what action (if any) it should take in response to the community poll;

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- (f) to refer the question of what action (if any) the council should take in response to the community poll to an overview and scrutiny committee with a request that the committee reports its conclusions to the council.
- (5) In this section the “relevant period” means the period of two months beginning on the day following that on which the notice referred to in subsection (1) was given.”.

#### Commencement Information

**I68** S. 98 in force at 30.4.2012 by S.I. 2012/1187, art. 2(1)(k)

## 99 Principal council's explanation of its response to a community poll

After section 33B of the Local Government Act 1972 insert the following—

### “33C Principal council's explanation of its response to a community poll

- (1) As soon as is reasonably practicable following the end of the relevant period for the purposes of section 33B of this Act, a principal council must take all reasonable steps to give the chairman of, or person who presided at, the community meeting referred to in subsection (1) of that section a notice in writing which—
  - (a) describes what action the council has taken in response to the community poll to which the notice relates, and
  - (b) describes what further action (if any) the council intends to take.
- (2) If notice cannot be given to the chairman of, or person who presided at, the community meeting—
  - (a) in the case of a community meeting convened under paragraph 30 of Schedule 12 to this Act, the notice must instead be given to the chairman of the community council for the community;
  - (b) in the case of a community meeting convened under paragraph 30A of Schedule 12 to this Act, the principal council must instead take all reasonable steps to give notice to each of the individuals who convened the community meeting.
- (3) Subject to subsection (5), notice under subsection (2)(b) is to be given by sending the notice to the address given in respect of an individual in the relevant convening notice.
- (4) In subsection (3), “relevant convening notice” means the notice given to the council under paragraph 30B of Schedule 12 to this Act which preceded the holding of the community meeting at which the poll in question was demanded.
- (5) Where an individual is an anonymous registrant in the register of local government electors (within the meaning of paragraph 29A of Schedule 12 to this Act), the duty under subsection (3) does not apply and notice shall instead be given, and related functions performed, in accordance with sub-paragraphs (4) to (8) of paragraph 29A of Schedule 12 to this Act.
- (6) The council must publish the notice on its website for a period of at least six months, beginning with the day on which the notice was given.”.

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**Commencement Information**

**I69** S. 99 in force at 30.4.2012 by S.I. 2012/1187, art. 2(1)(k)

## CHAPTER 2

### ORGANISATION OF COMMUNITIES AND THEIR COUNCILS

**100 Repeal of existing provisions about establishment and dissolution of community councils etc**

Sections 28 to 29B of the Local Government Act 1972 are omitted.

**101 Power of community meeting to apply for an order establishing a community council**

After section 27 of the Local Government Act 1972 insert the following—

**“27A Power of community meeting to apply for an order establishing a community council**

- (1) This section sets out the conditions that must be met before an application may be made by a community meeting of a community which does not have a separate council for an order under section 27B establishing a separate council for the community.
- (2) The first condition is that the community meeting has taken an effective decision to hold a poll on a proposal to establish a separate council for the community.
- (3) For the purposes of the first condition a decision is only effective if not less than—
  - (a) 10% of the local government electors for the community, or
  - (b) 150 of the electors (if 10% of the electors exceeds 150 electors),
 are present and voting at the community meeting.
- (4) The second condition is that the poll is not held before the end of the period of 42 days beginning with the day on which the decision to hold the poll was taken.
- (5) The third condition is that the poll is not held within two years of an earlier poll which resulted in a rejection of a proposal to establish a separate council for the community (that period of two years beginning with the day on which the earlier poll was held).
- (6) The fourth condition is that a majority of those voting in the poll support the proposal to establish a separate council for the community.
- (7) Paragraph 34 of Schedule 12 to this Act (voting at community meetings) shall have effect subject to the provisions of this section.”

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## **102 Orders establishing separate community councils for communities**

After section 27A of the Local Government Act 1972 insert the following—

### **“27B Orders establishing separate community councils for communities**

- (1) This section applies where a community meeting of a community which does not have a separate council applies to the principal council within whose area it lies for an order establishing a separate council for the community.
- (2) The principal council must consider whether it is satisfied that—
  - (a) the conditions in section 27A are met; and
  - (b) any relevant requirements of Schedule 12 have been met.
- (3) If the council is so satisfied, the council must make the order applied for (but this is subject to subsections (4) to (6) below).
- (4) The order shall make such provision as appears to the principal council to be necessary for the election of a community council in accordance with this Act and Part I of the Representation of the People Act 1983.
- (5) No order shall be made so as to establish a separate community council for a community grouped under a common community council unless—
  - (a) the community is separated from the group, or
  - (b) the group is dissolved,by the order, or by an order under section 27J or section 27L below.
- (6) Where, in a case to which subsection (5) above applies, the group is not dissolved, the order under this section shall make such provision as appears to the principal council to be necessary for the alteration of the group's community council.”.

## **103 Power of community meeting to apply for an order dissolving its separate community council**

After section 27B of the Local Government Act 1972 insert the following—

### **“27C Power of community meeting to apply for an order dissolving its separate community council**

- (1) This section sets out the conditions that must be met before an application may be made by a community meeting of a community which has a separate council for an order under section 27D dissolving the council.
- (2) The first condition is that the community meeting has taken an effective decision to hold a poll on a proposal to dissolve the council for the community.
- (3) For the purposes of the first condition a decision is only effective if not less than—
  - (a) 30% of the local government electors for the community, or
  - (b) 300 of the electors (if 30% of the electors exceeds 300 electors),are present and voting at the community meeting.

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- (4) The second condition is that the poll is not held before the end of the period of 42 days beginning with the day on which the decision to hold the poll was taken.
- (5) The third condition is that the poll is not held within two years of an earlier poll which resulted in a rejection of a proposal to dissolve the separate council for the community (that period of two years beginning with the day on which the earlier poll was held).
- (6) The fourth condition is that at least two-thirds of those voting in the poll support the proposal to dissolve the separate council for the community.
- (7) Paragraph 34 of Schedule 12 to this Act (voting at community meetings) shall have effect subject to the provisions of this section.”.

#### **104 Orders dissolving separate community councils for communities**

After section 27C of the Local Government Act 1972 insert the following—

##### **“27D Orders dissolving separate community councils for communities**

- (1) This section applies where a community meeting of a community which has a separate council applies to the principal council within whose area it lies for an order dissolving the council for the community.
- (2) The principal council must consider whether it is satisfied that—
  - (a) the conditions in section 27C are met; and
  - (b) any relevant requirements of Schedule 12 have been met.
- (3) If the council is so satisfied, the council must make the order applied for.”.

#### **105 Power of community meeting to apply for an order grouping its community with other communities under a common community council**

After section 27D of the Local Government Act 1972 insert the following—

##### **“27E Power of community meeting to apply for an order grouping its community with other communities under a common community council**

- (1) This section sets out the conditions that must be met before an application may be made by a community meeting for an order under section 27F grouping the community with some neighbouring community or communities which lie in the same principal area as the community, under a common community council.
- (2) The first condition is that the community meeting has taken an effective decision to hold a poll on a proposal to group the community with a neighbouring community or communities which lie in the same principal area as the community, under a common community council.
- (3) For the purposes of the first condition a decision is only effective if not less than—
  - (a) 10% of the local government electors for the community, or
  - (b) 150 of the electors (if 10% of the electors exceeds 150 electors),
 are present and voting at the community meeting.

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- (4) The second condition is that the poll is not held before the end of the period of 42 days beginning with the day on which the decision to hold the poll was taken.
- (5) The third condition is that the poll is not held within two years of an earlier poll which resulted in a rejection of an identical proposal to group the community with a neighbouring community or communities (that period of two years beginning with the day on which the earlier poll was held).
- (6) The fourth condition is that a majority of those voting in the poll support the proposal to group the community with a neighbouring community or communities which lie in the same principal area as the community, under a common community council.
- (7) The fifth condition is that the application is made jointly with the community meeting, or meetings, for the community, or communities to be grouped under the common community council.
- (8) Paragraph 34 of Schedule 12 to this Act (voting at community meetings) shall have effect subject to the provisions of this section.”

## **106 Orders grouping a community with other communities under a common community council**

After section 27E of the Local Government Act 1972 insert the following—

### **“27F Orders grouping a community with other communities under a common community council**

- (1) This section applies where a community meeting of a community applies to the principal council within whose area it lies for an order grouping the community with some neighbouring community or communities which lie in the same principal area as the community, under a common community council.
- (2) The principal council must consider whether it is satisfied that—
  - (a) the conditions in section 27E are met; and
  - (b) any relevant requirements of Schedule 12 have been met.
- (3) If the council is so satisfied, the council must make the order applied for (but this is subject to subsections (4) to (7) below).
- (4) The order shall provide for the name of the group in both an English and a Welsh form.
- (5) The order shall—
  - (a) make such provision as appears to the principal council to be necessary for the election, in accordance with this Act and Part I of the Representation of the People Act 1983, of separate representatives on the community council for each community or for the wards of any community, and
  - (b) provide for the dissolution of the separate community council of any community included in the group.
- (6) The order shall make such provision as appears to the principal council to be necessary for the application to the communities included in the group of all

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or any of the provisions of section 79 of the Charities Act 1993 (parochial charities) and of any of the provisions of this Act with respect to the custody of community documents, so as to preserve the separate rights of each community.

- (7) The order may provide for any necessary adaptations of this Act in relation to the group of communities.”.

**107 Power of community meeting to apply for an order adding its community to a group of communities with a common council**

After section 27F of the Local Government Act 1972 insert the following—

**“27G Power of community meeting to apply for an order adding its community to a group of communities with a common council**

- (1) This section sets out the conditions that must be met before an application may be made by a community meeting for an order under section 27H adding the community to a group of communities all of which lie in the same principal area as the community and for which there is a common community council.
- (2) The first condition is that the community meeting has taken an effective decision to hold a poll on a proposal to add the community to a group of communities all of which lie in the same principal area as the community and for which there is a common community council.
- (3) For the purposes of the first condition a decision is only effective if not less than—
  - (a) 10% of the local government electors for the community, or
  - (b) 150 of the electors (if 10% of the electors exceeds 150 electors),
 are present and voting at the community meeting.
- (4) The second condition is that a majority of those voting in the poll support the proposal to add the community to a group of communities all of which lie in the same principal area as the community and for which there is a common community council.
- (5) The third condition is that a community meeting of each of the communities in the group has made an effective decision to hold a poll on a proposal to consent to the community in question becoming a member of the group.
- (6) For the purposes of the third condition a decision is only effective if not less than—
  - (a) 10% of the local government electors for the community, or
  - (b) 150 of the electors (if 10% of the electors exceeds 150 electors),
 are present and voting at the community meeting.
- (7) The fourth condition is that a majority of those voting in a poll following an effective decision for the purposes of the third condition support the proposal to consent to the community in question becoming a member of the group.
- (8) The fifth condition is that none of the above polls are held within two years of an earlier poll which resulted in a rejection of an identical proposal to add the community in question to the group of communities (that period of two years beginning with the day on which the earlier poll was held).



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- (9) The sixth condition is that none of the above polls are held before the end of the period of 42 days beginning with the day on which the decision to hold that poll was taken.
- (10) Paragraph 34 of Schedule 12 to this Act (voting at community meetings) shall have effect subject to the provisions of this section.”.

## **108 Orders adding a community to a group of communities with a common council**

After section 27G of the Local Government Act 1972 insert the following—

### **“27H Orders adding a community to a group of communities with a common council**

- (1) This section applies where a community meeting of a community applies to the principal council within whose area it lies for an order adding the community to a group of communities all of which lie in the same principal area as the community and for which there is a common community council.
- (2) The principal council must consider whether is it satisfied that—
  - (a) the conditions in section 27G are met; and
  - (b) any relevant requirements of Schedule 12 have been met.
- (3) If the council is so satisfied, the council must make the order applied for (but this is subject to subsections (4) to (7) below).
- (4) order shall provide for the name of the group in both an English and a Welsh form.
- (5) The order shall—
  - (a) make such provision as appears to the principal council to be necessary for the election, in accordance with this Act and Part I of the Representation of the People Act 1983, of separate representatives on the community council for the community that is added to the group or for the wards of that community, and
  - (b) provide for the dissolution of any separate community council for the community that is added to the group.
- (6) The order shall make such provision as appears to the principal council to be necessary for the application to the communities included in the group of all or any of the provisions of section 79 of the Charities Act 1993 (parochial charities) and of any of the provisions of this Act with respect to the custody of community documents, so as to preserve the separate rights of each community.
- (7) The order may provide for any necessary adaptations of this Act in relation to the group of communities.”.

## **109 Power of council for a group of communities to apply for an order dissolving the group**

After section 27H of the Local Government Act 1972 insert the following—

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**“27I Power of council for a group of communities to apply for an order dissolving the group**

- (1) This section sets out the conditions that must be met before an application may be made by a council for a group of communities to the principal council in whose area the communities lie for an order under section 27J below dissolving the group.
- (2) The first condition is that a community meeting of each of the communities in the group has taken an effective decision to hold a poll on a proposal to dissolve the group.
- (3) For the purposes of the first condition a decision is only effective if not less than—
  - (a) 30% of the local government electors for the community, or
  - (b) 300 of the electors (if 30% of the electors exceeds 300 electors),
 are present and voting at the community meeting.
- (4) The second condition is that no poll is held before the end of the period of 42 days beginning with the day on which the decision to hold the poll was taken.
- (5) The third condition is that no poll is held within two years of an earlier poll which resulted in a rejection of a proposal to dissolve the group (that period of two years beginning with the day on which the earlier poll was held).
- (6) The fourth condition is that at least two thirds of those voting in each poll support the proposal to dissolve the group.
- (7) Paragraph 34 of Schedule 12 to this Act (voting at community meetings) shall have effect subject to the provisions of this section.”.

**110 Orders dissolving a group of communities**

After section 27I of the Local Government Act 1972 insert the following—

**“27J Orders dissolving a group of communities**

- (1) This section applies where the council for a group of communities applies to the principal council within whose area the communities lie for an order dissolving the group.
- (2) The principal council must consider whether it is satisfied that—
  - (a) the conditions in section 27I are met; and
  - (b) any relevant requirements of Schedule 12 have been met.
- (3) If the council is so satisfied, the council must make the order applied for (but this is subject to subsection (4)).
- (4) The order shall make such provision as appears to the principal council to be necessary for the election of a community council for any of the communities in the group in accordance with this Act and Part I of the Representation of the People Act 1983.”.

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## **111 Power of community meeting to apply for order separating community from a group of communities**

After section 27J of the Local Government Act 1972 insert the following—

### **“27K Power of community meeting to apply for an order separating community from a group of communities**

- (1) This section sets out the conditions that must be met before an application may be made by a community meeting of a community included in a group of communities for an order under section 27L separating the community from the group.
- (2) The first condition is that a community meeting of the community has taken an effective decision to hold a poll on a proposal to separate the community from its group.
- (3) For the purposes of the first condition a decision is only effective if not less than—
  - (a) 30% of the local government electors for the community, or
  - (b) 300 of the electors (if 30% of the electors exceeds 300 electors),are present and voting at the community meeting.
- (4) The second condition is that the poll is not held before the end of the period of 42 days beginning with the day on which the decision to hold the poll was taken.
- (5) The third condition is that the poll is not held within two years of an earlier poll which resulted in a rejection of a proposal to separate the community from its group (that period of two years beginning with the day on which the earlier poll was held).
- (6) The fourth condition is that at least two-thirds of those voting in the poll support the proposal to separate the community from its group.
- (7) Paragraph 34 of Schedule 12 to this Act (voting at community meetings) shall have effect subject to the provisions of this section.”

## **112 Orders separating a community from a group of communities**

After section 27K of the Local Government Act 1972 insert the following—

### **“27L Orders separating a community from a group of communities**

- (1) This section applies where a community meeting of a community included in a group of communities applies to the principal council within whose area the community lies for an order separating the community from the group.
- (2) The principal council must consider whether is it satisfied that—
  - (a) the conditions in section 27K are met; and
  - (b) any relevant requirements of Schedule 12 have been met.
- (3) If the council is so satisfied, the council must make the order applied for (but this is subject to subsection (4)).

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- (4) The order shall make such provision as appears to the principal council to be necessary for the election of a community council for the community in accordance with this Act and Part I of the Representation of the People Act 1983.”.

### **113 Power of Welsh Ministers to alter voting threshold in connection with organisation of community councils**

After section 27L of the Local Government Act 1972 insert the following—

#### **“27M Power of Welsh Ministers to alter voting thresholds in connection with organisation of community councils**

- (1) The Welsh Ministers may by order amend the following provisions of this Act—
- (a) section 27A(3) and (6);
  - (b) section 27C(3) and (6);
  - (c) section 27E(3) and (6);
  - (d) section 27G(3), (4), (6) and (7);
  - (e) section 27I(3) and (6);
  - (f) section 27K(3) and (6).
- (2) That power includes power to amend provision previously made by an order under subsection (1).
- (3) No order may be made under subsection (1) unless the Welsh Ministers have carried out such consultation as they consider appropriate with the following—
- (a) principal councils in Wales or a body representative of such councils; and
  - (b) community councils in Wales or a body representative of such councils.
- (4) The power of the Welsh Ministers to make an order under subsection (1) is exercisable by statutory instrument.
- (5) A statutory instrument which contains an order under subsection (1) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales.”.

### **114 Organisation of communities and their councils: consequential amendments**

- (1) ment Act 1972 is amended as follows—
- (a) in section 30(5), for “under section 28, 29 or 29A” substitute “ referred to in section 27B, 27D, 27F, 27H, 27J or 27L ”;
  - (b) in section 31—
    - (i) in the heading, for “27 to 29” substitute “ 27A to 27L ”;
    - (ii) in subsection (1), for “28, 29 or 29A” substitute “ 27B, 27D, 27F, 27H, 27J or 27L ”;
  - (c) in section 255(1), for “28, 29 or 29A” substitute “ 27B, 27D, 27F, 27H, 27J or 27L ”.

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## **115 Transitional provision**

Sections 88(1)(d) and (e), 100 to 112, section 114 (“the Chapter 2 provisions”) do not apply in relation to—

- (a) an application made under section 28, 29 or 29A of the Local Government Act 1972 before the date on which the Chapter 2 provisions come into force; and
- (b) an application made after that date but in relation to which a poll as referred to in section 29B(4) was held before the date on which the Chapter 2 provisions come into force.

## **CHAPTER 3**

### **CO-OPTION OF MEMBERS OF COMMUNITY COUNCILS**

## **116 Requirement of public notice where vacancies in community council membership are to be filled by co-option**

- (1) This section applies to the following functions—
  - (a) the power of members of a community council under section 21(2)(a) of the Representation of the People Act 1985 to co-opt a person to fill a vacancy in the membership of the council (power to co-opt in the event of insufficient nominations to fill vacancies in respect of which an election is held);
  - (b) any power or duty of a community council under rules made under section 36(2) of the Representation of the People Act 1983 to co-opt a person to fill a casual vacancy in the membership of the council.
- (2) A function to which this section applies must not be exercised unless public notice of the vacancy or vacancies in question has been given.
- (3) The public notice must be given—
  - (a) in the case of the power to co-opt referred to in subsection (1)(a), by any one of the members of the community council authorised for that purpose by a majority of the other members;
  - (b) in the case of the power or duty to co-opt referred to in subsection (1)(b), by the community council.
- (4) Section 232 of the Local Government Act 1972 (public notices) applies to the giving of a public notice by a member of a community council under subsection (3)(a) as it applies to the giving of a public notice by a community council under subsection (3)(b).
- (5) The public notice must contain—
  - (a) contact details of an individual from whom further information about the vacancy or vacancies in question, and the process for selecting a person for co-option, may be obtained;
  - (b) such other information as—
    - (i) in the case of a notice under subsection (3)(a), the members of the community council consider appropriate, and
    - (ii) in the case of a notice under subsection (3)(b), the community council considers appropriate, and

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- (c) such other information as is required to be included in the notice by any regulations made by the Welsh Ministers.

### **117 Guidance about giving public notice of co-option**

- (1) In exercising functions under subsections (2) to (5) of section 116, the members of a community council and a community council must have regard to guidance given by the Welsh Ministers.
- (2) The reference to functions in subsection (1) includes a reference to functions under section 232 of the Local Government Act 1972 in relation to a notice required to be given under section 116(2).

## **CHAPTER 4**

### **APPOINTMENT OF COMMUNITY YOUTH REPRESENTATIVES**

### **118 Appointment of community youth representatives by community councils**

- (1) A community council may appoint no more than two individuals to act at any one time as community youth representatives (but this is subject to section 119).
- (2) For the purposes of subsection (1) a “community youth representative” is an individual—
- (a) who is over the age of 15 but has not attained the age of 26; and
  - (b) whom the community council considers to be suitable to act as a community representative, that is to represent the interests of those individuals who live, work or receive education or training in the community area who have not attained the age of 26.
- (3) A youth representative is to hold and vacate office in accordance with the terms of the representative's appointment.
- (4) But a youth representative's appointment shall cease if the representative attains the age of 26.

### **119 Notice requirements in connection with youth representative appointments**

- (1) A community council must not appoint an individual as a community youth representative under section 118 unless the council has complied with the requirements of this section.
- (2) The council must give public notice of its intention to make a community youth representative appointment.
- (3) In its application to the giving of a notice under this section, section 232 of the Local Government Act 1972 shall have effect subject to the modifications contained in subsections (4) and (5).
- (4) The first modification is that subsection (1)(b) of section 232 is substituted by the following—
- “(b) by giving the notice to the head teacher and proprietor of any school any part of whose premises is situated within the area of

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- the community or communities for which the community council is established;
- (c) by giving the notice to the principal and governing body of any institution within the further or higher education sector any part of whose premises is situated within the area of the community or communities for which the community council is established; and
  - (d) in such other manner, if any, as appears to the community council to be desirable for ensuring that as many individuals as possible who may be eligible for appointment as community youth representatives are aware that the council intends to appoint such a representative.”.
- (5) The second modification is that the following is inserted at the end of section 232—
- “(3) Where a term used in paragraph (b) or (c) of subsection (1) is defined by the Education Act 1996, that definition shall apply for the purposes of those paragraphs.
  - (4) The reference in subsection (1)(c) to the principal or governing body of an institution includes a reference to a person with functions that are similar to those of a principal or governing body.”.
- (6) The public notice must contain—
- (a) contact details of an individual from whom further information about the appointment, and the process of selecting a person for appointment, may be obtained;
  - (b) such other information as the community council considers appropriate; and
  - (c) such other information as is required to be included in the notice by any regulations made by the Welsh Ministers.

## **120 Guidance about appointment of community youth representatives**

- (1) In exercising functions under sections 118 and 119, a community council must have regard to guidance given by the Welsh Ministers.
- (2) The reference to functions in subsection (1) includes a reference to functions under section 232 of the Local Government Act 1972 as it applies in relation to a notice required to be given under section 119(2) of this Measure.

## **121 Effect of appointment as a community youth representative**

A community youth representative is not a member of the community council which appointed the representative, but the Welsh Ministers may by regulations provide that a community youth representative is to be treated for prescribed purposes as a member of the council which appointed the representative.

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## CHAPTER 5

### REVIEWS OF COMMUNITY AREAS AND ELECTORAL ARRANGEMENTS

#### **122 Reports about discharge of a principal council's function of keeping community areas under review**

After section 55(2) of the Local Government Act 1972 insert the following—

- “(2A) Each Welsh principal council must, every fifteen years, publish a report which describes what the council has done in the previous fifteen years in order to discharge its duty to keep the whole of their area under review for the purpose described in subsection (2).
- (2B) The council must send a copy of any report published under subsection (2A) to the Welsh Commission.
- (2C) The first report under subsection (2A) must be published within four years of the day on which that subsection comes into force.
- (2D) Further reports must be published within fifteen years of the date on which the last report under subsection (2A) was published.”.

#### **123 Reports about discharge of a principal council's function of keeping electoral arrangements for communities under review**

After section 57(4) of the Local Government Act 1972 insert the following—

- “(4A) Each Welsh principal council must, every fifteen years, publish a report which describes what the council has done in the previous fifteen years in order to discharge its duty to keep the whole of the area under review for the purpose described in subsection (4).
- (4B) The council must send a copy of any report published under subsection (4A) to the Welsh Commission.
- (4C) The first report under subsection (4A) must be published within four years of the day on which that subsection comes into force.
- (4D) Further reports must be published within fifteen years of the date on which the last report under subsection (4A) was published.”.

#### **124 Exercise of functions by the Local Government Boundary Commission for Wales on behalf of principal councils**

After section 57 of the Local Government Act 1972 insert the following—

##### **“57A Exercise of functions by the Welsh Commission on behalf of principal councils**

- (1) Arrangements may be made between the Welsh Commission and a principal council in Wales under which the Commission exercises, to whatever extent and subject to whatever terms the parties may agree, all or any of the functions of the principal council referred to in subsection (2).



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(2) The functions are—

- (a) the principal council's function of keeping under review the whole of their area for the purpose specified in section 55(2) or the purpose specified in section 57(4);
- (b) the principal council's function of considering requests specified in section 55(2) or section 57(4).”.

## **125 Sums payable in respect of reviews carried out by the Local Government Boundary Commission for Wales**

After section 56(4) of the Local Government Act 1972 insert the following—

“(4A) A direction given to the Welsh Commission under subsection (4) may require the principal council to pay to the Commission such sum as is specified, or calculated according to a formula contained, in the direction.

(4B) Any dispute as to the sum payable under the direction is to be determined by the Welsh Ministers.

(4C) Any sum payable under a direction under subsection (4) is to be recoverable as a debt due to the Welsh Commission.”.

## **CHAPTER 6**

### **COMMUNITY COUNCILS' POWERS TO PROMOTE WELL-BEING**

## **126 Community councils' powers to promote well-being**

(1) In section 1 of the Local Government Act 2000 (meaning of “local authority” in Part 1 of that Act), at the end of subsection (1)(b) insert “ or a community council ”.

(2) In section 2 of that Act (promotion of well-being), insert the following after subsection (3B)—

“(3C) The community strategy for the area of a community council is the strategy referred to in subsection (3B) that is published by the county council or county borough council in whose area lies the community or communities for which the community council is established.”.

(3) In section 5 of that Act (power to amend or repeal enactments), insert the following after subsection (6)—

“(7) The reference to local authorities in subsection (1) does not include community councils.”.

## **127 Modifications of enactments preventing or obstructing a community council from exercising their well-being power**

(1) The Welsh Ministers may by order make modifications of any enactment if they consider that the enactment prevents or obstructs community councils from exercising their power under section 2(1) of the Local Government Act 2000 (promotion of well-being).

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- (2) The power under subsection (1) may be exercised in relation to—
  - (a) all community councils,
  - (b) particular community councils, or
  - (c) particular descriptions of community council.
- (3) The power under subsection (1) includes a power to make modifications of an enactment for a particular period.

## **128 Transitional provision**

- (1) This section applies to a community council for so long as the local authority in whose area it lies has not published a community strategy under section 39(4) of the Local Government (Wales) Measure 2009.
- (2) Where this section applies to a community council, the reference in section 2(3C) of the Local Government Act 2000 to the community strategy for the area of the community council is to be read as a reference to the community strategy of the county council or county borough council under section 4 of that Act.

## **CHAPTER 7**

### GRANTS TO COMMUNITY COUNCILS

## **129 Welsh Ministers' power to pay grant to community councils**

- (1) The Welsh Ministers may pay a grant to a community council towards expenditure incurred or to be incurred by it.
- (2) The amount of a grant under this section and the manner of its payment are to be such as the Welsh Ministers may determine.
- (3) A grant under this section may be paid on such conditions as the person paying it may determine.
- (4) Conditions under subsection (3) may include (but are not limited to)—
  - (a) provision as to the use of the grant;
  - (b) provision as to circumstances in which the whole or part of the grant must be repaid.

## **CHAPTER 8**

### MODEL CHARTER AGREEMENTS BETWEEN LOCAL AUTHORITIES AND COMMUNITY COUNCILS

## **130 Power to set out model charter agreement**

- (1) The Welsh Ministers may by order make provision setting out a model charter agreement between a local authority and a community council for a community or communities within its area.

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- (2) In subsection (1), “model charter agreement between a local authority and a community council” means a description of the way in which their functions can be exercised for the purpose of maintaining and improving cooperation between them.
- (3) The provision that may be made by an order under subsection (1) includes (but is not limited to) provision—
- (a) setting out the way in which specified functions, or aspects of such functions, are to be exercised;
  - (b) setting out specified functions, or aspects of such functions, in respect of which the local authority and the community council are to seek agreement as to how they are to be exercised;
  - (c) setting out specified functions which are to be exercised by reference to specified principles.
- (4) In this section and section 131, a reference to the exercise of functions includes a reference to the doing of anything which is calculated to facilitate, or is conducive or incidental to, the exercise of the functions.

### **131 Directions requiring the adoption of model charter agreements**

- (1) The Welsh Ministers may by direction require a local authority and a community council for a community or communities within the authority's area to adopt a model charter agreement set out in an order under section 130(1).
- (2) In subsection (1), “adopt” means resolve, in accordance with any procedure specified in the direction, to exercise functions, or to seek agreement as to how to exercise functions, in accordance with—
- (a) all the provisions of the model charter agreement, or
  - (b) those provisions specified in the direction.
- (3) A direction under subsection (1) may—
- (a) relate to all, or any one or more, of the community councils for communities within the area of the local authority, and
  - (b) if the direction relates to more than one community council, make different provision in relation to different councils.
- (4) A direction under subsection (1) is enforceable by mandatory order on the application of the Welsh Ministers.

### **132 Guidance about model charter agreements**

A local authority and a community council must, in acting under a direction under section 131(1), have regard to guidance given by the Welsh Ministers.

### **133 Consultation**

- (1) The Welsh Ministers must, before making an order under section 130(1), consult—
- (a) such bodies representative of local authorities and community councils as the Welsh Ministers consider it appropriate to consult, and
  - (b) such other persons as the Welsh Ministers consider it appropriate to consult.

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- (2) The Welsh Ministers must, before giving a direction under section 131(1), consult the authority and council to which the direction relates.

## CHAPTER 9

### SCHEMES FOR THE ACCREDITATION OF QUALITY IN COMMUNITY GOVERNMENT

#### 134 Schemes for the accreditation of quality in community government

- (1) The Welsh Ministers may by regulations provide for a scheme under which the Welsh Ministers may or, if the regulations so require, must grant accreditation to a community council if—
- (a) the Welsh Ministers are satisfied that the criteria set in the regulations are satisfied in relation to a council (see section 135),
  - (b) the Welsh Ministers are satisfied that a council has made a valid application for accreditation (see section 136), and
  - (c) the required fee (if any) has been paid to the Welsh Ministers (see section 137).
- (2) An accreditation under subsection (1) is referred to in this Chapter as an accreditation of quality in community government.

#### 135 Accreditation of quality in community government: criteria

- (1) If the Welsh Ministers make regulations under section 134(1), the regulations must set criteria to be met on an application for accreditation of quality in community government.
- (2) The criteria that may be set include (but are not limited to) criteria about the following matters—
- (a) the percentage of the members of the council who hold office by virtue of having been elected as described in section 35(1) of the Local Government Act 1972 (election of community councillors);
  - (b) qualifications of and training for officers of the council;
  - (c) training for members of the council and community youth representatives;
  - (d) the frequency with which meetings of the council are held and the publicity given to meetings (both before and after they are held);
  - (e) involving persons in the work of the community council;
  - (f) encouraging persons to improve the well-being of the community or communities for which the council is established;
  - (g) annual reports;
  - (h) accounts.

#### 136 Accreditation of quality in community government: applications

If the Welsh Ministers make regulations under section 134(1), the regulations must set requirements to be met in order for a valid application for accreditation of quality in community government to be made.

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**137 Accreditation of quality in community government: fees**

If the Welsh Ministers make regulations under section 134(1), the regulations may prescribe a fee that an applicant for accreditation of quality in community government is required to pay.

**138 Accreditation of quality in community government: removal of accreditation**

If the Welsh Ministers make regulations under section 134(1), the regulations must provide for—

- (a) review of accreditations of quality in community government, and
- (b) the grounds on which an accreditation of quality in community government may be removed and the removal process.

**139 Applications for accreditation of quality in community government: delegation of functions**

- (1) The Welsh Ministers may make arrangements with any person under which that person is to exercise, in accordance with the terms of the arrangements, the functions of the Welsh Ministers under regulations made under section 134(1).
- (2) If such arrangements are made, section 134(1)(c) is to have effect so that any required fee is to be paid to the person with whom the arrangements are made.

**140 Accreditation of quality in community government: consequences**

- (1) The Welsh Ministers may by regulations make modifications of any enactment which imposes any obligation upon or in respect of a community council so that, in the case of a council in respect of which an accreditation of quality in community government is in force, the obligation is—
  - (a) disapplied, or
  - (b) altered so as to make it easier to comply with.
- (2) The Welsh Ministers may by regulations make modifications of any enactment which confers a power upon or in respect of a community council so that, in the case of a council in respect of which an accreditation of quality in community government is not in force, the power—
  - (a) may not be exercised, or
  - (b) may only be exercised if prescribed conditions are satisfied.

**PART 8**

**MEMBERS: PAYMENTS AND PENSIONS**

*The Independent Remuneration Panel for Wales*

**141 The Panel**

- (1) There is to continue to be a panel of persons known as the Independent Remuneration Panel for Wales.

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(2) Schedule 2 has effect in relation to the Panel.

#### Commencement Information

**I70** S. 141 in force at 31.8.2011 by [S.I. 2011/2011](#), [art. 2\(b\)](#)

#### *Principal functions of the Panel*

### 142 Functions relating to payments to members

- (1) For the financial year beginning 1 April 2012 and for each following financial year, the Panel may decide the relevant matters—
  - (a) for which a relevant authority will be required to make payments to members of the authority;
  - (b) for which a relevant authority will be authorised to make payments to members of the authority.
- (2) Relevant matters are—
  - (a) matters relating to the official business of members of relevant authorities;
  - (b) periods of family absence under Part 2.
- (3) Having exercised that power, the Panel must set for each relevant matter one of the following—
  - (a) the amount that a relevant authority must pay to a member of the authority;
  - (b) the maximum amount that a relevant authority may pay to a member of the authority.
- (4) Having decided the relevant matters for which a relevant authority may be authorised or required to make payments under subsection (1) and set the amount or maximum amount for each matter under subsection (3), the Panel may determine that payments in respect of a particular matter or matters may not be paid to more than a fixed proportion of the members of an authority.
- (5) The proportion fixed by the Panel in accordance with subsection (4) may not exceed fifty per cent unless the consent of the Welsh Ministers has been obtained.
- (6) The Panel may set—
  - (a) the maximum percentage or other rate by which a relevant authority will be entitled to adjust for a financial year the amounts that had effect for the relevant matters for the previous financial year;
  - (b) an index by reference to which a relevant authority will be entitled to adjust for a financial year the amounts that had effect for such of the relevant matters for the previous financial year as the Panel decides.
- (7) The powers under subsection (6) may be exercised so as to—
  - (a) set a rate and an index in relation to the same matter;
  - (b) set different rates or indices in relation to different matters.
- (8) When setting an amount under subsection (3), making a determination under subsection (4) or setting a rate or index under subsection (6), the Panel must take into

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account what it considers will be the likely financial impact of doing so on relevant authorities.

- (9) The Panel may make different decisions under subsection (1), set different amounts under subsection (3), make different determinations under subsection (4) or set different rates or indices under subsection (6) in relation to authorities of different descriptions or different authorities of the same description.
- (10) For the purposes of subsection (2) a matter relates to the official business of a member of a relevant authority if it is a matter which a member undertakes—
  - (a) as a member of a relevant authority, or
  - (b) as a member of a body to which the member is appointed by, or following nomination by, the relevant authority or a group of bodies including the relevant authority.

#### Commencement Information

**I71** S. 142 in force for specified purposes at 31.8.2011 by [S.I. 2011/2011, art. 2\(c\)](#)

**I72** S. 142 in force at 30.4.2012 in so far as not already in force by [S.I. 2012/1187, art. 2\(2\)\(a\)](#)

### 143 Functions relating to members' pensions

- (1) This section applies in relation to members of relevant authorities who—
  - (a) are not co-opted members, and
  - (b) are for the time being eligible for membership of a pension scheme in accordance with regulations under section 7 of the Superannuation Act 1972 (local government pension schemes).
- (2) The Panel may decide the descriptions of members to or in respect of whom a relevant authority will be required to pay a pension (a “relevant pension”).
- (3) The Panel may decide the relevant matters in respect of which a relevant authority will be required to pay a relevant pension.
- (4) The Panel may make different decisions in relation to authorities of different descriptions or different authorities of the same description.

#### Commencement Information

**I73** S. 143 in force for specified purposes at 31.8.2011 by [S.I. 2011/2011, art. 2\(d\)](#)

**I74** S. 143 in force at 30.4.2012 in so far as not already in force by [S.I. 2012/1187, art. 2\(2\)\(a\)](#)

### 144 Relevant authorities, members etc.

- (1) This section applies for the purposes of this Part.
- (2) An authority is a “relevant authority” if it comes within one of the following descriptions—
  - (a) a local authority;
  - (b) a community council;
  - (c) a National Park authority (established under section 63 of the Environment Act 1995) for a National Park in Wales;

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- (d) a Welsh fire and rescue authority, that is an authority in Wales constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies.
- (3) A reference to a description of a relevant authority is to be read with subsection (2).
- (4) “Member”, in relation to a relevant authority, includes—
- (a) an elected mayor of the authority (within the meaning of section 39(1) of the Local Government Act 2000),
  - (b) an elected executive member of the authority (within the meaning of section 39(4) of that Act), and
  - (c) a co-opted member of the authority.
- (5) “Co-opted member”, in relation to a relevant authority, means a person who is not a member of the authority (except by virtue of subsection (4)) but—
- (a) is a member of a committee or sub-committee of the authority or is a member of, and represents the authority on, a joint committee or joint sub-committee of the authority, and
  - (b) is entitled to vote on questions for decision at meetings of that committee or sub-committee.

#### Commencement Information

**I75** S. 144 in force at 31.8.2011 by [S.I. 2011/2011](#), [art. 2\(e\)](#)

#### *Reports by the Panel*

#### 145 Annual reports

- (1) The Panel must publish a report (an “annual report”) about the exercise of its functions with respect to each financial year.
- (2) An annual report may impose requirements (including, amongst other things, requirements to make payments) on relevant authorities.

#### Commencement Information

**I76** S. 145 in force for specified purposes at 31.8.2011 by [S.I. 2011/2011](#), [art. 2\(f\)](#)

**I77** S. 145 in force at 30.4.2012 in so far as not already in force by [S.I. 2012/1187](#), [art. 2\(2\)\(b\)](#)

#### 146 First annual report

- (1) The first financial year for which the Panel must publish an annual report under section 145 is the financial year beginning 1 April 2012.
- (2) The report for that financial year (“the first annual report”) must be published no later than 31 December 2011.
- (3) The first annual report must specify—
  - (a) the relevant matters,
  - (b) the amounts set under section 142(3),



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- (c) the proportion determined under section 142(4),
  - (d) the members of relevant authorities to or in respect of whom relevant authorities will be required to pay a relevant pension, and
  - (e) the relevant matters in respect of which a relevant pension is payable.
- (4) After publishing the first annual report but before publishing the second annual report, the Panel may publish one or more supplementary reports.
- (5) A supplementary report under this section may vary the provision made in the first annual report for the purposes of subsection (3)(a), (b), (c), (d) or (e).
- (6) In preparing a supplementary report under this section, the Panel must take into account—
- (a) the first annual report and any supplementary reports relating to it, and
  - (b) the representations the Panel received about the reports referred to in paragraph (a).
- (7) Before publishing the first annual report or a supplementary report under this section, the Panel must—
- (a) send a draft to
    - (i) the Welsh Ministers,
    - (ii) those relevant authorities which are required or authorised by the Panel to make payment to their members in respect of relevant matters, and
    - (iii) such other persons as the Panel considers appropriate,and,
  - (b) take into account the representations it receives about the draft.
- (8) The provisions of the first annual report or a supplementary report under this section come into force on the date specified for that purpose in the report; but the report may not specify a date earlier than the last day of the period of three months beginning with the day after the date of publication.

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**Commencement Information**

**I78** S. 146 in force at 31.8.2011 by [S.I. 2011/2011](#), [art. 2\(g\)](#)

## **147 Subsequent annual reports**

- (1) This section applies in relation to annual reports after the first annual report.
- (2) An annual report must be published no later than—
- (a) 31 December in the financial year preceding that to which the report relates, or
  - (b) such later date as the Panel and the Welsh Ministers may agree.
- (3) An annual report must specify—
- (a) by reference to the amount having effect for each relevant matter, such rate or index as is set under section 142(6), and
  - (b) the descriptions of members of relevant authorities to or in respect of whom relevant authorities will be required to pay a relevant pension.

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- (4) An annual report may vary the provision made in the first annual report for the purposes of section 146(3)(a), (b), (c), (d) or (e).
- (5) After publishing an annual report but before publishing the next annual report, the Panel may publish one or more supplementary reports.
- (6) A supplementary report under this section may—
- (a) vary the provision made in the annual report to which the supplementary report relates for the purposes of subsection (3)(a) or (b) (and may make provision for those purposes to the extent that the annual report does not);
  - (b) vary the provision made in the first annual report for the purposes of section 146(3)(a), (b), (c), (d) or (e) (or that provision as varied by virtue of subsection (4)).
- (7) In preparing an annual report or a supplementary report under this section, the Panel must take into account—
- (a) the previous annual report and any supplementary reports relating to it;
  - (b) the representations the Panel received about the reports referred to in paragraph (a).
- (8) Before publishing an annual report or a supplementary report under this section, the Panel must—
- (a) send a draft to the
    - (i) Welsh Ministers,
    - (ii) those relevant authorities which are required or authorised by the Panel to make payment to their members in respect of relevant matters, and
    - (iii) such other persons as the Panel considers appropriate,
 and,
  - (b) take into account the representations the Panel receives about the draft.
- (9) The provisions of an annual report or a supplementary report under this section come into force on the date specified for that purpose in the report; but no report may specify a date earlier than the last day of the period of three months beginning with the day after the date of publication.

#### **Commencement Information**

**I79** S. 147 in force at 30.4.2012 by [S.I. 2012/1187](#), [art. 2\(1\)\(l\)](#)

#### **148 Consultation on draft reports**

- (1) The Panel must not publish an annual report or a supplementary report before the end of the period of eight weeks beginning with the day on which it sends a draft of the report in accordance with section 146 or 147.
- (2) The Panel must, when it sends a draft of a report in accordance with either of those sections, place an electronic copy of the draft on its website.

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#### Commencement Information

- I80** S. 148 in force for specified purposes at 31.8.2011 by [S.I. 2011/2011, art. 2\(h\)](#)  
**I81** S. 148 in force at 30.4.2012 in so far as not already in force by [S.I. 2012/1187, art. 2\(2\)\(c\)](#)

### 149 Directions to vary draft reports

- (1) The Welsh Ministers may direct the Panel to reconsider a provision of a draft report.
- (2) A direction under this section must specify—
  - (a) the provision,
  - (b) the reason for giving the direction, and
  - (c) the date by which the Welsh Ministers require the Panel to respond.
- (3) The Panel—
  - (a) must respond to the direction no later than the date specified for the purposes of subsection (2)(c);
  - (b) may not publish the report before having responded to the direction.
- (4) If the Panel decides not to vary the draft in accordance with the direction, it must specify in its response the reason for its decision.

#### Commencement Information

- I82** S. 149 in force for specified purposes at 31.8.2011 by [S.I. 2011/2011, art. 2\(i\)](#)  
**I83** S. 149 in force at 30.4.2012 in so far as not already in force by [S.I. 2012/1187, art. 2\(2\)\(d\)](#)

### 150 Administrative requirements in reports

- (1) An annual report may impose on relevant authorities requirements for avoiding—
  - (a) duplication of payments made in respect of relevant matters;
  - (b) duplication as relevant matters of matters relating to the official business of members.
- (2) For the purposes of a case where a member of a relevant authority does something which relates to another relevant authority (as well as the authority to which the member belongs), and for which a payment in respect of a relevant matter must be made to the member, an annual report must set out how to determine which of the authorities will be required to make the payment.
- (3) An annual report may impose on relevant authorities requirements for keeping—
  - (a) records of requests for payments in respect of relevant matters;
  - (b) records of payments made in respect of relevant matters;
  - (c) records of payments made in respect of relevant pensions.

#### Commencement Information

- I84** S. 150 in force for specified purposes at 31.8.2011 by [S.I. 2011/2011, art. 2\(j\)](#)  
**I85** S. 150 in force at 30.4.2012 in so far as not already in force by [S.I. 2012/1187, art. 2\(2\)\(e\)](#)

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## 151 Publicity requirements in reports

- (1) An annual report may impose on relevant authorities requirements for making arrangements for publishing information of a specified description—
  - (a) about payments made in respect of relevant matters;
  - (b) about payments made in respect of relevant pensions.
- (2) The report may require different arrangements to be made by authorities of different descriptions or different authorities of the same description.

### Commencement Information

**I86** S. 151 in force for specified purposes at 31.8.2011 by [S.I. 2011/2011](#), [art. 2\(k\)](#)

**I87** S. 151 in force at 30.4.2012 in so far as not already in force by [S.I. 2012/1187](#), [art. 2\(2\)\(f\)](#)

## 152 Publicising reports

- (1) If the Panel publishes a report, it must notify—
  - (a) such persons as it considers are likely to be affected by the report, and
  - (b) such broadcasters and such members of the press as it considers appropriate.
- (2) The Panel must secure reasonable availability of its reports to persons generally.
- (3) Subject to subsections (1) and (2), the Panel may decide how to publicise its reports.
- (4) In this section, “report” (except in relation to subsection (1)(b)) includes a draft of a report; and “publish”, in relation to a draft, means send to the persons to whom the draft is required to be sent under section 146 or 147.

### Commencement Information

**I88** S. 152 in force for specified purposes at 31.8.2011 by [S.I. 2011/2011](#), [art. 2\(l\)](#)

**I89** S. 152 in force at 30.4.2012 in so far as not already in force by [S.I. 2012/1187](#), [art. 2\(2\)\(g\)](#)

### *Payments by relevant authorities*

## 153 Compliance with Panel's requirements

- (1) A relevant authority must comply with the requirements imposed on it by an annual report.
- (2) The Panel may monitor the making of payments by relevant authorities in respect of relevant matters; and in so doing the Panel may require a relevant authority to provide it with such information as it specifies about—
  - (a) the matters which are relevant matters in relation to the authority;
  - (b) requests to the authority for payments in respect of relevant matters;
  - (c) payments made by the authority in respect of relevant matters.
- (3) The Panel may monitor the making of payments by relevant authorities in respect of relevant pensions; and in so doing the Panel may require a relevant authority to provide it with such information as it specifies about—

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- (a) the members of the authority to or in respect of whom the authority is required to pay relevant pensions;
  - (b) payments made by the authority in respect of relevant pensions.
- (4) A relevant authority must comply with a requirement imposed on it under subsection (2) or (3).

#### Commencement Information

**190** S. 153 in force at 30.4.2012 by [S.I. 2012/1187](#), [art. 2\(1\)\(m\)](#)

### 154 Members wishing to forgo payments

- (1) This section applies if a member of a relevant authority elects, by notice in writing given to the proper officer of the authority, to forgo (either completely or to the extent specified in the notice) entitlement to payments in respect of such relevant matters as are specified in the notice.
- (2) The requirement imposed on the authority by an annual report to make payments in respect of such relevant matters as are specified in the notice does not apply in the case of that member (or does not apply in that case to the extent specified in the notice); and section 153(1) is to be read accordingly.
- (3) “Proper officer” has the meaning given in section 270(3) of the Local Government Act 1972.

#### Commencement Information

**191** S. 154 in force for specified purposes at 31.8.2011 by [S.I. 2011/2011](#), [art. 2\(m\)](#)

**192** S. 154 in force at 30.4.2012 in so far as not already in force by [S.I. 2012/1187](#), [art. 2\(2\)\(h\)](#)

### 155 Withholding payments

- (1) A relevant authority must not make payments in respect of relevant matters or a relevant pension to a person who is suspended or partially suspended from being a member of the authority by virtue of Part 3 of the Local Government Act 2000 (conduct of local government members etc.).
- (2) The Welsh Ministers may, in such other cases as they consider appropriate, direct a relevant authority not to make payments (including in respect of pensions) in respect of such relevant matters as are specified in the direction.
- (3) Before giving a direction under subsection (2), the Welsh Ministers must consult the Panel.
- (4) A direction under subsection (2) is enforceable by mandatory order on the application of the Welsh Ministers.
- (5) A relevant authority may require the repayment of payments made in respect of relevant matters or a relevant pension to a person in respect of a period during which that person was not entitled to receive the payment for any reason, including (but not limited to) any of the following reasons—
  - (a) the payments were made in breach of the prohibition in subsection (1);

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- (b) the payments were made in breach of a direction under subsection (2);
- (c) the person had ceased to be a member of the authority.

**Commencement Information**

- I93** S. 155(1) in force at 30.4.2012 by [S.I. 2012/1187](#), **art. 2(1)(n)**
- I94** S. 155(2)(3)(4) in force for specified purposes at 31.8.2011 by [S.I. 2011/2011](#), **art. 2(n)**
- I95** S. 155(2)(3)(4) in force at 30.4.2012 in so far as not already in force by [S.I. 2012/1187](#), **art. 2(2)(i)**

*Enforcement*

**156 Directions to comply with requirements**

- (1) If the Welsh Ministers are satisfied that a relevant authority has failed to comply with a requirement relating to relevant matters which is imposed on it by or by virtue of this Measure, they may direct the authority to comply with the requirement.
- (2) A direction under this section must specify—
  - (a) the requirement;
  - (b) the reason for giving the direction;
  - (c) the steps that the Welsh Ministers require the authority to take;
  - (d) the date by which the Welsh Ministers require the authority to take the steps.
- (3) A direction under this section is enforceable by mandatory order on the application of the Welsh Ministers.

**Commencement Information**

- I96** S. 156 in force for specified purposes at 31.8.2011 by [S.I. 2011/2011](#), **art. 2(o)**
- I97** S. 156 in force at 30.4.2012 in so far as not already in force by [S.I. 2012/1187](#), **art. 2(2)(j)**

*Supplementary*

**157 Guidance**

- (1) The Panel may give guidance about how to comply with requirements imposed by annual reports.
- (2) The power of the Panel to give guidance under subsection (1) includes the power to vary or revoke guidance given.
- (3) A relevant authority must have regard to guidance given under subsection (1).

**Commencement Information**

- I98** S. 157 in force for specified purposes at 31.8.2011 by [S.I. 2011/2011](#), **art. 2(p)**
- I99** S. 157 in force at 30.4.2012 in so far as not already in force by [S.I. 2012/1187](#), **art. 2(2)(k)**

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## **158 Power to modify provision about Panel**

The Welsh Ministers may by order make modifications of this Part so as to—

- (a) add, vary or omit provision about the Panel's membership, the tenure of its members, or its procedures;
- (b) add, vary or omit provision conferring or imposing a function on the Panel.

### **Commencement Information**

**I100** S. 158 in force at 31.8.2011 by [S.I. 2011/2011](#), [art. 2\(q\)](#)

## **159 Interpretation of Part 8**

(1) In this Part—

“annual report” (“*adroddiad blynyddol*”) has the meaning given in section 145;

“co-opted member” (“*aelod cyfetholedig*”), in relation to a relevant authority, has the meaning given in section 144;

“financial year” (“*blwyddyn ariannol*”) means a period of 12 months ending with 31 March;

“member” (“*aelod sy'n mynychu'r fangre*”) , in relation to a relevant authority, has the meaning given in section 144;

“the Panel” (“*y Panel*”) means the Independent Remuneration Panel for Wales;

“relevant authority” (“*awdurdod perthnasol*”) has the meaning given in section 144 (and a reference to a description of a relevant authority is to be read in accordance with that section);

“relevant matter” (“*mater perthnasol*”) has the meaning given in section 142;

“relevant pension” (“*pensiwn perthnasol*”) has the meaning given in section 143.

(2) The references in sections 153, 154 and 157 to requirements imposed by an annual report include a reference to requirements included in an annual report by a supplementary report.

## **160 Consequential amendments**

Schedule 3 (payments and pensions: minor and consequential amendments) has effect.

### **Commencement Information**

**I101** S. 160 in force at 30.4.2012 by [S.I. 2012/1187](#), [art. 2\(1\)\(o\)](#)

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## PART 9

### COLLABORATION AND AMALGAMATION

#### CHAPTER 1

#### COLLABORATION

#### 161 Guidance about collaboration between Welsh improvement authorities

After section 12 of the Local Government (Wales) Measure 2009 insert the following—

**“12A Guidance about collaboration between Welsh improvement authorities**

In deciding whether and how to exercise its functions under sections 9(1) and 12, a Welsh improvement authority must have regard to any guidance issued by the Welsh Ministers.”.

**Commencement Information**

**I102** S. 161 in force at 31.8.2011 by S.I. 2011/2011, art. 2(r)

#### CHAPTER 2

#### AMALGAMATION

#### 162 Power to make amalgamation order

- (1) The Welsh Ministers may, if they are satisfied that it is necessary to achieve effective local government, make an order (“an amalgamation order”) for the constitution of a new local government area by amalgamating two or three local government areas.
- (2) Before making an amalgamation order, the Welsh Ministers must be satisfied that effective local government is not likely to be achieved in a local government area to be amalgamated by the order by—
  - (a) the exercise by any of the local authorities concerned of their powers under section 9 (Powers to collaborate etc) of the Local Government (Wales) Measure 2009, or
  - (b) the exercise by the Welsh Ministers of their powers under—
    - (i) section 28 (Welsh Ministers: support for Welsh improvement authorities),
    - (ii) section 29 (Welsh Ministers: powers of direction etc),
    - (iii) section 30 (Powers of direction: collaboration arrangements), or
    - (iv) section 31 (Powers of Welsh Ministers to modify enactments and confer new powers)
 of that Measure.



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- (3) An amalgamation order must provide for—
- (a) whether the new local government area is to be a county or a county borough,
  - (b) the English name and Welsh name of the new local government area,
  - (c) the establishment of a local authority for the new local government area,
  - (d) whether the new local authority is to be a county council or county borough council,
  - (e) the English name and Welsh name of the new local authority,
  - (f) the abolition of the existing local government areas,
  - (g) the boundary of the new local government area, and
  - (h) the winding up and dissolution of the local authorities for the existing local government areas.
- (4) Where the new local government area is to be a county, the amalgamation order must provide for the new local authority to have the name of the county with the addition—
- (a) in the case of their English name, of the words “County Council” or the word “Council” (as in “Pembrokeshire County Council” or “Pembrokeshire Council”); and
  - (b) in the case of their Welsh name, of the word “Cyngor” (as in “Cyngor Sir Penfro”).
- (5) Where the new local government area is to be a county borough, the amalgamation order must provide for the new local authority to have the name of the county borough with the addition—
- (a) in the case of their English name, of the words “County Borough Council” or the word “Council” (as in “Caerphilly County Borough Council” or “Caerphilly Council”); and
  - (b) in the case of their Welsh name, of the words “Cyngor Bwrdeistref Sirol” or the word “Cyngor” (as in “Cyngor Bwrdeistref Sirol Caerffili” or “Cyngor Caerffili”).

**Commencement Information**

**I103** [S. 162](#) in force at 31.8.2011 by [S.I. 2011/2011](#), [art. 2\(s\)](#)

**163 Electoral matters**

- (1) The provision that may be made in an amalgamation order includes (but is not limited to) provision for or in respect of any of the following matters—
- (a) the total number of members of any local authority (“councillors”);
  - (b) the number and boundaries of electoral areas for the purposes of the election of councillors;
  - (c) the number of councillors to be returned by any electoral area;
  - (d) the name of any electoral area;
  - (e) the election of councillors for any electoral areas;
  - (f) the cancellation of elections of councillors for any electoral area;
  - (g) the election of community councillors for any community;
  - (h) the cancellation of community council elections;
  - (i) the election of a mayor of a local authority;

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- (j) the appointment by the Welsh Ministers of members of an existing local authority to be members of a shadow authority for a shadow period;
- (k) the appointment for a shadow period of an executive of the shadow authority;
- (l) the functions of a shadow authority, and the discharge of those functions, during a shadow period.

**Commencement Information**

**I104** S. 163 in force at 31.8.2011 by S.I. 2011/2011, art. 2(s)

**164 Requirement to hold a referendum involving an elected mayor**

- (1) Where one or more of the existing local authorities is operating a mayor and cabinet executive, the amalgamation order must require the shadow authority to hold a referendum on whether the new local authority should operate a mayor and cabinet executive.
- (2) Where subsection (1) applies, the provision which may be made in an amalgamation order includes (but is not limited to) provision—
  - (a) as to the date on which, or the time by which, a referendum must be held;
  - (b) as to the action which may, or may not or must be taken by a shadow authority before or in connection with a referendum;
  - (c) as to the action which may, or may not or must be taken by a shadow authority after a referendum;
  - (d) for or in connection with enabling the Welsh Ministers, in the event of any failure by the shadow authority to take any action permitted or required by virtue of the order, to take that action.
- (3) The provision which may be made by virtue of subsection (2) includes provision which applies or reproduces (with or without modifications) any provisions of section 25, 27, 28, 29 or 33 of the Local Government Act 2000 or Part 4 of this Measure.

**Commencement Information**

**I105** S. 164 in force at 31.8.2011 by S.I. 2011/2011, art. 2(s)

**165 Power to direct a referendum involving an elected mayor**

- (1) The Welsh Ministers may by regulations make provision for or in connection with enabling them, in such circumstances as may be prescribed in the regulations, to direct a shadow authority to hold a referendum on whether the new local authority should operate a mayor and cabinet executive.
- (2) The provision which may be made by regulations under this section includes (but is not limited to) provision—
  - (a) as to the date on which, or the time by which, a referendum must be held;
  - (b) as to the action which may, or may not or must be taken by a shadow authority before or in connection with a referendum;
  - (c) as to the action which may, or may not or must be taken by a shadow authority after a referendum;

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- (d) for or in connection with enabling the Welsh Ministers, in the event of any failure by the shadow authority to take any action permitted or required by virtue of the regulations, to take that action.
- (3) The provision which may be made by virtue of subsection (2) includes provision which applies or reproduces (with or without modifications) any provisions of section 25, 27, 28, 29 or 33 of the Local Government Act 2000 or Part 4 of this Measure.

#### **Commencement Information**

**I106** S. 165 in force at 31.8.2011 by S.I. 2011/2011, art. 2(s)

### **166 Supplementary, incidental, consequential, transitional and saving provision**

- (1) The provision that may be made in an amalgamation order includes (but is not limited to) supplementary, incidental, consequential, transitional and saving provision.
- (2) The Welsh Ministers may by regulations of general application make supplementary, incidental, consequential, transitional and saving provision—
  - (a) for the purposes of or in consequence of amalgamation orders; or
  - (b) for giving full effect to amalgamation orders.
- (3) Regulations under subsection (2) have effect subject to any provision included in an amalgamation order.
- (4) In this section, references to supplementary, incidental, consequential, transitional, or saving provision include (but are not limited to) provision—
  - (a) for the transfer of property, rights or liabilities from an existing local authority to a new local authority;
  - (b) for legal proceedings commenced by or against an existing local authority to be continued by or against a new local authority;
  - (c) for the transfer of staff, compensation for loss of office, or with respect to pensions and other staffing matters;
  - (d) for treating a new local authority for some or all purposes as the same person in law as an existing local authority ;
  - (e) with respect to the management or custody of transferred property (real or personal);
  - (f) equivalent to any provision that could be contained in an agreement under section 68 of the Local Government Act 1972 (transitional agreements as to property and finance).
- (5) The rights and liabilities which may be transferred in accordance with an order under this section include rights and liabilities in relation to a contract of employment.
- (6) The Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246) apply to a transfer made in accordance with an order under this section (whether or not the transfer is a relevant transfer for the purposes of those regulations).
- (7) In subsection (1), the reference to supplementary, incidental, consequential, transitional or saving provision also includes (but is not limited to) provision with respect to—

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- (a) the establishment or membership of public bodies in any area affected by the amalgamation order and the election or appointment of members of such bodies;
  - (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 the amalgamation order.
- (8) Supplementary, incidental, consequential, transitional or saving provision in an amalgamation order or in regulations under this section may take the form of provision—
- (a) modifying, excluding or applying (with or without modifications) any enactment; or
  - (b) repealing or revoking any enactment (with or without savings).

**Commencement Information**

**I107** S. 166 in force at 31.8.2011 by S.I. 2011/2011, art. 2(s)

**167 Review of electoral arrangements**

- (1) The Welsh Ministers may direct the Welsh Commission to undertake a review of the electoral arrangements for a new local government area.
- (2) The Welsh Commission may in consequence of such a review make proposals to the Welsh Ministers for effecting changes to the electoral arrangements as appear to the Welsh Commission to be desirable in the interests of effective and convenient local government.
- (3) In considering the electoral arrangements for a new local government area for the purposes of this section, the Welsh Commission shall so far as reasonably practicable comply with the rules set out in Schedule 11 to the Local Government Act 1972.
- (4) For the purposes of this section “electoral arrangements” has the same meaning as in section 78 of the Local Government Act 1972.’.

**Commencement Information**

**I108** S. 167 in force at 31.8.2011 by S.I. 2011/2011, art. 2(s)

**168 Amendments to the Local Government Act 1972**

- (1) The Local Government Act 1972 is amended as follows.
- (2) In section 58 (Commission's reports and their implementation), in subsection (1)(b) after “section 57 above” insert “ or in accordance with a direction under section 167 of the Local Government (Wales) Measure 2011 ”.
- (3) In section 59 (directions about reviews), in subsection (1) after “57 above” insert “ or in accordance with a direction under section 167 of the Local Government (Wales) Measure 2011 ”.

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- (4) In section 60 (procedure for reviews), in subsection (1) after “this Act” insert “ or in accordance with a direction under section 167 of the Local Government (Wales) Measure 2011 ”.
- (5) In section 68 (transitional agreements as to property and finance), in subsection (1) after “this Act” insert “ or by an order under section 162 of the Local Government (Wales) Measure 2011 ”.

#### **Commencement Information**

**I109** S. 168 in force at 31.8.2011 by S.I. 2011/2011, art. 2(s)

### **169 Procedure applicable to an amalgamation order**

- (1) The Welsh Ministers must comply with this section before making an amalgamation order to give effect to proposals to constitute a new local government area by amalgamating two or three existing local government areas (“the proposals”).
- (2) The Welsh Ministers must consult –
  - (a) the local authorities for the local government areas affected by the proposals,
  - (b) the community councils in the local government areas affected by the proposals, and
  - (c) such other persons (if any) as appear to the Welsh Ministers to be likely to be affected by the proposals.
- (3) If, following that consultation, the Welsh Ministers wish to proceed with the proposals, they must lay before the National Assembly for Wales a document which—
  - (a) explains the proposals,
  - (b) sets them out in the form of a draft order, and
  - (c) gives details of the consultation under subsection (2).
- (4) No draft of an amalgamation order to give effect to the proposals (“the final draft order”) may be laid before the Assembly in accordance with section 172(2)(b) until after the expiry of the period of 60 days beginning with the day on which the document relating to the proposals was laid before the National Assembly for Wales under subsection (3).
- (5) In calculating the period mentioned in subsection (4) no account shall be taken of any time during which the National Assembly for Wales is dissolved or is in recess for more than four days.
- (6) In preparing the final draft order, the Welsh Ministers must consider any representations made during the period mentioned in subsection (4).
- (7) If the final draft order is laid before the National Assembly for Wales in accordance with section 172(2)(b), the order must be accompanied by a statement of the Welsh Ministers giving details of—
  - (a) any representations considered in accordance with subsection (6), and
  - (b) any changes to the proposals contained in the document laid before the National Assembly for Wales under subsection (3) which are given effect to in the final draft order.

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- (8) Nothing in this section applies to an order under section 162 which is made only for the purpose of amending an earlier order under that section.

**Commencement Information**

**I110** S. 169 in force at 31.8.2011 by S.I. 2011/2011, art. 2(s)

**170 Correction of orders**

- (1) Where—
- (a) there is a mistake in an amalgamation order, and
  - (b) the mistake cannot be rectified by a subsequent order made under section 162, the Welsh Ministers may, by order, rectify the mistake.
- (2) For the purposes of this section, a “mistake” in an order includes a provision contained in or omitted from the order in reliance on inaccurate or incomplete information supplied by a community council or any other public body.

**Commencement Information**

**I111** S. 170 in force at 31.8.2011 by S.I. 2011/2011, art. 2(s)

**171 Interpretation of this Chapter**

In this Chapter—

“amalgamation order” (“*gorchymyn cyfuno*”) means an order under section 162;

“electoral area” (“*ardal etholiadol*”) means any area for which councillors are elected to a local authority;

“existing local authority” (“*awdurdod lleol presennol*”) means the local authority for an existing local government area;

“existing local government area” (“*ardal llywodraeth leol bresennol*”) means a local government area abolished by an amalgamation order;

“local government area” (“*ardal llywodraeth leol*”) means an area for which a local authority is established;

“member of a local authority” (“*aelod o awdurdod lleol*”) includes an elected mayor (within the meaning of section 39(1) of the Local Government Act 2000) or elected executive member (within the meaning of section 39(4) of that Act) of the authority;

“new local authority” (“*awdurdod lleol newydd*”) means a local authority established by an amalgamation order;

“new local government area” (“*ardal llywodraeth leol newydd*”) means a local government area constituted by an amalgamation order;

“public body” (“*corf cyhoeddus*”) includes—

- (a) a local authority;
- (b) a joint board, or a joint committee, on which a local authority is represented;

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“shadow authority” (“*awdurdod cysgodol*”) means an authority which has been appointed or elected to carry out functions prescribed by an amalgamation order and will become a new local authority at the end of the shadow period;

“shadow period” (“*cyfnod cysgodol*”) means a period before the coming into office of members of the new local authority;

“staff” (“*staff*”) includes officers and employees;

“Welsh Commission” (“*Comisiwn Cymru*”) means the Local Government Boundary Commission for Wales established by section 53 of the Local Government Act 1972;¹.

#### Commencement Information

**I112** S. 171 in force at 31.8.2011 by S.I. 2011/2011, art. 2(s)

## PART 10

### GENERAL

#### 172 Orders and regulations

- (1) Any power of the Welsh Ministers to make an order or regulations under this Measure is exercisable by statutory instrument.
- (2) A statutory instrument containing any of the following may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales—
  - (a) regulations under section 9(1)(i), Part 2, section 140, 165 or 166(2);
  - (b) an order under section 127, 158, 162 or 170;
  - (c) an order amending an order under section 162;
  - (d) an order under section 177 that contains modifications of an enactment (other than an enactment contained in subordinate legislation).
- (3) For additional requirements in relation to the making by the Welsh Ministers of orders under sections 127 and 162, see sections 173 and 169 respectively.
- (4) Any other statutory instrument containing an order or regulations under this Measure, apart from an instrument containing only an order under section 178 (commencement), is subject to annulment in pursuance of a resolution of the National Assembly for Wales.
- (5) Any power of the Welsh Ministers under this Measure to apply an enactment is a power to apply it with or without modifications.
- (6) Any power of the Welsh Ministers to make an order or regulations under this Measure includes (but is not limited to) power—
  - (a) to make different provision for different cases, different purposes, or different geographical areas;
  - (b) to make provision generally or in relation to specific cases;
  - (c) to make such supplementary, transitional, transitory, consequential, saving, incidental and other provision as the Welsh Ministers consider necessary or appropriate.

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### **173 Procedure applicable to certain orders under section 127**

- (1) The Welsh Ministers must comply with this section before making an order under section 127 to give effect to proposals to modify an enactment which they consider prevents or obstructs community councils from exercising their power under section 2(1) of the Local Government Act 2000 (“the proposals”).
- (2) The Welsh Ministers must consult—
  - (a) such community councils,
  - (b) such representatives of community councils, and
  - (c) such other persons (if any),
 as appear to the Welsh Ministers to be likely to be affected by the proposals.
- (3) If, following that consultation, the Welsh Ministers wish to proceed with the proposals they must lay before the National Assembly for Wales a document which—
  - (a) explains the proposals,
  - (b) sets them out in the form of a draft order, and
  - (c) gives details of the consultation under subsection (2).
- (4) No draft of an order under section 127 to give effect to the proposals (“the final draft order”) may be laid before the Assembly in accordance with section 172(2)(b) until after the expiry of the period of 60 days beginning with the day on which the document relating to the proposals was laid before the National Assembly for Wales under subsection (3).
- (5) In calculating the period mentioned in subsection (4) no account shall be taken of any time during which the National Assembly for Wales is dissolved or is in recess for more than four days.
- (6) In preparing the final draft order the Welsh Ministers must consider any representations made during the period mentioned in subsection (4).
- (7) If the final draft order is laid before the National Assembly for Wales in accordance with section 172(2)(b), the order must be accompanied by a statement of the Welsh Ministers giving details of—
  - (a) any representations considered in accordance with subsection (6), and
  - (b) any changes made to the proposals contained in the document laid before the National Assembly for Wales under subsection (3) which are given effect to in the final draft order.
- (8) Nothing in this section applies to an order under section 127 which is made only for the purpose of amending an earlier order under that section—
  - (a) so as to extend the earlier order, or any provision of the earlier order, to a particular community council or to community councils of a particular description, or
  - (b) so that the earlier order, or any provision of the earlier order, ceases to apply to a particular community council or to community councils of a particular description.

### **174 Guidance and directions**

- (1) Any power of the Welsh Ministers to give guidance under this Measure includes power to vary or revoke guidance given.



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- (2) Any power of the Welsh Ministers to give directions under this Measure includes power to vary or revoke directions given.
- (3) Any power of the Welsh Ministers to give guidance or directions under this Measure includes power—
  - (a) to make different provision for different cases, different purposes, or different geographical areas;
  - (b) to make provision generally or in relation to specific cases.
- (4) Subsections (1) to (3) do not limit the powers under this Measure to give guidance or directions.

## 175 Interpretation

In this Measure—

“enactment” (“*deddfiad*”) includes—

- (a) an enactment whenever passed or made,
- (b) an enactment contained in this Measure, and
- (c) provision contained in subordinate legislation (within the meaning of the Interpretation Act 1978);

“local authority” (“*awdurdod lleol*”) means a county borough council or county council in Wales;

“modifications” (“*addasiadau*”) includes (but is not limited to) amendments, repeals and revocations.

“prescribed” (“*rhagnodedig*”) means prescribed in regulations made by the Welsh Ministers.

## 176 Consequential amendments and repeals

- (1) In section 106 of the Local Government Act 2000 (Wales), after subsection (4) insert—
  - “(5) The power of the Welsh Ministers to make an order under section 21A(13)(b) or section 21G is exercisable by statutory instrument.
  - (6) A statutory instrument which contains an order made by the Welsh Ministers under section 21A(13)(b) is subject to annulment in pursuance of a resolution of the National Assembly for Wales.
  - (7) A statutory instrument which contains an order under section 21G may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales.”.
- (2) Schedule 4 (repeals and revocations) has effect.
- (3) The revocation of the Local Authorities (Allowances for Members) (Wales) Regulations 2007 (S.I. 2007/1086), by subsection (2), does not affect the power of the Panel to prescribe matters in relation to a scheme made under Part 2 of those Regulations where that scheme operates during any part of the financial year beginning 1 April 2011 (and for this purpose “Panel” and “financial year” have the same meanings as in Part 8 of this Measure).

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#### Commencement Information

- I113** S. 176 partly in force; s. 176(2) in force for certain purposes at 11.5.2011 and for certain further purposes at 10.7.2011, see s. 178(1)(c)(2)(d)
- I114** S. 176(1) in force at 30.4.2012 by S.I. 2012/1187, art. 2(1)(p)
- I115** S. 176(2) in force at 30.4.2012 in so far as not already in force by S.I. 2012/1187, art. 2(2)(l)

#### 177 Power to make supplementary provision

- (1) The Welsh Ministers may, by order, make such supplementary, incidental, consequential, transitional, transitory and saving provision as they consider appropriate in connection with this Measure.
- (2) The provision that may be made under subsection (1) includes (but is not limited to) modifications of any enactment.
- (3) The modifications that may be made by virtue of subsection (2) are in addition to those made by or which may be made under any other provision of this Measure.

#### 178 Commencement

- (1) The following provisions come into force on the day after the day on which this Measure is approved by Her Majesty in Council—
  - (a) sections 58, 77, 79, 80 and 159;
  - (b) this Part (except section 176);
  - (c) Part E of Schedule 4 (and section 176(2) in so far as it relates to Part E of Schedule 4).
- (2) The following provisions come into force at the end of the period of two months beginning with the day on which this Measure is approved by Her Majesty in Council—
  - (a) Parts 3 and 4;
  - (b) sections 55 and 76;
  - (c) Chapters 2 to 9 of Part 7;
  - (d) Parts B and C of Schedule 4 (and section 176(2) in so far as it relates to Parts B and C of Schedule 4).
- (3) Subject to subsections (1) and (2), this Measure comes into force in accordance with provision made by the Welsh Ministers by order.

#### 179 Short title

This Measure may be cited as the Local Government (Wales) Measure 2011.

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PROSPECTIVE

## SCHEDULE 1

(introduced by section 35)

### CHANGE FROM ALTERNATIVE TO EXECUTIVE ARRANGEMENTS

#### PART 1

#### GENERAL PROVISIONS

##### *Introduction*

- 1 This Schedule applies to a local authority if it is required by section 35 to change from alternative arrangements to executive arrangements.

##### *Proposals for moving to executive arrangements*

- 2 (1) The local authority must draw up, and approve by resolution, proposals to change from alternative to executive arrangements.
- (2) In drawing up the proposals, the local authority must consider the extent to which the proposals, if implemented, are likely to assist in securing continuous improvement in the way in which the authority's functions are exercised, having regard to a combination of economy, efficiency and effectiveness.
- (3) The local authority must send the Welsh Ministers—
- (a) a copy of the proposals that it has approved, and
  - (b) (with the copy of the proposals) a statement which describes the reasons why the authority considers that its proposals would be likely, if implemented, to ensure that decisions of the authority are taken in an efficient, transparent and accountable way.
- (4) The local authority must comply with sub-paragraphs (1) and (3) within the period of six months beginning with the day on which section 35 comes into force.

##### *Contents of proposals*

- 3 A local authority's proposals must include all of the following—
- (a) a statement of the extent to which functions specified in regulations under section 13(3)(b) of the Local Government Act 2000 are to be the responsibility of the executive under the proposed executive arrangements,
  - (b) a timetable with respect to the implementation of the proposals, and
  - (c) details of any transitional arrangements which are necessary for the implementation of the proposals.

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### *Referendums*

- 4
- (1) If the proposed form of executive is a mayor and cabinet executive, the proposals must provide for the change to executive arrangements to be subject to approval in a referendum.
  - (2) If the proposed form of executive is a leader and cabinet executive (Wales), the proposals may not provide for the change to executive arrangements to be subject to approval in a referendum.
  - (3) Section 45 of the Local Government Act 2000 (provisions with respect to referendums) has effect as if subsection (9) included a reference to a referendum on a change from alternative arrangements to executive arrangements in accordance with section 35.

#### *Timetable for implementation of change to leader and cabinet executive (Wales)*

- 5
- (1) This paragraph applies to a local authority's proposals if the proposed form of executive is a leader and cabinet executive (Wales).
  - (2) The timetable with respect to the implementation of the proposals must be such as to ensure that the local authority makes the change to executive arrangements no later than the end of the period of six months beginning with the day on which the local authority sends the Welsh Ministers the copy of the proposals.

#### *Timetable for implementation of change to mayor and cabinet executive*

- 6
- (1) This paragraph applies to a local authority's proposals if the proposed form of executive is a mayor and cabinet executive (and accordingly is subject to approval in a referendum).
  - (2) The timetable with respect to the implementation of the proposals must comply with sub-paragraphs (3) and (4).
  - (3) The timetable must be such as to secure that the local authority will hold the referendum within the period that—
    - (a) begins two months after, and
    - (b) ends six months after,
 the day on which the local authority sends the Welsh Ministers the copy of the proposals.
  - (4) The timetable must be such as to secure that, if the result of the referendum is to approve the change to executive arrangements, the local authority will make that change within the period of six months beginning with the day on which the referendum is held.

### *Publicity for proposals*

- 7
- (1) This paragraph applies to a local authority which has approved proposals by a resolution.
  - (2) The local authority must secure that copies of a document setting out the provisions of the proposed executive arrangements are available at its principal office for inspection by members of the public at all reasonable times.

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- (3) The local authority must publish a notice which—
- (a) states that the local authority has resolved to operate the proposed executive arrangements,
  - (b) if the proposed form of executive is a mayor and cabinet executive, states—
    - (i) that it is subject to approval in a referendum, and
    - (ii) the date of the referendum,
  - (c) states the date on which the local authority intends to begin operating those arrangements,
  - (d) describes the main features of those arrangements,
  - (e) states that copies of a document setting out the provisions of those arrangements are available at the local authority's principal office for inspection by members of the public at such times as may be specified in the notice, and
  - (f) specifies the address of the local authority's principal office.
- (4) The local authority must comply with sub-paragraphs (2) and (3) as soon as practicable after it passes the resolution approving the proposals.

#### *Implementing proposals*

- 8 (1) A local authority must implement its proposals in accordance with the timetable included in the proposals.
- (2) But if the proposed form of executive—
- (a) is a mayor and cabinet executive, and
  - (b) is not approved in the referendum on the change to that form of executive, the local authority must not implement the change.

## **PART 2**

### **OTHER PROVISIONS APPLICABLE WHERE REFERENDUM REQUIRED**

#### *Outline fall-back proposals in case referendum rejects change*

- 9 (1) This paragraph applies to a local authority if the proposed form of executive is a mayor and cabinet executive (and accordingly is subject to approval in a referendum).
- (2) The local authority must draw up, and approve by resolution, an outline of the fall-back proposals (“outline fall-back proposals”) that it intends to implement if the proposals to change to a mayor and cabinet executive are rejected in the referendum.
- (3) Fall-back proposals are proposals for making a change to executive arrangements that provide for a leader and cabinet executive (Wales).
- (4) Paragraph 2(2) applies to the outline fall-back proposals as it applies to proposals under that paragraph.
- (5) The outline fall-back proposals must include a timetable with respect to the implementation (in accordance with paragraph 11) of detailed fall-back proposals in the event that the change to the mayor and cabinet executive is not approved in the referendum.

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- (6) The local authority must comply with sub-paragraph (2) at the time it complies with paragraph 2(1).
- (7) The local authority must send the Welsh Ministers a copy of the outline fall-back proposals that it has approved.
- (8) The local authority must comply with sub-paragraph (7) at the time it complies with paragraph 2(3).

*Action if referendum rejects change*

- 10
- (1) This paragraph applies to a local authority if—
    - (a) the proposed form of executive is a mayor and cabinet executive, and
    - (b) is not approved in the referendum on the change to that form of executive.
  - (2) The local authority must publish a notice which—
    - (a) summarises the local authority's proposals which were the subject of the referendum,
    - (b) states that a referendum on the local authority's proposals rejected those proposals,
    - (c) sets out the local authority's outline fall-back proposals, and
    - (d) states that, under the outline fall-back proposals, the local authority intends to operate a leader and cabinet executive (Wales).
  - (3) The local authority must comply with sub-paragraph (2) as soon as practicable after the referendum.
  - (4) The local authority must draw up, and approve by resolution, detailed fall-back proposals which are based on the outline fall-back proposals.
  - (5) Paragraphs 2(2), 3 and 7(2) and (3) apply to the detailed fall-back proposals as they apply to proposals under paragraph 2.
  - (6) The local authority must send a copy of the detailed fall-back proposals to the Welsh Ministers.
  - (7) The local authority must comply with sub-paragraph (6) within the period of two months beginning with day of the referendum.

*Timetable for implementation of detailed fall-back proposals*

- 11
- The timetable with respect to the implementation of the detailed fall-back proposals must be such as to secure that the local authority makes the change to the leader and cabinet executive (Wales) no later than the end of the period of six months beginning with the day on which the local authority sends the Welsh Ministers the copy of the proposals.

*Implementing detailed fall-back proposals*

- 12
- The local authority must implement its detailed fall-back proposals in accordance with the timetable included in the proposals.

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### PART 3

#### MISCELLANEOUS

##### *Failure to cease operating alternative arrangements*

- 13 (1) This paragraph applies if it appears to the Welsh Ministers that a local authority will fail to cease operating alternative arrangements and start operating executive arrangements in accordance with section 35.
- (2) The Welsh Ministers may, by order, provide for the local authority to—
- (a) cease to operate alternative arrangements, and
  - (b) start to operate executive arrangements of a form specified by the Welsh Ministers (“default executive arrangements”).
- (3) Default executive arrangements are to be treated as having been made by the local authority itself.
- (4) Paragraphs 7(2) and (3)(c) to (e) apply to default executive arrangements as they apply to executive arrangements in proposals under paragraph 2.
- (5) The local authority must comply with those provisions of paragraph 7 (as they apply by virtue of sub-paragraph (4)) as soon as practicable after the order providing for the default executive arrangements is made by the Welsh Ministers.

##### *Arrangements to be treated as operated after passing of resolution*

- 14 Executive arrangements which come into operation in accordance with section 35 and this Schedule are to be treated as being operated after the passing of a resolution of the local authority under section 38.

##### *Interpretation*

- 15 In this Schedule—
- “change to executive arrangements” (“*newid i drefniadau gweithrediaeth*”) means the change to executive arrangements proposed in proposals or in fall-back proposals;
  - “detailed fall-back proposals” (“*cynigion manwl wrth gefn*”) means proposals under paragraph 10(4);
  - “fall-back proposals” (“*cynigion wrth gefn*”) has the meaning given in paragraph 9(3);
  - “outline fall-back proposals” (“*cynigion amlinellol wrth gefn*”) means proposals under paragraph 9(2);
  - “proposals” (“*cynigion*”) (except in relation to fall-back proposals) means proposals under paragraph 2;
  - “proposed form of executive” (“*ffurf arfaethedig ar weithrediaeth*”) means the form of executive which a local authority is, in proposals under paragraph 2, or in fall-back proposals, proposing to begin operating.

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## SCHEDULE 2

(introduced by section 141(2))

### THE PANEL

#### *Membership*

- 1 (1) The Panel consists of five members appointed by the Welsh Ministers.
- (2) The Welsh Ministers must appoint one of the members as Chairperson.
- (3) The members of the Panel must elect one of their number as Vice-chairperson.
- (4) The following are disqualified from being a member of the Panel—
  - (a) a member of the National Assembly for Wales;
  - (b) a member of the House of Commons;
  - (c) a member of the House of Lords;
  - (d) a member of the European Parliament;
  - (e) a member of a local authority or a community council;
  - (f) a person who is disqualified from being a member of a local authority or community council.
- (5) Paragraph 1(4)(f) does not apply to a person who is disqualified merely as a result of section 80(1)(a) of the Local Government Act 1972 (employees of council, office-holders, etc.).

#### **Commencement Information**

**I116** Sch. 2 para. 1 in force at 31.8.2011 by S.I. 2011/2011, art. 2(t)

#### *Tenure*

- 2 (1) Members of the Panel hold and must vacate office in accordance with the terms of their appointment, those terms being such as the Welsh Ministers decide.
- (2) A person may not be appointed as a member of the Panel for a period exceeding four years.
- (3) But a person who ceases to be a member of the Panel is eligible for re-appointment.
- (4) A person appointed to fill a casual vacancy in the membership of the Panel serves as a member until the date on which the period of membership of the person whose place has been filled would have expired.
- (5) A member of the Panel holding office as Chairperson or Vice-chairperson does so until the period of that person's membership expires.

#### **Commencement Information**

**I117** Sch. 2 para. 2 in force at 31.8.2011 by S.I. 2011/2011, art. 2(t)

#### *Meetings*

- 3 (1) The Panel must meet at least once every calendar year.



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- (2) The quorum of the Panel is three and must include the Chairperson or the Vice-chairperson.
- (3) The Chairperson (or, in the absence of the Chairperson, the Vice-chairperson) presides at meetings of the Panel.
- (4) The members of the Panel may (subject to provision made by or by virtue of Part 8) regulate the Panel's procedures.
- (5) A question for decision by the Panel must be decided at a meeting of members of the Panel by a majority of the votes cast by those members present at the meeting.
- (6) If there is an equality of votes on a question for decision, the person presiding at the meeting has a second or casting vote.

**Commencement Information**

**I118** Sch. 2 para. 3 in force at 31.8.2011 by S.I. 2011/2011, art. 2(t)

*Information*

- 4 The Panel may, in connection with the performance of its functions, seek information or advice.

**Commencement Information**

**I119** Sch. 2 para. 4 in force at 31.8.2011 by S.I. 2011/2011, art. 2(t)

*Expenses, administrative support etc.*

- 5 (1) The Welsh Ministers must pay expenses incurred by the Panel (either collectively or by members individually) in carrying out functions of the Panel (or of members of the Panel in their capacity as such).
- (2) The Welsh Ministers may pay allowances to members of the Panel.
- (3) The Welsh Ministers must make administrative support available to the Panel.

**Commencement Information**

**I120** Sch. 2 para. 5 in force at 31.8.2011 by S.I. 2011/2011, art. 2(t)

SCHEDULE 3

*(introduced by section 160)*

PAYMENTS AND PENSIONS: MINOR AND CONSEQUENTIAL AMENDMENTS

*Local Government Act 1972*

- 1 (1) The Local Government Act 1972 is amended as follows.

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- (2) In section 94(5) (local authority allowances not to count as pecuniary interest for purposes of prohibiting voting where member has pecuniary interest), after “1989” insert “ or under any provision of Part 8 of the Local Government (Wales) Measure 2011 ”.
- (3) Sections 173 to 178 (allowances for members) cease to have effect.
- (4) In section 246(16) (application of provisions about local authority allowances to charter trustees), after “above” insert “ and (in relation to Wales) Part 8 of the Local Government (Wales) Measure 2011 ”.
- (5) In section 249(4)(b) (allowance not payable for attendance by honorary aldermen at civic ceremonies), at the end insert “ or Part 8 of the Local Government (Wales) Measure 2011 ”.

**Commencement Information**

**I121** Sch. 3 para. 1 in force at 30.4.2012 by S.I. 2012/1187, art. 2(1)(q)

*Local Government and Housing Act 1989*

- 2 (1) Section 18 of the Local Government and Housing Act 1989 (schemes for allowances for local authority members) is amended as follows.
  - (2) Omit subsections (1) to (3), (3B), (3D), (3E) and (3G) to (6).
  - (3) For subsection (3A) (power of Welsh Ministers to make regulations enabling local authorities to determine entitlement to gratuities), substitute—
 

“(3A) Regulations may be made by the Welsh Ministers to make provision for or in connection with—

    - (a) enabling county councils or county borough councils to determine which members of the council are to be entitled to gratuities,
    - (b) treating such payments relating to relevant matters (within the meaning of Part 8 of the Local Government (Wales) Measure 2011) as may be specified in the regulations as amounts in respect of which such gratuities are payable.”

**Commencement Information**

**I122** Sch. 3 para. 2 in force at 30.4.2012 by S.I. 2012/1187, art. 2(1)(q)

*Environment Act 1995*

- 3 In paragraph 11 of Schedule 7 to the Environment Act 1995 (application of provisions about local authority allowances to National Park authorities), omit subparagraphs (1) and (2).

**Commencement Information**

**I123** Sch. 3 para. 3 in force at 30.4.2012 by S.I. 2012/1187, art. 2(1)(q)

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*School Standards and Framework Act 1998*

- 4 (1) The School Standards and Framework Act 1998 is amended as follows.
- (2) In section 94(5C) (power to apply provisions about local authority allowances to admission appeal panels), after “1972” insert “ or (in relation to Wales) Part 8 of the Local Government (Wales) Measure 2011 ”.
- (3) In section 95(3B) (power to apply provisions about local authority allowances to admission appeal panels in case of pupils excluded from two or more schools), after “1972” insert “ or (in relation to Wales) Part 8 of the Local Government (Wales) Measure 2011 ”.

**Commencement Information**

**I124** Sch. 3 para. 4 in force at 30.4.2012 by S.I. 2012/1187, art. 2(1)(q)

*Local Government Act 2000*

- 5 (1) The Local Government Act 2000 is amended as follows.
- (2) In section 99(1) (power to make provision about allowances etc. in regulations about local government pensions), at the end insert “; and for the purposes of the application of this subsection to Wales, the reference to pensions and allowances is to be ignored.”
- (3) Section 100 (power of Welsh Ministers to make provision about local authority allowances) ceases to have effect.

**Commencement Information**

**I125** Sch. 3 para. 5 in force at 30.4.2012 by S.I. 2012/1187, art. 2(1)(q)

*Education Act 2002*

- 6 In section 52(6) of the Education Act 2002 (power to apply provisions about local authority allowances to panels dealing with exclusion of pupils), after “1972 (c. 70)” insert “ or (in relation to Wales) Part 8 of the Local Government (Wales) Measure 2011 ”.

**Commencement Information**

**I126** Sch. 3 para. 6 in force at 30.4.2012 by S.I. 2012/1187, art. 2(1)(q)

*Education and Skills Act 2008*

- 7 In section 48(4) of the Education and Skills Act 2008 (power to apply provisions about local authority allowances to attendance panels), after “1972 (c. 70)” insert “ or (in relation to Wales) Part 8 of the Local Government (Wales) Measure 2011 ”.

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#### Commencement Information

**I127** Sch. 3 para. 7 in force at 30.4.2012 by S.I. 2012/1187, art. 2(1)(q)

## SCHEDULE 4

(introduced by section 176(2))

### REPEALS AND REVOCATIONS

#### PART A:

##### STRENGTHENING LOCAL DEMOCRACY (PART 1 OF THE MEASURE)

#### Commencement Information

**I128** Sch. 4 Pt. A in force at 30.4.2012 by S.I. 2012/1187, art. 2(2)(m)

<i>Reference</i>	<i>Extent of repeal</i>
Local Government and Housing Act 1989	In section 2(1)(f), the word “and”.

#### PART B:

##### AVAILABLE GOVERNANCE ARRANGEMENTS (PART 3 OF THE MEASURE)

<i>Reference</i>	<i>Extent of repeal or revocation</i>
Local Government Act 1972	In section 21(1A), the words “or a mayor and council manager executive”. In section 22(4A), the words “or a mayor and council manager executive”. In section 25A(3), the words “or a mayor and council manager executive”. In section 70(3), the words “or alternative arrangements”. In section 270(1)— (a) the definition of “alternative arrangements”; (b) in the definition ““mayor and cabinet executive” and “mayor and council manager executive””, the words “and “mayor and council manager executive””.
Local Government and Housing Act 1989	In section 245(1A) and (4A), the words “or a mayor and council manager executive”. In section 5(3)(b), the words from “and, in a case where” to the end of paragraph (b).

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	In section 5A(5)(b), the words from “and, where” to the end of paragraph (b). In section 13— (a) subsection (5A); (b) in subsection (9), the words “and “mayor and council manager executive””.
	In section 21(3), the words “ “council manager”” and “and “mayor and council manager executive””.
Local Government Finance Act 1992	In section 106— (a) in subsection (1), the words “or a council manager within the meaning of section 11(4)(b) of the Local Government Act 2000”; (b) in subsection (2), the words “or a council manager”.
Local Government Act 2000	In section 11— (a) subsection (4), and (b) in subsection (10), the words “or an officer” and “or (4)(b)”.
	Section 16. Section 26(2)(b). Section 29. Section 33. In section 48(1), the definition of “council manager”.
	In Schedule 1, paragraph 3.
Local Authorities (Proposals for Alternative Arrangements) (Wales) Regulations 2001 (S.I. 2001/2293)	The whole Regulations.
Local Authorities (Changing Executive Arrangements and Alternative Arrangements) (Wales) Regulations 2004 (S.I. 2004/3158)	The whole Regulations
Local Authorities (Alternative Arrangements) (Wales) Regulations 2007 (S.I. 2007/397)	The whole Regulations.
Local Government (Wales) Measure 2011	Section 87(3).

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## PART C:

### CHANGES TO EXECUTIVE ARRANGEMENTS (PART 4 OF THE MEASURE)

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<i>Reference</i>	<i>Extent of repeal</i>
Local Government Act 2000	Section 30.

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## PART D:

### OVERVIEW AND SCRUTINY (PART 6 OF THE MEASURE)

#### Commencement Information

**I129** Sch. 4 Pt. D in force at 30.4.2012 by S.I. 2012/1187, art. 2(2)(m)

<i>Reference</i>	<i>Extent of repeal</i>
Local Government Act 2000	In section 21(13)(aa), the final “and”. In section 21A(1)(c), the words “in the case of a local authority in England”. In section 21A(6)(a), the words “in England”. In section 21B(1), the words “in England”. In section 22, the words “in England”

## PART E:

### COMMUNITIES AND COMMUNITY COUNCILS (PART 7 OF THE MEASURE)

<i>Reference</i>	<i>Extent of repeal</i>
Local Government Act 1972	Sections 28 to 29B.

## PART F:

### MEMBERS: PAYMENTS AND PENSIONS (PART 8 OF THE MEASURE)

#### Commencement Information

**I130** Sch. 4 Pt. F in force at 30.4.2012 by S.I. 2012/1187, art. 2(2)(m) (with art. 3)

<i>Reference</i>	<i>Extent of repeal or revocation</i>
Local Government Act 1972	Sections 173 to 178.
Local Government and Housing Act 1989	Section 18(1) to (3), (3B), (3D), (3E) and (3G) to (6).
Environment Act 1995	In Schedule 7, paragraph 11(1) and (2).
Local Government Act 2000	Section 100.
Local Authorities (Allowances for Members of County and County Borough Councils and National Park Authorities) (Wales) Regulations 2002 (S.I. 2002/1895)	The whole Regulations.
Local Authorities (Allowances for Members of Community Councils) (Wales) Regulations 2003 (S.I. 2003/895)	The whole Regulations.

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Local Authorities (Allowances for Members of Fire Authorities) (Wales) Regulations 2004 (S.I. 2004/2555)    The whole Regulations.

Local Authorities (Allowances for Members) (Wales) Regulations 2007 (S.I. 2007/1086)    The whole Regulations.

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**Status:**

Point in time view as at 04/05/2012. This version of this Measure contains provisions that are not valid for this point in time.

**Changes to legislation:**

Local Government (Wales) Measure 2011 is up to date with all changes known to be in force on or before 18 October 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.