

LOCAL GOVERNMENT (WALES) MEASURE 2011

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 9 – Collaboration and Amalgamation

Section 162 – Power to make an amalgamation order

188. Enables Welsh Ministers by order to amalgamate two or three (and no more) local authorities to create a single new local government area.
189. Before making an amalgamation order, the Welsh Ministers must be satisfied that effective local government is not likely to be achieved in at least one of the local government areas to be amalgamated.
190. In reaching their conclusion that amalgamation is necessary, the Welsh Ministers must consider whether effective local government could be achieved in the local authorities concerned by the exercise of the powers already conferred on those authorities and on the Welsh Ministers under specified provisions in the 2009 Measure.
191. The Welsh Ministers must therefore be satisfied that exercise of the following powers is unlikely to achieve effective local government:
 - i. Section 9 of the 2009 Measure (powers to collaborate). This section confers on Welsh improvement authorities (which includes local authorities) powers to enable them to collaborate with each other and with other bodies, for the purpose of discharging or facilitating the discharge of the duties under section 2(1) of the 2009 Measure (general duty to make arrangements to secure continuous improvement in the exercise of their functions). Section 3(2) of the 2009 Measure requires a Welsh improvement authority, for each financial year, to set itself improvement objectives. These are objectives for improving the exercise of particular functions of the authority and section 8(7) of the 2009 Measure specifies that a Welsh improvement authority must make arrangements to exercise its functions so that any performance standards are met.
 - ii. Section 28 of the 2009 Measure (support for Welsh Improvement Authorities). This section empowers the Welsh Ministers to do anything they consider likely to assist a Welsh improvement authority to comply with the requirements of Part 1 of the 2009 Measure (Local Government Improvement). It also requires the Welsh Ministers to consider offering such support if requested to do so; and (unless they are requested) to consult the relevant local authorities and others before providing support. It does not allow the Welsh Ministers to compel or direct a local authority or any other organisation to do anything.
 - iii. Section 29 of the 2009 Measure (powers of direction). This section contains powers for the Welsh Ministers to intervene in and direct a local authority which is failing, or is at risk of failing, to comply with its duties in Part 1 of the 2009 Measure (essentially, duties to make arrangements to secure improvement).

- iv. Section 30 of the 2009 Measure (powers of direction: collaboration arrangements). This section permits the Welsh Ministers to direct a Welsh improvement authority which may not itself be failing (or be at risk of failing) to collaborate with one that is.
 - v. Section 31 of the 2009 Measure (power of Welsh Ministers to modify enactments and confer new powers). This section provides Welsh Ministers with a power (by order) to make provision to modify or exclude the application of enactments which apply to Welsh improvement authorities, and to confer new powers on such authorities. The Welsh Ministers may do so only if they are satisfied that such an enactment prevents or obstructs a Welsh improvement authority from complying with the provisions of Part 1 of the 2009 Measure, or that conferring a new power would facilitate such compliance.
192. The Welsh Ministers will have to demonstrate that they are satisfied that exercise of the above powers is unlikely to achieve effective local government, and that an amalgamation would be likely to do so. Therefore, having first been satisfied that effective local government is not likely to be achieved by the exercise of powers under the 2009 Measure, it is only then that the Welsh Ministers may, if they are satisfied that it is necessary to achieve local government, make an amalgamation order.
193. The Welsh Ministers will have to explain a proposal for amalgamation in the documentation required under section 169 (see below); the explanation will have to demonstrate how the Welsh Ministers reached their conclusion.
194. [Section 162](#) also requires an amalgamation order to cover various issues fundamental to an amalgamation and the creation of a new authority, including abolition of the existing areas, the creation of the new area, its name, its designation as a county or county borough, the establishment of the new local authority as a county, or county borough, council and the winding up and dissolution of the councils of the existing areas.