



Local Government (Wales) Act 1994

1994 CHAPTER 19

PART II

FUNCTIONS

General

17 General provision for transfer of functions.

- (1) This section has effect for the purpose of adapting relevant legislative provisions and in particular for the purpose of providing for the exercise of functions conferred by such provisions.
- (2) A provision is a “relevant legislative provision” for the purposes of this section if it is a provision of—
 - (a) any public general Act passed before, or during the same Session as, this Act; or
 - (b) an instrument which—
 - (i) was made before the passing of this Act, under a public general Act; and
 - (ii) is of a legislative character but is not in the nature of a local enactment.
- (3) This section has effect subject to any provision made by, or by any instrument under, this Act and is not to be taken as affecting any provision so made.
- (4) In any relevant legislative provision—
 - (a) any reference to an area which is the area of a county council or the area of a district council, and
 - (b) any reference which is to be construed as a reference to such an area, shall be construed, in relation to Wales, as a reference to a new principal area.
- (5) In any relevant legislative provision—
 - (a) any reference to the council of a county or district, and

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- (b) any reference which is to be construed as such, shall be construed, in relation to Wales, as a reference to the council of a new principal area.
- (6) Where, in relation to any relevant legislative provision, any question arises as to which new principal area is the appropriate new principal area for the purposes of that provision, that question shall be determined by order made by the Secretary of State.
- (7) Where any relevant legislative provision is by virtue of this section to be construed in accordance with subsection (4) or (5)—
- (a) it shall be so construed subject to any modifications necessary to give full effect to the provision; and
- (b) the Secretary of State may by order make such amendments or other modifications of the provision as he considers necessary or expedient in consequence of any provision made by or under this Act.

Modifications etc. (not altering text)

- C1** S.17: transfer of functions (1.7.1999) by S.I. 1999/672, art. 2, **Sch. 1**
- C2** S. 17(4)(5) excluded (1.4.1996) by 1990 c. 8, s. **336(1A)(c)** (as inserted (1.4.1996) by 1994 c. 19, s. 20(4), Sch. 6 Pt. II para. 24(14) (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), **23(2)**); S.I. 1996/396, art. 3, **Sch. 1**)
- S. 17(4)(5) excluded (1.4.1996) by 1980 c. 66, s. **329(2A)(c)** (as inserted (1.4.1996) by 1994 c. 19, s. 20(4), Sch. 7 Pt. I para. 27(3) (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), **23(2)**); S.I. 1996/396, art. 3, **Sch. 1**)
- S. 17(4)(5) excluded (1.4.1996) by 1981 c. 14, s. **82(3)(c)** (as added (1.4.1996) by 1994 c. 19, s. 20(4), Sch. 7 Pt. II para. 36(3) (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), **23(2)**); S.I. 1996/396, art. 3, **Sch. 1**)
- S. 17(4)(5) excluded (1.4.1996) by 1984 c. 27, s. **142(1A)(c)** (as inserted (1.4.1996) by 1994 c. 19, s. 20(4), Sch. 7 Pt. II para. 38(10) (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), **23(2)**); S.I. 1996/396, art. 3, **Sch. 1**)

Commencement Information

- II** S. 17 wholly in force at 1.4.1996; s. 17 not in force at Royal Assent see s. 66; s. 17 in force for certain purposes at 20.3.1995 by S.I. 1995/546, art. 3, **Sch.** (subject to arts. 4-8 (as amended by S.I. 1995/851)); s. 17 in force at 1.4.1996 insofar as not already in force by S.I. 1996/396, art. 3, **Sch. 1**

Planning

18 New principal councils to be local planning authorities in Wales.

- (1) In this Act references to the planning Act are references to the ^{M1}Town and Country Planning Act 1990.
- (2) Section 1 of the planning Act (local planning authorities) is amended as follows.
- (3) After subsection (1), insert—
- “(1A) Subsection (1) does not apply in relation to Wales.
- (1B) In Wales—
- (a) the local planning authority for a county is the county council; and

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(b) the local planning authority for a county borough is the county borough council.”

(4) After subsection (4), insert—

“(4A) Subsection (4) does not apply in relation to Wales.

(4B) As to any site in Wales, the local planning authority is also the mineral planning authority.”

(5) At the end of the section add—

“(6) The exercise, in relation to Wales, of functions conferred on local planning authorities is subject to section 4(3) and Schedule 1A.”

(6) In subsection (3), omit the words “and in Wales” and in subsection (5)—

(a) in paragraph (a), for “subsections (1) to (4) have” substitute “this section has”; and

(b) in paragraph (b), for “(1) and (2)” substitute “(1) to (2)”.

(7) Schedule 4 inserts a new Schedule 1A in the planning Act.

Commencement Information

I2 S. 18 wholly in force at 1.4.1996; s. 18 not in force at Royal Assent see s. 66; s. 18(1)-(6) in force at 3.4.1995 for certain purposes and 1.4.1996 insofar as not already in force by S.I. 1995/852, art. 4(1), Sch. 2 (subject to art. 4(2)-(6)); s. 18(7) in force at 1.4.1996 by S.I. 1995/3198, art. 4, Sch. 2

Marginal Citations

M1 1990 c. 8.

19 Joint and special planning boards in Wales.

(1) In section 2 of the planning Act (joint planning boards), after subsection (1) insert—

“(1A) Subsection (1) does not apply in relation to Wales.

(1B) If it appears to the Secretary of State that it is expedient that a joint board should be established as the local planning authority for two or more areas, each of which is the whole or part of a Welsh county or county borough, he may by order—

(a) constitute those areas or parts as a united district for the purposes of this Act; and

(b) constitute a joint board as the local planning authority for that united district.

(1C) A joint board constituted under subsection (1) or (1B) shall be known as a “joint planning board”.

(2) In Schedule 17 to the 1972 Act (National Parks), after paragraph 3 insert—

“3A (1) Where a National Park is wholly comprised in one planning area in Wales, the Secretary of State may by order constitute a special planning board

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to discharge, as respects the area of the Park, the functions to which this Part of this Schedule applies.

(2) Any enactment relating to joint planning boards constituted by an order under section 2 of the ^{M2}Town and Country Planning Act 1990 shall apply in relation to a special planning board constituted under this paragraph as it applies in relation to a joint planning board constituted under subsection (1B) of that section, but as if—

- (a) the area of the National Park were a united district; and
- (b) any reference (however expressed) to the constituent councils of the joint board (or which is to be construed as such a reference) were a reference to the council of the principal area in question.

3B A board reconstituted under paragraph 3 above or constituted under paragraph 3A above shall be known as “a special planning board”.

(3) Section 2(2) of the planning Act (local inquiry to be held in the absence of consent of councils concerned) shall not apply to the making of any order—

- (a) under section 2(1B) of that Act, where the united district constituted by the order comprises or includes the whole or any part of the area of a National Park; or
- (b) under paragraph 3A of Schedule 17 to the 1972 Act,

if the board constituted by the order is to come into existence before 31st March 1997.

(4) In section 2 of the planning Act—

- (a) in subsection (1), omit the words “(in this Act referred to as a “joint planning board”)”;
- (b) in subsection (2), for the words “such an order” substitute “ an order under subsection (1) or (1B) ”;
- (c) in subsection (3), after “county” insert “ or county borough ” (in both places); and
- (d) in subsection (4), after “(1)” insert “ or (1B) ”.

Marginal Citations

M2 1990 c. 8.

20 Unitary development plans and National Parks.

(1) After section 10 of the planning Act (application of Chapter I), insert—

“10A Application of Chapter I in relation to Wales.

- (1) This Chapter also applies to the area of any local planning authority in Wales.
- (2) Subsections (3) and (4) apply where the area of a local planning authority in Wales includes—
 - (a) the whole or any part of an area prescribed under section 23B(2) in relation to a National Park, and
 - (b) other land.

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- (3) The provisions of this Chapter apply separately in relation to—
- (a) the Park area or, if there is more than one, each Park area, and
 - (b) the remaining area.
- (4) Any reference in any of the following sections of this Chapter to the area of the local planning authority (including any reference which falls to be so construed) shall be construed—
- (a) in its application in relation to any Park area, as a reference to that Park area, and
 - (b) in its application in relation to the remaining area, as a reference to that area.
- (5) In this section—
- “the Park area”, in relation to a National Park, means the part of the local planning authority’s area which is within the area prescribed under section 23B(2) in relation to that Park or, where there is more than one such part, those parts taken as a whole;
- “the remaining area” means the part of the local planning authority’s area which is not within the area so prescribed in relation to any National Park.”

- (2) In Chapter I of Part II of the planning Act, insert after section 28—

“28A Application of Chapter I in relation to Wales: transitional provisions.

- (1) Until a unitary development plan becomes fully operative for the area of any local planning authority in Wales—
 - (a) Part IA of Schedule 2, and
 - (b) Part III of Schedule 5 to the Local Government (Wales) Act 1994 (transitional provisions in relation to structure and local plans),
 shall apply in relation to that area.
- (2) For the purposes of this Chapter, a unitary development plan for the area of a local planning authority in Wales has become fully operative when—
 - (a) it has become operative under this Chapter; or
 - (b) where different parts have become operative at different times, when all parts of it have become so operative.”
- (3) Schedule 5 shall have effect—
 - (a) Part I making minor and consequential amendments to Part II of the planning Act,
 - (b) Part II inserting a new Part IA in Schedule 2 to the planning Act, and
 - (c) Part III making transitional provision, including provision with respect to the completion and adoption by new authorities of—
 - (i) local plans, and
 - (ii) proposals for alteration or replacement of structure plans and local plans,
 prepared or in course of preparation on 1st April 1996.
- (4) Schedule 6 shall have effect—

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- (a) Part I making minor and consequential amendments to the 1972 Act in relation to National Parks and countryside functions, and
- (b) Part II making minor and consequential amendments to enactments concerned with planning.

Commencement Information

I3 S. 20 partly in force; s. 20 not in force at Royal Assent see s. 66; s. 20(4) in force at 3.4.1995 for certain purposes by S.I. 1995/852, art. 4(1), **Sch. 2** (subject to art. 4(2)-(6)); s. 20(4) in force at 1.10.1995 for certain purposes by S.I. 1995/2490, art. 4(1), **Sch. 2** (subject to art. 4(2)(3)); s. 20(1)-(3) in force at 1.4.1996 by S.I. 1995/3198, art. 4, **Sch. 2**; s. 20(4) in force at 1.4.1996 for certain purposes by S.I. 1996/396, art. 3, **Sch. 1**

VALID FROM 01/04/1996

Education

21 Local education authorities and minor authorities in Wales.

- (1) In section 114 of the ^{M3}Education Act 1944 (interpretation), in the definition of “local education authority” in subsection (1), after “the county,” insert “ in relation to a county borough, the council of the county borough, ”.
- (2) In section 192 of the 1972 Act (education), in subsection (1), after “non-metropolitan county” insert “ in England ” and at the end add “ but, for each principal area in Wales, the local education authority shall be the council of that principal area ”.
- (3) In section 114(1) of the Act of 1944, in the definition of “minor authority”, omit, in paragraph (b), “is a community having no community council or” and, in paragraph (c)(iii), “which is a community having no community council or”.

Marginal Citations

M3 1944 c. 31.

Transfer of other specific functions

22 Transfer of other specific functions.

- (1) Schedule 7 makes provision for the transfer to the new principal councils of functions in relation to highways, road traffic and transport.
- (2) Schedule 8 makes provision for the transfer to the new principal councils of functions in relation to housing.
- (3) Schedule 9 makes provision for the transfer to the new principal councils of functions in relation to public health and related matters.

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- (4) Schedule 10 makes provision for the transfer to the new principal councils of functions in relation to social services.
- (5) Schedule 11 makes provision for the transfer to the new principal councils of functions in relation to water, land drainage and coast protection.
- (6) Each of the Schedules referred to in this section includes minor and consequential amendments of other enactments.

Commencement Information

- I4** S. 22 partly in force; s. 22 not in force at Royal Assent see s. 66; s. 22(1)(4) in force at 3.4.1995 for certain purposes by S.I. 1995/852, art. 4(1), **Sch. 2** (subject to art. 4(2)-(6)); s. 22(1)(2) in force at 1.10.1995 for certain purposes by S.I. 1995/2490, art. 4(1), **Sch. 2** (subject to art. 4(2)(3)); s. 22(6) in force at 1.4.1996 by S.I. 1996/396, art. 3, **Sch. 1**; s. 22(1)-(5) in force at 1.4.1996 for certain purposes by S.I. 1996/396, arts. 3, 4, Schs. 1, 2

23 Fire services.

- (1) In section 4 of the ^{M4}Fire Services Act 1947 (fire authorities), after second “county” insert “ or, in Wales, of every county or county borough ”.
- (2) A combination scheme may be made under section 5 or 6 of the Act of 1947, before 1st April 1996, with respect to two or more areas each of which is a new principal area.
- (3) Where any such combination scheme is made before 1st April 1996, it shall not come into force until that date, except so far as it relates to—
 - (a) the constitution of an authority as the fire authority for the combined area constituted by the scheme, and
 - (b) the performance by that authority of any functions necessary for bringing the scheme into full operation on that date.
- (4) Where the Secretary of State proposes to make such a combination scheme—
 - (a) subsection (2) of section 6 of the Act of 1947 shall until 1st April 1996 be taken to require him to give notice to—
 - (i) any existing fire authority whose area lies wholly or partly within the proposed combined area; and
 - (ii) each of the new principal councils concerned; and
 - (b) the requirement in that subsection with respect to public local inquiries shall not apply if—
 - (i) the proposed scheme relates only to new principal areas; and
 - (ii) the notice is given before 1st April 1996.
- (5) Any such notice shall specify a period for making representations with respect to the proposed scheme.
- (6) Where the Secretary of State has given notice of a proposed scheme, in a case to which subsection (4) applies, he shall consider any representations which are made to him before the end of the specified period by any body to whom notice was given.

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Commencement Information

- I5** S. 23 wholly in force at 1.4.1996; s. 23 not in force at Royal Assent see s. 66; s. 23(2)-(6) in force at 3.4.1995 by S.I. 1995/852, art. 4(1), **Sch. 2** (subject to art. 4(2)-(6)); s. 23(1) in force at 1.4.1996 by S.I. 1995/3198, art. 4, **Sch. 2**

Marginal Citations

- M4** 1947 c. 41.

^{F1}24

Textual Amendments

- F1** S. 24 repealed (1.4.1995) by 1994 c. 29, s. 93, **Sch. 9 Pt. I**; S.I. 1994/3262, art. 4(1), **Sch.** (subject to arts. 4(2)-(8), 5)

Services

25 Provision of services by one new principal council for another.

- (1) Any new principal council (“the contracting council”) may enter into an agreement with another such council (“the supplying council”) for the provision by the supplying council of services which the contracting council require for the purpose of, or in connection with, the discharge of any of their functions.
- (2) Any agreement under subsection (1) (a “service agency agreement”) may be made on such terms as to payment or otherwise as the parties consider appropriate.
- (3) Subsection (1) is subject to—
 - (a) the provisions made by or under this Act;
 - (b) any other enactment which provides for specific functions of a local authority to be discharged only by that authority;
 - (c) any other enactment which imposes requirements which must be satisfied before a local authority may enter into any agreement of the kind provided for by subsection (1) including, in particular, the provisions of—
 - (i) Part III of the ^{M5}Local Government, Planning and Land Act 1980 (restrictions on use by local authorities of direct labour organisations); and
 - (ii) Part I of the ^{M6}Local Government Act 1988 (local authorities to undertake certain activities only if they can do so competitively).
- (4) The power conferred by subsection (1) shall be exercisable subject to such regulations (if any) as the Secretary of State sees fit to make for the purposes of this section.
- (5) Any such regulations may, in particular, make provision—
 - (a) excluding prescribed matters from those which may be the subject of a service agency agreement;

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- (b) restricting (whether by reference to one or more areas or otherwise) the councils with which a principal council may make a service agency agreement;
 - (c) restricting the area or areas with respect to which the supplying council may provide services under a service agency agreement.
- (6) As respects the exercise of any of their other statutory powers, anything which falls to be done by the supplying council under a service agency agreement shall be treated as one of their statutory functions.
- (7) The provisions of the ^{M7}Local Authorities (Goods and Services) Act 1970 (supply of goods and services by local authorities) do not affect, and are not affected by, the powers conferred on new principal councils by this section.
- (8) In section 1(4) of that Act (authorities to which Act applies), for “any county” substitute “ any county, county borough ”.
- (9) For the purposes of this section the Residuary Body shall be treated as a new principal council.

Modifications etc. (not altering text)

C3 S. 25 extended (19.9.1995) by 1995 c. 25, ss. 65(7), 125(2), **Sch. 8 para. 12** (with ss. 7(6), 115, 117)

C4 S. 25: transfer of functions (1.7.1999) by S.I. 1999/672, art. 2, **Sch. 1**

Commencement Information

I6 S. 25 in force at 3.4.1995, see s. 66 and S.I. 1995/852, art. 4(1), **Sch. 2** (subject to art. 4(2)-(6))

Marginal Citations

M5 1980 c. 65.

M6 1988 c. 9.

M7 1970 c. 39.

26 Service delivery plans.

- (1) Every new principal council shall prepare and publish a plan (“a service delivery plan”)—
- (a) describing the manner in which they propose to perform their functions during the period beginning on 1st April 1996 and ending with 31st March 1997; and
 - (b) giving particulars of the arrangements for organisation and management which they propose to adopt.
- (2) Each new principal council shall—
- (a) publish a draft of their proposed service delivery plan before 1st November 1995; and
 - (b) complete and publish their service delivery plan before 1st February 1996.
- (3) In preparing their service delivery plan, a council shall take into account any guidance given by the Secretary of State as to consultation or as to the contents of the plan.
- (4) A council’s service delivery plan shall be published in such manner as the council consider likely to bring it to the attention of persons (both inside and outside their area) who may be affected by the performance of their functions.

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- (5) Copies of their service delivery plan shall be made readily available by each new principal council for inspection by any person during office hours.
- (6) Subsections (4) and (5) also apply to the draft service delivery plan required to be published by subsection (2)(a).

Commencement Information

I7 S. 26 in force at 3.4.1995, see s. 66 and S.I. 1995/852, art. 4(1), Sch. 2 (subject to art. 4(2)-(6))

Status:

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