



# Local Government (Wales) Measure 2011

2011 nawm 4

## PART 7

### COMMUNITIES AND COMMUNITY COUNCILS

#### 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 “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—

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- (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.”.

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

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

### **“27B “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—

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**“27C “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.
- (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 “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—

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**“27E “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.
- (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 “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—

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- (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 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 “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

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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).
- (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 “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

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- 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—

#### **“27I “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—

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**“27J “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 is it 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.”.

**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 “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.



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(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 “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)).
- (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 “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.

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- (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 ”.

#### **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.

**Changes to legislation:**

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