

*Status: Point in time view as at 11/09/1998. This version of this part contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the Local Government (Wales) Act 1994, Part II. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 17

#### SAVINGS AND TRANSITIONAL PROVISIONS

##### PART II

##### TRANSITIONAL PROVISIONS

###### *Election of principal councillors in 1995*

- 7 (1) Section 26(3) of the 1972 Act (as substituted by section 4 of this Act) shall not apply in relation to the ordinary election of councillors of the new principal councils which takes place in 1995.
- (2) The councillors elected at that election shall assume office immediately.
- (3) The term of office of every such councillor shall extend until he retires in accordance with section 26(3)(a) of the 1972 Act.

###### **Commencement Information**

- I1** Sch. 17 para. 7 in force at 20.3.1995, see s. 66 and S.I. 1995/546, art. 3, Sch. (subject to arts. 4-8 (as amended by S.I. 1995/851))

###### *Election of community councillors in 1995*

- 8 (1) Any ordinary election of community councillors otherwise due to take place in May 1995 shall take place on the same day as the ordinary election in that year of councillors for the new principal area in which the community is situated.
- (2) Any such councillor who otherwise would ordinarily have retired on 8th May 1995 shall (unless he resigns his office or it otherwise becomes vacant) hold office until the fourth day after the day on which the election of community councillors in 1995 takes place.
- (3) The term of office of every councillor elected at that election shall extend until he retires in accordance with section 35(2B)(a) of the 1972 Act.

###### **Commencement Information**

- I2** Sch. 17 para. 8 in force at 20.3.1995, see s. 66 and S.I. 1995/546, art. 3, Sch. (subject to arts. 4-8 (as amended by S.I. 1995/851))

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### *Grouping of communities*

- 9 During the period beginning with the passing of this Act and ending with 1st April 1996, an order under section 29(1) of the 1972 Act (before the commencement of section 10) may be made only if all the communities concerned—
- (a) were, immediately before the passing of this Act, situated within the same district; and
  - (b) will, after that date, be situated within the area of a single principal council.

### *Disclosure of officers' interests*

- 10 For the purposes of section 117 of the 1972 Act (disclosure by officers of interests in contracts), any contract which—
- (a) was entered into by an old authority, and
  - (b) to which any of the new principal councils becomes a party by virtue of this Act,
- shall be treated as a contract entered into by the new principal council.

#### **Commencement Information**

**I3** Sch. 17 para. 10 in force at 3.4.1995, see s. 66 and S.I. 1995/852, art. 9(1), Sch. 5 (subject to art. 9(2)-(5))

### *Local land charges registers*

- 11 (1) The obligation imposed on local authorities to keep local land charges registers by section 3 of the <sup>M1</sup>Local Land Charges Act 1975 shall apply in relation to the new principal councils as if it required them to keep such registers from 1st April 1996.
- (2) The local land charges registers kept by the old authorities shall be reconstituted as registers kept by the new principal councils in accordance with such directions as the Secretary of State considers appropriate to give to any of the old authorities or new principal councils.

#### **Commencement Information**

**I4** Sch. 17 para. 11 in force at 3.4.1995, see s. 66 and S.I. 1995/852, art. 9(1), Sch. 5 (subject to art. 9(2)-(5))

#### **Marginal Citations**

**M1** 1975 c. 76.

### *Closure of old authorities' accounts*

- 12 (1) For the purposes of this paragraph, the Secretary of State shall by order designate such of the new principal councils as he considers appropriate.
- (2) Each designated council shall be designated with respect to one or more old authorities.
- (3) Each designated council shall, in relation to the accounts for any period ending before 1st April 1996 of each old authority with respect to which they are designated, discharge—

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- (a) any functions under regulations in force under [<sup>F1</sup>the Audit Commission Act 1998] which would have fallen to be discharged on or after that date by that old authority or any of its officers; and
  - (b) any functions under those regulations which fell to be so discharged before that date but which have not been discharged.
- (4) As respects anything falling to be done on or after 1st April 1996 in relation to those accounts, the provisions of [<sup>F2</sup>the Act of 1998] shall have effect as if they were accounts of the designated council but—
  - (a) the documents to which an auditor has the right of access under [<sup>F3</sup>section 6(1)] of that Act shall include any documents relating to the old authority concerned which are in the possession of any of the new principal councils or of the Residuary Body; and
  - (b) the persons who may be required to give information or an explanation under [<sup>F4</sup>section 6(4) or 48(1)] of that Act shall include any person who was an officer or member of the authority concerned at any time during the period to which the accounts relate.
- (5) Any requirement under [<sup>F5</sup>section 28 of the Act of 1998] in respect of a claim, return or account of an old authority, and any consent under [<sup>F6</sup>section 49(1)(a)] of that Act in respect of information relating to such an authority, may, on or after 1st April 1996, be made or given by the appropriate designated council.
- (6) Any designated council—
  - (a) shall have a right of access at all reasonable times to all such documents—
    - (i) as are in the possession, or under the control, of an old authority, or
    - (ii) as are mentioned in sub-paragraph (4)(a),which appear to the council to be needed for the purpose of discharging functions under this paragraph; and
  - (b) may require—
    - (i) any such person as is mentioned in sub-paragraph (4)(b), or
    - (ii) any person who is or has been an officer or member of that or any other new principal council,to give to the council any such information or explanation as they think necessary for that purpose.
- (7) It shall be the duty of every new principal council to take such steps, after 1st April 1996, as may reasonably be required of them by a designated council to enable the accounts of an old authority to be closed.
- (8) Any person who without reasonable excuse fails to comply with any requirement under sub-paragraph (6) shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (9) In sub-paragraph (4) “document” includes any record of information and, where the record is not in legible form, the rights conferred by that sub-paragraph and sub-paragraph (6) include the right to require the information to be made available in legible form for inspection or copying and to require copies of it in that form to be delivered.
- (10) In this paragraph “designated council” means a council designated under sub-paragraph (1).

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#### Textual Amendments

- F1** Words in Sch. 17 para. 12(3)(a) substituted (11.9.1998) by 1998 c. 18, ss. 54(1), 55(2), **Sch. 3 para. 28(2)**
- F2** Words in Sch. 17 para. 12(4) substituted (11.9.1998) by 1998 c. 18, ss. 54(1), 55(2), **Sch. 3 para. 28(3)(a)**
- F3** Words in Sch. 17 para. 12(4)(a) substituted (11.9.1998) by 1998 c. 18, ss. 54(1), 55(2), **Sch. 3 para. 28(3)(b)**
- F4** Words in Sch. 17 para. 12(4)(b) substituted (11.9.1998) by 1998 c. 18, ss. 54(1), 55(2), **Sch. 3 para. 28(3)(c)**
- F5** Words in Sch. 17 para. 12(5) substituted (11.9.1998) by 1998 c. 18, ss. 54(1), 55(2), **Sch. 3 para. 28(4)(a)**
- F6** Words in Sch. 17 para. 12(5) substituted (11.9.1998) by 1998 c. 18, ss. 54(1), 55(2), **Sch. 3 para. 28(4)(b)**

#### Modifications etc. (not altering text)

- C1** Sch. 17 para. 12 applied (with modifications) (23.11.1995) by S.I. 1995/2803, art. 17, **Sch. 4** (with transitional provisions in Schs. 6-8)

#### Commencement Information

- I5** Sch. 17 para. 12 in force at 3.4.1995, see s. 66 and S.I. 1995/852, art. 9(1), **Sch. 5** (subject to art. 9(2)-(5))

### *Planning*

PROSPECTIVE

<sup>F7</sup>13 .....

#### Textual Amendments

- F7** Sch. 17 para. 13 repealed (1.4.1997) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/2560, art. 2, **Sch.**

- 14 (1) This paragraph applies where an old authority have, by virtue of paragraph 5 of Schedule 17 to the 1972 Act, made arrangements which, immediately before 1st April 1996, are in force for the discharge of any of their functions through a National Park Committee.
- (2) The abolition of the old authority shall not affect the validity of anything done by the National Park Committee before the abolition of the authority.
- (3) Anything which, on 1st April 1996, is in the process of being done by or in relation to an old authority in the exercise of, or in connection with, any functions discharged through a National Park Committee may be continued by or in relation to the successor authority.
- (4) For the purposes of this paragraph “successor authority” means—
- (a) where a joint or special planning board is established for the area of the National Park in question, that board; and
  - (b) in any other case, the local planning authority by whom the functions become exercisable (acting through a National Park Committee).

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#### Commencement Information

**I6** Sch. 17 para. 14 in force at 3.4.1995, see s. 66 and S.I. 1995/852, art. 9(1), Sch. 5 (subject to art. 9(2)-(5))

- 15 (1) This paragraph applies where, immediately before 1st April 1996—
- (a) a planning obligation is in force, in relation to any land in Wales, under section 106 of the planning Act (planning obligations: general) or any provision in any earlier enactment from which that provision was derived; and
  - (b) the enforcing authority are the county planning authority or the district planning authority for the area in which the land is situated.
- (2) On and after 1st April 1996 the enforcing authority shall be the new planning authority and—
- (a) the provision in the instrument by which the planning obligation was entered into identifying the enforcing authority in accordance with section 106(9)(d) shall be read as if it instead so identified the new planning authority, and
  - (b) section 106 shall have effect accordingly.
- (3) In this paragraph—
- “enforcing authority” means the authority by whom the obligation is enforceable;
  - “new planning authority” means—
    - (a) the local planning authority who are a county council, county borough council, joint planning board or special planning board in whose area that land becomes situated on 1st April 1996; but
    - (b) where a part of the land becomes situated in the area of each of two or more such authorities, such of those authorities as they may agree between them, or, in default of agreement, as may be determined by the Secretary of State.
- (4) This paragraph has effect in relation to planning obligations entered into under section 299A of the planning Act (Crown planning obligations) as it has effect in relation to planning obligations entered into under section 106 of that Act, but as if for references to section 106, and to subsection (9)(d) of that section, there were substituted references to section 299A of that Act, and to subsection (2)(d) of section 299A, respectively.

#### Modifications etc. (not altering text)

**C2** Sch. 17 para. 15 applied (with modifications) (23.11.1995) by S.I. 1995/2803, art. 17, Sch. 4

- 16 (1) Except as provided by section 287 of the planning Act (proceedings for questioning validity of development plans) as applied by this paragraph, the validity of—
- (a) a modified plan, or
  - (b) any alteration made to or replacement of a local plan, a minerals local plan, a waste local plan or a structure plan under Part III of Schedule 5,
- whether before or after the plan, alteration or replacement has been approved or adopted, shall not be questioned in any legal proceedings.

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- (2) Section 287 of the planning Act applies in relation to any such plan, alteration or replacement as it applies in relation to—
    - (a) a local plan, minerals local plan, or waste local plan adopted or approved, or
    - (b) any alteration made to or replacement of any such plan or a structure plan, before 1st April 1996, but with the omission of subsection (3) and as modified by sub-paragraphs (3) to (5).
  - (3) Subsection (1)(a) shall apply as if after “Part II” there were inserted “ or by or under Part III of Schedule 5 to the Local Government (Wales) Act 1994 ”.
  - (4) Subsections (1)(b) and (2)(b) shall apply as if any reference to Part II of the planning Act included a reference to Part III of Schedule 5.
  - (5) Subsection (5)(a) shall apply as if for “under section 26 or, as the case may be, section 53” there were substituted “ under Part III of Schedule 5 to the Local Government (Wales) Act 1994 ”.
  - (6) Terms used in this paragraph have the same meanings as they have in Part III of Schedule 5.
- 17 (1) In section 306 of the planning Act (contributions by local authorities and statutory undertakers), subsection (2)(a) applies—
- (a) in relation to the preparation of a modified plan as it applies in relation to the preparation of a local plan; and
  - (b) as if the reference to Part II of the planning Act included a reference to Part III of Schedule 5.
- (2) In section 324 of the planning Act (rights of entry), subsection (1)(a) applies—
- (a) in relation to a modified plan as it applies in relation to a local plan; and
  - (b) as if any reference to Part II of the planning Act included a reference to Part III of Schedule 5.
- (3) In this paragraph “modified plan” has the meaning given by paragraph 11 of Schedule 5.

#### *Highways*

- 18 (1) This paragraph applies where a bridge in Wales carries a highway for which the Secretary of State is not the highway authority.
- (2) If—
- (a) part of the bridge is situated in one new principal area and part in another; and
  - (b) the highway authority for the bridge is not otherwise determined under or by virtue of any provision of this Act,
- the highway authority for the highway carried by the bridge and the approaches to it is such one of the councils of those new principal areas as may be agreed between them before such a day as the Secretary of State may by order appoint or, in default of such agreement, as may be determined by him.
- (3) Where the Secretary of State has made a determination under sub-paragraph (2) the determination—
- (a) may be varied at the request of the council of either of the new principal areas concerned; and

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- (b) shall be varied to give effect to any request made jointly to the Secretary of State by those councils.
- (4) Any such variation shall take effect on the 1st April falling not less than 3 months, and not more than 15 months, after the date on which the determination is varied.
- (5) For the purposes of sub-paragraph (2), the approaches to a bridge consist of so much of the highway or highways on either side of the bridge as is situated within 100 yards of either end of the bridge.

#### Commencement Information

**I7** Sch. 17 para. 18 in force at 3.4.1995, see s. 66 and S.I. 1995/852, art. 9(1), Sch. 5 (subject to art. 9(2)-(5))

- 19 (1) An order under section 188 of the <sup>M2</sup>Highways Act 1980 (new street orders) or under any enactment from which that section was derived made in relation to a highway in Wales before the date on which section 81 of the <sup>M3</sup>Planning and Compensation Act 1991 came into force shall have effect from 1st April 1996 as if made by the new principal council in whose area, on that date, the highway becomes situated.
- (2) The new principal council shall have all the powers of a local authority exercisable under Part X of the Act of 1980 in respect of such an order.

#### Commencement Information

**I8** Sch. 17 para. 19 in force at 3.4.1995, see s. 66 and S.I. 1995/852, art. 9(1), Sch. 5 (subject to art. 9(2)-(5))

#### Marginal Citations

**M2** 1980 c. 66.

**M3** 1991 c. 34.

### *Transport*

- 20 (1) This paragraph applies where, immediately before 1st April 1996, the authority or one of the authorities concerned in establishing a scheme under section 93 of the <sup>M4</sup>Transport Act 1985 (travel concession schemes) were a district or county council in Wales.
- (2) Section 93 of that Act shall have effect on and after 1st April 1996 as if any new principal council who are a relevant council had been concerned in establishing the scheme.
- (3) For the purposes of sub-paragraph (2), a council are a relevant council in relation to a scheme if the area which is the principal area (for the purposes of section 93 of that Act) or any part of that area is situated in the area of that council.
- (4) This paragraph is subject to the power of the Secretary of State under section 54 to make such alternative or supplementary provision as he thinks necessary in relation to a scheme under section 93 of the Act of 1985.
- (5) For the purposes of sections 93 to 102 of the Act of 1985—
- (a) the substitution of a new principal council as the authority or one of the authorities responsible for administering a scheme; and

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- (b) any alteration to the scheme made by the Secretary of State in exercise of his power under section 54,  
shall not be treated as a variation of the scheme.

**Commencement Information**

**I9** Sch. 17 para. 20 in force at 3.4.1995, see s. 66 and S.I. 1995/852, art. 9(1), **Sch. 5** (subject to art. 9(2)-(5))

**Marginal Citations**

**M4** 1985 c. 67.

*Limitation of council tax*

- 21 (1) The Secretary of State may, in a report made by him in relation to the financial year beginning in 1996 and any Welsh county council or county borough council, specify a notional amount for the purposes of this paragraph.
- (2) Any such report—
- (a) shall contain such explanation as the Secretary of State considers desirable of the calculation by him of the notional amount;
  - (b) shall be laid before the House of Commons;
  - (c) may relate to two or more authorities; and
  - (d) may be amended by a subsequent report under this paragraph.
- (3) If any such report is approved by resolution of the House of Commons, the Secretary of State may designate any authority to whom the report relates if in his opinion, taking any excess in the amount calculated by the authority as their budget requirement for the financial year beginning in 1996 over the notional amount as representing an increase, that increase is excessive.
- (4) The Secretary of State may by order make such provision as he considers appropriate for the purpose of supplementing this paragraph.
- (5) Subject to any such order, the provisions of Chapter V of Part I of the <sup>M5</sup>Local Government Finance Act 1992 (limitation of council tax and precepts) shall have effect in relation to a designation under this paragraph as they have effect in relation to a designation under section 54(1)(b) of that Act.

**Commencement Information**

**I10** Sch. 17 para. 21 in force at 3.4.1995, see s. 66 and S.I. 1995/852, art. 9(1), **Sch. 5** (subject to art. 9(2)-(5))

**Marginal Citations**

**M5** 1992 c. 14.

*Freemen and aldermen*

- 22 (1) Nothing in this Act shall be taken to affect any person's status as a freeman or honorary freeman, or the right of any person to be admitted as a freeman of any place.



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- (2) Services rendered to an old authority, the area of which becomes wholly or partly included in a new principal area, shall be treated for the purposes of section 249 of the 1972 Act (honorary aldermen and freemen) as services rendered to the council of the new principal area.

#### Commencement Information

**I11** Sch. 17 para. 22 in force at 3.4.1995, see s. 66 and S.I. 1995/852, art. 9(1), Sch. 5 (subject to art. 9(2)-(5))

#### Coroners

- 23 (1) Any person who, immediately before 1st April 1996, is a coroner assigned to a particular coroner's district in Wales ("an existing coroner") shall, on and after that date, be deemed to have been duly appointed for that district.
- (2) Nothing in this Act affects the validity of anything done before 1st April 1996 by an existing coroner.
- (3) Anything done before 1st April 1996 by or in relation to an existing coroner shall, on and after that date, be deemed to have been done by or in relation to the coroner appointed for the coroner's district in question.
- (4) Any person who, immediately before 1st April 1996 is a deputy coroner or assistant deputy coroner in relation to a particular coroner's district shall, on that date, be deemed to have been duly appointed as the deputy or assistant deputy of the coroner for that district.
- (5) No order may be made under section 4A of the <sup>M6</sup>Coroners Act 1988 so as to have effect before 1st April 1996.
- (6) Any person who, on or after 1st October 1995, ceases to be a councillor for a county in Wales which ceases to exist on 1st April 1996 ("the old county") shall, for six months after he ceases to be such a councillor, be disqualified for being a coroner for any district which, or any part of which, falls within the area of the old county.

#### Commencement Information

**I12** Sch. 17 para. 23 in force at 3.4.1995, see s. 66 and S.I. 1995/852, art. 9(1), Sch. 5 (subject to art. 9(2)-(5))

#### Marginal Citations

**M6** 1988 c. 13.

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