

*Status: Point in time view as at 19/11/1998.*

*Changes to legislation: There are currently no known outstanding effects for the Local Government (Wales) Act 1994, Cross Heading: The Highways Act 1980 (c. 66). (See end of Document for details)*

## SCHEDULES

### SCHEDULE 7

#### HIGHWAYS, ROAD TRAFFIC AND TRANSPORT

##### PART I

##### HIGHWAYS

###### *The Highways Act 1980 (c. 66)*

- 1 (1) Section 1 of the Highways Act 1980 (which makes general provision for determining the highway authority) is amended as follows.
- (2) After subsection (3) insert—
- “(3A) In Wales the council of a county or county borough are the highway authority for all highways in the county or, as the case may be, the county borough, whether or not maintainable at the public expense, which are not highways for which the Minister is the highway authority under subsection (1) above.”
- (3) After subsection (4) add—
- “(5) Subsection (3A) above is subject to any provision of this Act, or of any order made under this or any other Act, by virtue of which a council other than the Welsh council for the area in which the highway is situated are the highway authority.”

##### **Commencement Information**

- II** Sch. 7 Pt. I para. 1 wholly in force at 1.4.1996; Sch. 7 Pt. I para. 1 not in force at Royal Assent see s. 66; Sch. 7 Pt. I para. 1 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)); Sch. 7 Pt. I para. 1 in force at 1.4.1996 by S.I. 1996/396, art. 3, Sch. 1

- 2 (1) Section 6 of that Act (delegation etc. of functions with respect to trunk roads) is amended as follows.
- (2) After subsection (1A) of that section insert—
- “(1B) The Minister shall not delegate functions to a council under subsection (1) above with respect to a trunk road or land outside their area but in Wales except after consultation with the Welsh council in whose area it is situated; and subsection (1A) does not apply in relation to a trunk road or land in Wales.”.
- (3) In subsection (6) of that section—
- (a) after “the county council” insert “(the “responsible council”)”;

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- (b) after first “district council” insert “ or Welsh council (the “contracting council”) ”; and
- (c) for “district” in the second place in which it occurs substitute “ contracting ”.
- (4) In subsection (6A) of that section, for “district council” substitute “ contracting council ” and after paragraph (b) insert—
- “(c) with respect to a trunk road or land in Wales but outside the area—
- (i) of the responsible council; and
- (ii) of the contracting council,
- except after consultation with the Welsh council in whose area the trunk road or land is situated.”
- 3 In section 8(4) of that Act (restrictions on certain agreements between local highway authorities)—
- (a) after first “county” insert “ (other than one in Wales) ”;
- (b) after “another county” insert “ or county borough ”;
- (c) for “the counties” substitute “ their areas ”;
- (d) after “or of a county” insert “ or county borough ”; and
- (e) after “the other county” insert “ or, as the case may be, county borough ”.
- 4 In section 36(7) of that Act (highways maintainable at public expense), after “the council of a county” insert “ in England ”.
- 5 In section 47(3) of that Act (procedure for applications with regard to unnecessary highways), after “relating to any highway” insert “ in England ”.
- 6 In section 67 of that Act (guard-rails in private streets), in subsection (5), at the end add “but, in relation to a street in Wales, means a Welsh council”.
- 7 In section 69 of that Act (subways), in subsection (3) at the end add “or, in the case of a road in Wales, as if the Welsh council in whose area it is situated were the highway authority for it”.
- 8 In section 79 of that Act (prevention of obstruction at corners), after subsection (3) insert—
- “(3A) In relation to any land in Wales—
- (a) subsection (3) above does not apply; but
- (b) if the Minister is the highway authority, he shall not serve a notice restraining the erection of any building on the land except with the consent of the Welsh council in whose area the land is situated.”
- 9 In section 100 of that Act (drainage of highways), after subsection (6) insert—
- “(6A) In subsection (6) above, “the district council” shall be read, in relation to Wales, as “the Welsh council”.
- (6B) Where the highway authority are a Welsh council—
- (a) subsection (6) above does not apply; but
- (b) before exercising any powers under sections 158, 159, 163, 165 and 168 of the <sup>M1</sup>Water Industry Act 1991 by virtue of subsection (5) above, they shall give notice of their intention to do so—
- (i) to the sewerage undertaker; and

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(ii) where they propose to exercise those powers outside their county or county borough, to the Welsh council or, as the case may be, the district council within whose area the powers are proposed to be exercised.”

#### Marginal Citations

M1 1991 c. 56.

- 10 In section 114 of that Act (provision of public conveniences), after subsection (2) insert—
- “(2A) In subsection (2) above, the reference to the council of the district in which the conveniences will be situated shall be read in relation to Wales as a reference to the Welsh council in whose area the conveniences will be situated.
- (2B) Where the highway authority referred to in subsection (1) above are or, as the case may be, will be a Welsh council—
- (a) subsection (2) above does not apply; but
- (b) before providing any conveniences under subsection (1) above outside their county or county borough they shall give notice of their intention to do so to the Welsh council or, as the case may be, the district council in whose area the conveniences will be situated.”
- 11 In section 116(3) of that Act (notice of application to stop up or divert highway), after paragraph (a) insert—
- “(aa) if the highway is in Wales, the Welsh council for the area in which it is situated if they are not the highway authority for it; and”;
- and after “by the district council” insert “ or Welsh council ”.
- 12 In section 120 of that Act (exercise of powers under sections 118 to 119A), in subsection (2)(a), for “the” immediately before “other council” substitute “ any ”.
- 13 In section 151 of that Act (prevention of soil etc. being washed on to street), after subsection (1) insert—
- “(1A) In relation to a street in Wales, the competent authorities for the purposes of this section are the highway authority for the street and, if different, the Welsh council in whose area the street is situated.”
- 14 In section 154 of that Act (overhanging and dangerous trees etc.), after subsection (1) insert—
- “(1A) In subsection (1)(a) above, any reference to a district includes a reference to a Welsh county or county borough.”
- 15 In section 166 of that Act (forecourt abutting on streets), in subsection (5), after “Middle Temple,” insert “ a Welsh council ”.
- 16 In section 185 of that Act (power to install refuse or storage bins in streets), in subsection (1)(a), for “also” substitute “ if different ”.
- 17 In section 204(2) of that Act (advance payments code), at the end add—

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- “(3) The areas in which the advance payments code applies by virtue of subsection (2)(b) above shall be taken to include any area in Wales—
- (a) which is, or is in, a county borough; and
  - (b) in which the code applied immediately before 1st April 1996 by virtue of that subsection.”
- 18 (1) Section 205 of that Act (street works in private streets), is amended as follows.
- (2) After subsection (4) insert—
- “(4A) In the case of a street in Wales—
- (a) subsection (4) above does not apply; but
  - (b) if the street works referred to in the resolution under subsection (1) above—
    - (i) are to be carried out in a part of the street which is treated as being in the area of a street works authority other than the local Welsh council for it; and
    - (ii) include the sewerage of the street,
 the proper officer of the council which are the street works authority shall, when preparing the specification required by subsection (3) above, consult the local Welsh council for it.”
- (3) At the end of subsection (5) add—
- “and, in the case of any part of a street in Wales which is treated as being in the area of a street works authority which are not the local Welsh council for it, at the offices of the local Welsh council.
- (5A) For the purposes of this section, the local Welsh council for a street in Wales are the council of the county or county borough in which it is situated.”
- 19 In section 210 of that Act (power to amend specification, apportionment, etc), at the end of subsection (2) insert “ and, in the case of any part of a street in Wales, the Welsh council for the county or county borough in which it is situated, if different from the street works authority in whose area it is treated as situated. ”
- 20 In section 219 of that Act, (exceptions to application of advance payments code), after subsection (4) insert—
- “(4A) In subsection (4)(c) above, “district council” is to be read in relation to plans deposited on or after 1st April 1996 for a building to be erected in Wales as “Welsh council”.”
- 21 In section 220 of that Act (determination of payments under advance payments code), in subsection (1), after first “subsection (2)” insert “ or (2A) ”, after “district council” insert “ or Welsh council ” and for second “subsection (2)” substitute “subsections (2) and (2A)” and, after subsection (2), insert—
- “(2A) Where any required plans which—
- (a) are deposited with a Welsh council; and
  - (b) relate to the erection of a building in an area—
    - (i) in which the advance payments code is in force; but
    - (ii) which is treated as being within the area of a street works authority other than that Welsh council,

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are passed, the Welsh council shall, in any case to which section 219 above may be applicable, within one week inform the street works authority of that event.”

- 22 In section 223 of that Act (determination to cease to have effect when plans not proceeded with), at the end add—

“(7) In any case—

- (a) to which this section may be applicable; and
- (b) which relates to plans for the erection of a building in any part of a street in Wales which is treated as being in the area of a street works authority other than the Welsh council for the county or county borough in which it is situated,

the Welsh council shall within one week inform the street works authority of the happening of any event of a kind described in paragraphs (a) to (c) of subsection (6) above.”

- 23 In section 232 of that Act (power to treat as a private street land designated by development plan), in subsection (9), for “27” substitute “ 27, 27A ”.

- 24 In section 264 of that Act (vesting of drains etc. of certain roads), at the end insert—

“(4) Subsection (3)(a) above does not apply in Wales.”

- 25 After section 272(5) of that Act (advances for purposes of works under section 96) insert—

“(5A) In relation to any work done in exercise of their powers under section 96 by a Welsh council in a highway within their area for which they are not the highway authority, subsection (5) above applies as though the reference to a district council were a reference to the Welsh council.”

- 26 In section 287 of that Act (power to erect barriers in streets in cases of emergency etc.), in subsection (6), at the end add “but, in relation to Wales, means a Welsh council”.

- 27 (1) Section 329 of that Act (further provision as to interpretation) is amended as follows.

(2) In subsection (1)—

- (a) in the definition of “local authority”, at the end add “but, in relation to Wales, means a Welsh council”; and
- (b) at the end add—

““Welsh council” means the council of a Welsh county or county borough.”

(3) After subsection (2) insert—

“(2A) In this Act—

- (a) any reference to a county shall be construed in relation to Wales as including a reference to a county borough;
- (b) any reference to a county council shall be construed in relation to Wales as including a reference to a county borough council; and
- (c) section 17(4) and (5) of the Local Government (Wales) Act 1994 (references to counties and districts to be construed generally in

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relation to Wales as references to counties and county boroughs) shall not apply.”

(4) After subsection (3) of that section insert—

“(3A) In a case where two or more communities are grouped under a common community council, references in this Act to a community are to be construed as references to those communities.”

**Commencement Information**

**I2** Sch. 7 para. 27 wholly in force at 1.4.1996; Sch. 7 para. 27 not in force at Royal Assent see s. 66; Sch. 7 para. 27(4) in force at 1.10.1995 by S.I. 1995/2490, art. 4(1), Sch. 2 (subject to art. 4(2)(3)); Sch. 7 para. 27(1)-(3) in force at 1.4.1996 by S.I. 1996/396, art. 3, Sch. 1

- 28 In Schedule 9 to that Act (improvement lines and building lines), after paragraph 2 insert—
- “2A Paragraph 2 above does not apply in relation to a street or highway in Wales.”
- 29 In Schedule 12 to that Act (provisions as to orders under section 116 of that Act), in paragraph 1(d) after “district council” insert “ if the highway is a classified road in a Welsh county or county borough and the council of that county or county borough is not the highway authority, to the council of that county or county borough ”.

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