



# Local Government (Democracy) (Wales) Act 2013

2013 anaw 4

VALID FROM 30/09/2013

## PART 3

### ARRANGEMENTS FOR LOCAL GOVERNMENT

#### CHAPTER 1

#### DUTIES TO MONITOR LOCAL GOVERNMENT ARRANGEMENTS

##### *Duty of the Commission*

#### **21 Duty of the Commission to monitor arrangements for local government**

- (1) The Commission must, for the purpose of considering whether it is appropriate to make or recommend changes under this Part, monitor the areas and electoral arrangements relevant to local government in Wales.
- (2) In pursuance of that duty, the Commission must carry out such reviews under this Part as are required under this or any other enactment, as may be directed by the Welsh Ministers, or as it otherwise considers appropriate.
- (3) In carrying out its duties under this Part (and in conducting any review), the Commission must seek to ensure effective and convenient local government.

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### *Duties of a principal council*

#### **22 Duties of principal councils in relation to area**

- (1) A principal council must, for the purpose of considering whether it is appropriate to make or recommend changes under this Part, monitor—
  - (a) the communities in its area, and
  - (b) the electoral arrangements of such communities.
- (2) In pursuance of that duty, a principal council must—
  - (a) have regard to the Commission's timetable for conducting the reviews of principal areas' electoral arrangements required by section 29(1), and
  - (b) carry out such reviews under this Part as are required under this or any other enactment, as may be directed by the Welsh Ministers, or as it otherwise considers appropriate.
- (3) In carrying out its duties under this Part (and in conducting any review), a principal council must seek to ensure effective and convenient local government.
- (4) A principal council must provide the Commission with such information as it may reasonably require in connection with the exercise of its functions under this Part.
- (5) A principal council must, in respect of each reporting period, publish a report describing how it has discharged its duty under subsection (1) and send a copy of the report to the Commission.
- (6) In this section, “reporting period” means—
  - (a) the period of 10 years beginning with—
    - (i) the date on which the principal council last published a report under section 55(2A) or, if earlier, section 57(4A) of the 1972 Act, or
    - (ii) in the case of a principal council which has not published such a report before coming into force this section, the day on which this section comes into force, and
  - (b) each subsequent period of 10 years.

## **CHAPTER 2**

### **AREA REVIEWS**

#### *Principal areas*

#### **23 Review of principal area boundaries**

- (1) The Commission may, of its own initiative or at the request of a local authority, conduct a review of one or more principal areas.
- (2) But the Commission must not conduct a review under subsection (1) at the request of a local authority if it considers that doing so would impede the proper exercise of its functions.
- (3) The changes that the Commission may recommend in relation to a review under this section are—

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- (a) such principal area boundary changes as it considers appropriate, and
  - (b) in consequence of any principal area boundary changes such community boundary changes, preserved county changes, community council changes or electoral arrangements changes as it considers appropriate.
- (4) For the purposes of this Part—
- (a) a reference to a “community boundary change” is a reference to—
    - (i) altering the boundary of a community;
    - (ii) abolishing a community;
    - (iii) constituting a new community;
  - (b) a reference to “community council change” is a reference to—
    - (i) constituting a council for a community or a common council for a group of communities;
    - (ii) dissolving a community council (separate or common);
    - (iii) separating a community from a group of communities having a common community council;
    - (iv) adding a community to a group of communities having a common community council;
  - (c) a reference to an “electoral arrangements change” is a reference to a change to the electoral arrangements for any local government area;
  - (d) a reference to a “preserved county change” is a reference to a change to the area of a preserved county;
  - (e) a reference to a “principal area boundary change” is a reference to—
    - (i) altering the boundary of a principal area;
    - (ii) abolishing a principal area;
    - (iii) constituting a new principal area.

## **24 Review of principal areas following new town order**

- (1) This section applies where, under section 1 of the New Towns Act 1981 (c. 64) (designation of areas of land for new towns)—
- (a) the Welsh Ministers have made an order which designates any area of land as the site of a new town, and
  - (b) the area of the new town so designated is not wholly comprised within a principal area.
- (2) The Welsh Ministers must, as soon as reasonably practicable after the date of operation of the order, give notice to the Commission specifying the principal areas affected by the order.
- (3) The Commission must, on receipt of a notice under subsection (2), conduct a review under section 23 of any principal areas specified in the notice.

### *Communities*

## **25 Review of community boundaries by principal council**

- (1) A principal council may conduct a review of one or more communities in its area—
- (a) of its own initiative, or

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- (b) at the request of—
  - (i) a community council in its area, or
  - (ii) a community meeting in its area.
- (2) But a principal council must not conduct a review under subsection (1) at the request of a community council or a community meeting if it considers that doing so would impede the proper exercise of its functions.
- (3) The changes that a principal council may recommend in relation to a review under this section are—
  - (a) such community boundary changes as it considers appropriate, and
  - (b) in consequence of any community boundary changes, such community council changes and associated changes to the electoral arrangements of—
    - (i) the community or communities under review,
    - (ii) the principal area,
 as it considers appropriate.
- (4) For the purposes of subsection (3)(b)(ii), section 30 applies to a principal council as it applies to the Commission.
- (5) A principal council may enter into an agreement with the Commission for the Commission (under section 26) to exercise the council's functions under this section.
- (6) The agreement may be on such terms and conditions as the principal council and the Commission consider appropriate.

## **26 Review of community boundaries by the Commission**

- (1) The Commission may, in any of the circumstances described in subsection (2), conduct a review of one or more communities in a principal area.
- (2) The circumstances are—
  - (a) where the Commission has agreed to exercise a principal council's functions under section 25(5),
  - (b) where a principal council has submitted recommendations to the Commission under section 36(5) and—
    - (i) the council's recommendation is that no community boundary changes should be made,
    - (ii) the council and the Commission are unable to agree to such modifications to the recommendations as the Commission considers necessary for it to implement them,
    - (iii) the Commission does not consider it appropriate to implement any of the council's recommendations, or
    - (iv) the Commission considers that the review has not been conducted by the council in accordance with this Part or has otherwise been defective in some material way,
  - (c) where a principal council has not complied with a direction by the Welsh Ministers to conduct a review of one or more of its communities.
- (3) The changes that the Commission may recommend in relation to a review under this section are—
  - (a) such community boundary changes as it considers appropriate, and

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- (b) in consequence of any community boundary changes, such community council changes and associated changes to the electoral arrangements of—
  - (i) the community or communities under review,
  - (ii) the principal area,as it considers appropriate.
- (4) Where the Commission conducts a review in the circumstances described in subsection (2)(b)(iv) or (c), it may recover the cost of doing so from the principal council.
- (5) In the event of a disagreement between the Commission and the principal council as to the amount payable to the Commission under subsection (4), the Welsh Ministers may determine that amount.
- (6) Any sum payable to the Commission under this section is recoverable as a debt due to the Commission.

#### *Preserved counties*

### **27 Review of preserved counties**

- (1) The Commission may conduct a review of one or more preserved counties.
- (2) The Commission may recommend such changes to the area of a preserved county as it considers appropriate.
- (3) In considering whether changes to the area of the preserved county are appropriate (whether in relation to a review under this section or as part of any other review) the Commission must have regard, in particular, to the purposes for which the preserved counties are retained.
- (4) For the purposes of this Part, “preserved county” means any county created by the 1972 Act as a county in Wales as it stood immediately before the passing of the Local Government (Wales) Act 1994 but subject to any provision of that Act or any provision made under the 1972 Act or this Act redrawing its boundaries.

#### *Seaward boundaries*

### **28 Review of seaward boundaries**

- (1) The Commission may conduct a review of so much of the boundary of a local government area (which includes, for the purposes of this section, a preserved county) as —
  - (a) lies below the high-water mark of medium tides, and
  - (b) does not form a common boundary with another local government area.
- (2) The changes that the Commission may recommend in relation to a review under this section are—
  - (a) the inclusion within the local government area of any area of the sea which, at the time of the review, does not form part of another local government area, and

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- (b) the exclusion of any area of the sea which, at the time of the review, forms part of the local government area.

### CHAPTER 3

#### ELECTORAL ARRANGEMENTS REVIEWS

##### *Principal areas*

#### **29 Review of electoral arrangements for principal area**

- (1) The Commission must conduct a review of the electoral arrangements for each principal area at least once in every review period.
- (2) The Commission must, in respect of each review period—
  - (a) prepare and publish a programme which sets out its proposed timetable for conducting all the reviews required under subsection (1) during the period, and
  - (b) send a copy of the programme to the Welsh Ministers.
- (3) For the purposes of subsections (1) and (2) “review period” means—
  - (a) the period of 10 years beginning with the day on which this section comes into force, and
  - (b) each subsequent period of 10 years.
- (4) The Commission must comply with its duties in subsection (2)—
  - (a) in respect of the the first review period, as soon as possible after it begins, and
  - (b) in respect of each subsequent review period, before the period begins.
- (5) The Commission may also, of its own initiative or at the request of a principal council, conduct a review of the electoral arrangements for a principal area.
- (6) But the Commission must not conduct a review under subsection (5) at the request of a principal council if it considers that doing so would impede the proper exercise of its functions.
- (7) The changes that the Commission may recommend in relation to a review under this section are—
  - (a) such changes to the electoral arrangements for the principal area under review as appears to it appropriate, and
  - (b) in consequence of such change—
    - (i) such community boundary changes as it considers appropriate in relation to any community in the principal area,
    - (ii) such community council changes and changes to the electoral arrangements for such a community as it considers appropriate,
    - (iii) such preserved county changes as it considers appropriate.
- (8) The Commission must not, in any period of 9 months preceding the day of an ordinary council election under section 26 of the 1972 Act (elections of councillors), make or publish any recommendations relating to the electoral arrangements of a principal area.

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- (9) In this Part, a reference to the electoral arrangements of a principal area is a reference to —
- (a) the number of members of the council for the principal area,
  - (b) the number, type and boundaries of the electoral wards into which the principal area is for the time being divided for the purpose of the election of members,
  - (c) the number of members to be elected for any electoral ward in the principal area, and
  - (d) the name of any electoral ward.
- (10) For the purposes of subsection (9)(b), a reference to the type of an electoral ward is a reference to whether the ward is a single or multiple member ward.
- (11) In this Part—
- “electoral ward” means any area for which members are elected to a local authority,
  - “multiple member ward” means an electoral ward in respect of which a specified number (greater than one) of members are to be elected for that ward, and
  - “single member ward” means an electoral ward in respect of which only one member is to be elected.

### **30 Considerations for a review of principal area electoral arrangements**

- (1) The Commission, in considering whether to make recommendations for changes to the electoral arrangements for a principal area, must—
- (a) seek to ensure that the ratio of local government electors to the number of members of the council to be elected is, as nearly as may be, the same in every electoral ward of the principal area,
  - (b) have regard to—
    - (i) the desirability of fixing boundaries for electoral wards which are and will remain easily identifiable,
    - (ii) the desirability of not breaking local ties when fixing boundaries for electoral wards.
- (2) For the purposes of subsection (1)(a), account is to be taken of—
- (a) any discrepancy between the number of local government electors and the number of persons that are eligible to be local government electors (as indicated by relevant official statistics), and
  - (b) any change to the number or distribution of local government electors in the principal area which is likely to take place in the period of five years immediately following the making of any recommendation.
- (3) In this section, “relevant official statistics” means such official statistics within the meaning of section 6 of the Statistics and Registration Service Act 2007 (c. 18) as the Commission considers appropriate.
- (4) In this Part, “local government elector” means a person registered as a local government elector in the register of electors in accordance with the provisions of the Representation of the People Acts.

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## *Communities*

### **31 Review of electoral arrangements for community by principal council**

- (1) A principal council may conduct a review of the electoral arrangements for a community in its area—
  - (a) of its own initiative, or
  - (b) at the request of—
    - (i) the community council for the community, or
    - (ii) not less than 30 local government electors registered in the community.
- (2) But a principal council must not conduct a review under subsection (1) at the request of the community council or local government electors if it considers that doing so would impede the proper exercise of its functions.
- (3) The changes that a principal council may propose and make in relation to a review under this section are—
  - (a) such changes to the electoral arrangements for the community as the principal council considers appropriate, and
  - (b) in consequence of any change to the electoral arrangements for the community, such changes to the electoral arrangements of the principal area as it considers appropriate.
- (4) For the purposes of subsection (3)(b), section 30 applies to a principal council as it applies to the Commission.
- (5) A principal council may enter into an agreement with the Commission for the Commission (under section 32) to exercise the council's function of conducting reviews under this section.
- (6) The agreement may be on such terms and conditions as the principal council and the Commission consider appropriate.
- (7) In this Part, a reference to the electoral arrangements of a community is a reference to—
  - (a) the number of members of the council for the community;
  - (b) its division into wards (if appropriate) for the purposes of the election of councillors;
  - (c) the number and boundaries of any wards;
  - (d) the number of members to be elected for any ward;
  - (e) the name of any ward.

### **32 Review of electoral arrangements for community by the Commission**

- (1) The Commission may, in any of the circumstances described in subsection (2), conduct a review of the electoral arrangements for a community.
- (2) The circumstances are—
  - (a) where the Commission has agreed to exercise a principal council's function of conducting reviews under section 31(5);
  - (b) where the Commission has been requested to conduct a review of a community by —



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- (i) the community council, or
  - (ii) not less than 30 local government electors from the community;
  - (c) where a principal council has not complied with a direction by the Welsh Ministers to conduct a review of the electoral arrangements for one or more of its communities.
- (3) But the Commission must not conduct a review under subsection (1) following a request by a community council or local government electors if it considers that doing so would impede the proper exercise of its functions.
- (4) The changes that the Commission may recommend in relation to any review under this section are—
- (a) such changes to the electoral arrangements for the community that the Commission considers appropriate, and
  - (b) in consequence of any change to the electoral arrangements for the community, such changes to the electoral arrangements of the principal area, as it considers appropriate.
- (5) Where the Commission conducts a review in the circumstances described in subsection (2)(c), it may recover the cost of doing so from the principal council.
- (6) In the event of a disagreement between the Commission and the principal council as to the amount payable to the Commission under subsection (5), the Welsh Ministers may determine that amount.
- (7) Any sum payable to the Commission under this section is recoverable as a debt due to the Commission.

### **33 Considerations for a review of community electoral arrangements**

- (1) This section applies where a principal council is considering making or, as the case may be, the Commission is considering recommending, changes to the electoral arrangements for a community.
- (2) In considering whether a community should be divided into community wards, regard is to be had to—
- (a) whether the number or distribution of the local government electors for the community is such as to make a single election of community councillors impractical or inconvenient, and
  - (b) whether it is desirable that any area of the community should be separately represented on the community council.
- (3) Where it is decided to divide a community into community wards, in considering the size and boundaries of the wards and in fixing the number of community councillors to be elected for each ward, regard is to be had to—
- (a) any change in the number or distribution of local government electors of the community which is likely to take place within the period of five years immediately following any recommendation,
  - (b) the desirability of fixing boundaries which are and will remain easily identifiable, and
  - (c) any local ties which will be broken by the fixing of any particular boundaries.
- (4) Where it is decided not to divide a community into community wards, in fixing the number of councillors to be elected for each community, regard is to be had to—

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- (a) the number and distribution of local government electors in the community, and
  - (b) any change in such number or distribution which is likely to take place within the period of five years immediately following the fixing of the number of community councillors.
- (5) For the purposes of this section, account is to be taken of any discrepancy between the number of local government electors and number of persons that are eligible to be local government electors (as indicated by relevant official statistics).
- (6) In this section, “relevant official statistics” means such official statistics (within the meaning of section 6 of the Statistics and Registration Service Act 2007 (c. 18)) as the Commission, or as the case may be, principal council considers appropriate.

## CHAPTER 4

### PROCEDURE FOR LOCAL GOVERNMENT REVIEWS

#### *Procedure for reviews*

#### **34 Pre-review procedure**

- (1) Before conducting a review under this Part, the Commission or, as the case may be, a principal council must take such steps as it considers appropriate to—
- (a) bring the review to the attention of the mandatory consultees and any other person it considers likely to be interested in the review, and
  - (b) make the mandatory consultees and such other interested person aware of any directions given by the Welsh Ministers which are relevant to the review.
- (2) In relation to a review to be conducted under section 29, before conducting the review, the Commission must also consult the mandatory consultees on its intended procedure and methodology for the review and, in particular, on how it proposes to determine the appropriate number of members for any principal council in the principal area or areas under review.
- (3) For the purposes of this Part, the “mandatory consultees” are—
- (a) any local authority affected by the review,
  - (b) except in relation to a review under section 28 (reviews of seaward boundaries), the police and crime commissioner for any police area which may be affected by the review,
  - (c) except where the review is (or is to be) conducted by it, the Commission,
  - (d) any organisation representing the staff employed by local authorities which has asked to be consulted, and
  - (e) such other persons as may be specified by order made by the Welsh Ministers.
- (4) Subsection (1) does not apply to a review conducted by the Commission in the circumstances described in section 26(2)(b)(ii) or (iii).

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### **35 Consultation and investigation**

- (1) In conducting a review under this Part, the Commission or, as the case may be, a principal council (“the reviewing body”) must—
  - (a) consult the mandatory consultees and such other persons as it considers appropriate, and
  - (b) conduct such investigations as it considers appropriate.
- (2) After carrying out the consultation and investigations under subsection (1), the reviewing body must prepare a report containing—
  - (a) any proposals for change it considers appropriate or, if it does not consider any change appropriate, a proposal to that effect,
  - (b) details of the review it conducted.
- (3) The reviewing body must—
  - (a) publish the report electronically,
  - (b) secure that the report is available for inspection (without charge) at the offices of any principal council with an interest in the review for the duration of the period for representations,
  - (c) send copies of the report to the Welsh Ministers and the mandatory consultees,
  - (d) inform any other person who submitted evidence to the reviewing body how to obtain a copy of the report, and
  - (e) invite representations and notify the persons mentioned in (c) and (d) of the period for representations.
- (4) For the purpose of subsection (3), the “period for representations” is a period of not less than 6, nor more than 12, weeks (as determined by the reviewing body) beginning no earlier than one week after notice of the period is given.
- (5) For the purposes of this section, a principal council has an interest in a review if—
  - (a) it is the reviewing body,
  - (b) its area is under review,
  - (c) a community in its area (or the electoral arrangements of such a community) is under review.
- (6) In this section and section 36 a reference to a proposal for change is a reference to any change that the reviewing body may recommend or make (including consequential change) in relation to the type of review being conducted.

### **36 Reporting on review**

- (1) The Commission or, as the case may be, a principal council (“the reviewing body”) must, after the period for representations under section 35(3) has ended, consider its proposals for change having regard to any representations received by it during the period.
- (2) The reviewing body must then prepare a further report.
- (3) Except in relation to a review under section 31, the report must contain—
  - (a) any recommendation for change which the reviewing body considers appropriate or, if it does not consider any change appropriate, a recommendation to that effect,

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- (b) details of the review conducted and the consultation carried out in respect of the proposals, and
  - (c) details of any changes to the proposals made in light of the representations received and an explanation of why those changes have been made.
- (4) Where the review is under section 31, the report must contain—
- (a) the changes the reviewing body intends to make to the electoral arrangements for the community under review, or if it does not consider that any such change is appropriate, a statement to that effect,
  - (b) details of the review conducted and the consultation carried out in respect of the proposals, and
  - (c) details of any changes to the proposals made in light of the representations it received and an explanation of why those changes have been made.
- (5) The reviewing body must—
- (a) submit the report and its recommendations to the appropriate implementing authority (except where it is the implementing authority),
  - (b) publish the report electronically and secure that it is available for inspection (without charge) at the offices of any principal council with an interest for a period of at least 6 weeks beginning with the date of publication,
  - (c) send a copy of the report to the mandatory consultees, Ordnance Survey and (unless they are the implementing authority) the Welsh Ministers,
  - (d) inform any other person who submitted evidence or made representations in relation to the report published under section 35 how to obtain a copy of the report.
- (6) For the purposes of subsection (5), the “appropriate implementing authority” is—
- (a) in relation to a review under section 23, the Welsh Ministers and, in a case where the Commission are making a recommendation for change to a police area, the Secretary of State (in so far as relating to that change);
  - (b) in relation to a review under section 25, the Commission;
  - (c) in relation to a review under section 26, 27, 28 or 29, the Welsh Ministers;
  - (d) in relation to a review under section 32, the principal council of the community which has been the subject of the review.
- (7) Where the principal council submits a report to the Commission in relation to a review under section 25, the Commission is not to be treated as a mandatory consultee for the purposes of subsection (5)(c).
- (8) For the purposes of this section a principal council has an interest in a review if—
- (a) it is the reviewing body;
  - (b) its area is under review;
  - (c) a community in its area (or the electoral arrangements of such a community) is under review.
- (9) In this section, a reference to a recommendation for change is a reference to any change that the reviewing body may recommend or make (including consequential change) in relation to the type of review being conducted.

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## CHAPTER 5

### IMPLEMENTATION FOLLOWING REVIEW

#### *Implementation by the Welsh Ministers*

#### **37 Implementation by the Welsh Ministers**

- (1) The Welsh Ministers may, after receiving a report containing recommendations from the Commission in relation to a review conducted under section 23, 26, 27, 28 or 29, or a request for implementation of its recommendations under section 39(7)—
  - (a) by order implement any recommendation, with or without modification, or
  - (b) decide to take no action.
- (2) But the Welsh Ministers may only implement a recommendation with modification if—
  - (a) in a case involving recommendations for change to electoral arrangements for a principal area, they have considered the matters described in section 30 and are satisfied that it is appropriate to make the modification,
  - (b) in a case involving recommendations for change to electoral arrangements for a community, they have considered the matters described in section 33 and are satisfied that it is appropriate to make the modification, and
  - (c) in any case, they are satisfied that the modification is in the interests of effective and convenient local government.
- (3) No order may be made under subsection (1)(a) until the expiry of a period of 6 weeks beginning with the date on which the Welsh Ministers receive the recommendations.
- (4) The Commission must provide the Welsh Ministers with such further information in relation to its recommendations as the Welsh Ministers may reasonably require.

#### *Non-ministerial implementation*

#### **38 Implementation of community boundary change**

- (1) The Commission may, after receiving a report containing recommendations for change from a principal council in relation to a review conducted under section 25—
  - (a) by order implement the recommendations without modification,
  - (b) by order implement the recommendations with such modification as may be agreed with the principal council, or
  - (c) in the circumstances described in section 26(2)(b)(ii) or (iii), conduct its own review.
- (2) No order may be made under subsection (1) until the expiry of a period of 6 weeks beginning with the date on which the Commission receives the principal council's recommendations.
- (3) An order under subsection (1) which contains changes to the electoral arrangements of a principal area may be made only with the consent of the Welsh Ministers.

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- (4) The principal council which made the recommendations must provide the Commission with such further information in relation to the recommendations or the procedure followed as it may reasonably require.

### **39 Implementation of community electoral arrangements change**

- (1) A principal council may by order implement the changes described in a report prepared by the council under section 36(4).
- (2) No order may be made under subsection (1) until the expiry of a period of 6 weeks beginning with the date on which the principal council published its report.
- (3) A principal council may, after receiving a report containing recommendations for change from the Commission in relation to a review under section 32—
- (a) by order implement the recommendations without modification,
  - (b) by order implement the recommendations with such modification as may be agreed with the Commission,
  - (c) decide to take no action and notify the Commission accordingly.
- (4) No order may be made under subsection (3) until the expiry of a period of 6 weeks beginning with the date on which the council receives the report.
- (5) An order under subsection (1) or (3) which contains changes to the electoral arrangements of a principal area may be made only with the consent of the Welsh Ministers.
- (6) Subsection (7) applies where—
- (a) the principal council has notified the Commission that it does not intend to take any action in respect of the recommendations, or
  - (b) the principal council has not made an order (with or without modification) within the period of 6 months beginning with the date on which the council received the Commission's recommendations.
- (7) The Commission may request the Welsh Ministers implement the recommendations under section 37.

*Further provision about implementation and implementation orders*

### **40 Implementation orders: consequential provision**

- (1) An order made by the Welsh Ministers, the Commission or a principal council under section 37, 38, 39 or 43 may make such incidental, consequential, supplemental or transitional provision as they consider necessary or expedient.
- (2) Such orders may, in particular, make provision about—
- (a) the name of any altered area or electoral ward;
  - (b) the total number of councillors, the apportionment of councillors among electoral wards, the assignment of existing councillors to new or altered electoral wards and the first election of councillors for any new or altered electoral ward;
  - (c) the holding of a fresh election of councillors for all electoral wards in the local government area in question;

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- (d) the order of retirement of councillors for an electoral ward;
  - (e) the constitution, election to and membership of any public body in any area or electoral ward affected by the order;
  - (f) any of the matters described in section 41(2).
- (3) Provision of the type described in subsection (2)(c) may only be made in consequence of a change to the electoral arrangements for an area made following a review under Chapter 3.
- (4) An order made by the Welsh Ministers under section 37 or 43 may apply or modify any enactment or charter.
- (5) Nothing in this section prejudices the generality of section 71 (orders and regulations).
- (6) In this section—
- “councillor” means an elected member of a local authority;
  - “public body” includes—
    - (a) a local authority,
    - (b) any trustees, commissioners or other persons who, for public purposes and not for their own profit, act under any enactment or instrument for the improvement of any place, for the supply of water to any place, or for providing or maintaining a cemetery or market in any place, and
    - (c) any other authority having powers of levying or issuing a precept for any rate for public purposes.

#### **41 General consequential and transitional provision**

- (1) The Welsh Ministers may by regulations make such incidental, consequential, supplemental or transitional provision as they consider necessary or expedient for the purposes of, or in connection with, giving full effect to orders made under section 37, 38, 39 or 43.
- (2) Regulations under this section may, in particular, make provision about—
- (a) the functions, area or jurisdiction in or over an area (or part of an area), of any public body or office within an area (or electoral ward) affected by an order made under this Part;
  - (b) the costs and expenses of a public body or office affected by such an order;
  - (c) the transfer of staff of affected public bodies or offices;
  - (d) the transfer, management or custody of property (whether real or personal) and the transfer of rights and liabilities;
  - (e) the transfer of legal proceedings.
- (3) Regulations under this section may apply or modify any enactment or charter.
- (4) Nothing in this section prejudices the generality of section 71 (orders and regulations).
- (5) In this section, “public body” has the same meaning as it has in section 40(6).

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## **42 Transfers of staff**

An order under section 37, 38, 39 or 43 or, as the case may be, regulations under section 41 which makes provision about the transfer of staff must include provision to secure that —

- (a) a person who is transferred to a new employer remains on terms and conditions not less favourable than those to which the person was subject prior to the transfer until such time as the person—
  - (i) leaves the employment of the new employer, or
  - (ii) is served with a statement in writing referring to the order or regulations and specifying new terms and conditions of employment, and
- (b) provided the person is engaged in duties reasonably similar to those held immediately prior to the transfer, any new terms and conditions that are specified in a notice under paragraph (a)(ii) are not less favourable than those the person had prior to the transfer.

## **43 Variation and revocation of orders**

- (1) Other than as provided for by this section, orders made under this section or section 37, 38 or 39 may not be varied or revoked.
- (2) The Welsh Ministers, the Commission or, as the case may be, a principal council may by order vary or revoke—
  - (a) any provision contained in an order made under this section or section 37, 38 or 39 which is of a type described in section 40(2);
  - (b) any similar provision contained in an order made under section 67 (consequential and transitional arrangements) or made by virtue of section 255 (transfer of officers) of the 1972 Act.
- (3) Except as provided for in subsections (4) and (5), an order to vary or revoke provisions of the type described in subsection (2) may be made only by the persons who, or body which, made the order containing the provision to be varied or revoked (“the original order”).
- (4) The Welsh Ministers make make an order under this section where the original order—
  - (a) was made by the Secretary of State and relates to Wales, or
  - (b) was made by the National Assembly for Wales (as constituted under the Government of Wales Act 1998).
- (5) A principal council may make an order under this section where the original order was made by a predecessor council which no longer exists.
- (6) But an order made in pursuance of subsection (5) may vary or revoke provision in the original order only in so far as it relates to the principal council's area.
- (7) Before making an order under subsection (2) the Welsh Ministers, the Commission or, as the case may be, the principal council must comply with subsections (8) and (9).
- (8) The Welsh Ministers, the Commission or, as the case may be, the principal council must —
  - (a) send a copy of a draft of the order to any local authority or public body they or it consider likely to be affected by the order,



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- (b) publish the draft order in such manner as they or it consider likely to bring it to the attention of persons who may have an interest in the order,
  - (c) secure that a copy of the draft order is available for inspection by interested persons at such places as they or it consider appropriate, and
  - (d) invite representations in relation to the draft order within the period of 2 months beginning on the date of publication under paragraph (b).
- (9) The Welsh Ministers, the Commission or, as the case may be, the principal council must consider any representations received within the 2 month period and may modify the order in light of such representations.
- (10) Where the Welsh Ministers, the Commission or, as the case may be, a principal council is satisfied that a mistake has occurred in the preparation of an order under this section or sections 37, 38 or 39 the Welsh Ministers, the Commission or the principal council may by order make such provision as they or it consider necessary or expedient to rectify the mistake.
- (11) In subsection (10), “mistake”, in relation to an order, includes a provision contained in or omitted from the order in reliance on information supplied by any public body which is inaccurate or incomplete.
- (12) The Welsh Ministers, the Commission or, as the case may be, a principal council may not exercise the power in subsection (10) in relation to an order made by someone else.
- (13) In this section, “public body” has the same meaning as it has in section 40(6).

*Agreements between public bodies to deal with change*

**44 Transitional agreements as to property and finance**

- (1) Any public body affected by the alteration, abolition or constitution of an area or electoral ward by an order under section 37, 38, 39 or 43 or by an order under section 162 of the 2011 Measure (power to make amalgamation order) may enter into an agreement with another affected public body about—
- (a) any property, income, rights or liabilities affected by the change;
  - (b) any financial relationships between the parties to the agreement;
  - (c) any expenses of the parties arising in consequence of the change.
- (2) An agreement under this section may provide—
- (a) for the transfer or retention of any property, rights and liabilities, with or without conditions, and for the joint use of any property;
  - (b) for the making of payments in respect of any property, rights or liabilities transferred or retained, or of such joint use, and in respect of the remuneration or compensation payable to any person;
  - (c) for the making of any such payment by way of a capital sum or terminable annuity.
- (3) Where the parties cannot reach agreement on any matter, the matter is to be referred to the arbitration of a single arbitrator agreed on by the parties or, failing such agreement, appointed by the Welsh Ministers.

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- (4) The arbitrator's award may provide for any matter for which an agreement under this section may provide.
- (5) Any sum which requires to be paid by a public body may be paid—
  - (a) out of the fund or rate from which the general expenses of the public body are paid, or
  - (b) out of such other fund or rate as the public body may determine.
- (6) In this section, “public body” has the same meaning as it has in section 40(6).

## CHAPTER 6

### OTHER PROVISION RELEVANT TO LOCAL AUTHORITY BOUNDARIES

#### **45 Police area change**

- (1) This section applies where the Commission is conducting a review of one or more principal areas under section 23.
- (2) In addition to the changes which may be recommended under section 23(3) the Commission may, in connection with any principal area boundary change, recommend such changes to a police area or areas (including changes resulting in a reduction or increase in the number of police areas) as it considers appropriate.
- (3) The Secretary of State may, after receiving a report containing recommendations from the Commission in relation to a review conducted under section 23—
  - (a) by order made by statutory instrument implement any recommendations for change to a police area, with or without modification,
  - (b) if proposing to implement the recommendations with modification, direct the Commission to carry out a further review under section 23 of such principal areas affected by the recommendations as may be specified in the direction, or
  - (c) decide to take no action in respect of the recommendations.
- (4) The Commission must comply with a direction under subsection (3)(b).
- (5) An order made under this section may include—
  - (a) provision for the police and crime commissioner for a police area affected by the order to become the police and crime commissioner for a police area resulting from the order,
  - (b) provision for the holding of an election for the police and crime commissioner for any police area resulting from the order,
  - (c) such incidental, consequential, supplemental or transitional provision as the Secretary of State considers necessary or expedient.
- (6) An order including provision of the kind mentioned in subsection (5)(b) may require the election in question to be held before the alteration of the police areas takes effect.
- (7) An order under this section may apply or modify any enactment or charter.
- (8) An order made under this section may not provide for a principal area to be divided between 2 or more police areas.

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- (9) No order may be made under this section until the expiry of a period of 6 weeks beginning with the date on which the Secretary of State receives the recommendations.

#### **46 Extent of seaward boundaries**

- (1) Any part of the sea-shore to the low water-mark forms part of the community or communities which it adjoins in proportion to the extent of the common boundary.
- (2) Every accretion from the sea (whether natural or artificial) forms part of the community or communities which it adjoins in proportion to the extent of the common boundary.
- (3) Every accretion or part of the sea-shore forming a part of a community under this section also forms part of the principal area and preserved county in which the community is situated.

#### **47 Boundary change following alteration of water-course**

- (1) This section applies where a water-course forms a boundary line between two or more local government areas.
- (2) If, in the exercise of any power conferred by the Water Resources Act 1991 (c. 57), the Land Drainage Act 1991 (c. 59) or any other enactment, the water-course is altered in any way which affects its character as a boundary line, the person under whose authority the alteration is made must as soon as reasonably practicable give the Welsh Ministers notice of the alteration.
- (3) The Welsh Ministers may, by order, vary a boundary line to which a notice given under subsection (2) relates by substituting a new boundary line (whether or not consisting wholly or in part of the line of the water-course as altered) for so much of that boundary line as, before the alteration, lay along the line of the water-course.
- (4) The Welsh Ministers must consult the Commission before making an order under subsection (3).
- (5) The Welsh Ministers must, in such manner as they consider appropriate, publish notice of any order made under this section.
- (6) For the purposes of this section, a reference to local government area includes a reference to a preserved county.

### **CHAPTER 7**

#### **MISCELLANEOUS PROVISION**

#### **48 Directions and guidance relating to Part 3**

- (1) The Welsh Ministers may give the Commission directions relating to the exercise of its functions under this Part.
- (2) In particular, the Welsh Ministers may direct the Commission—

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- (a) to conduct a review under this Part (including, where the Commission has made recommendations or proposals to them, further reviews),
  - (b) not to conduct a review under section 28 during a period specified in the direction,
  - (c) to conduct a review under section 29 for a new local government area (within the meaning of section 171 of the 2011 Measure) as if it were a local government area,
  - (d) to conduct the reviews required under section 29(1) in a different order from that proposed by the Commission in any current programme for electoral arrangements reviews prepared in accordance that section,
  - (e) to have regard to such particular matters as may be specified in the direction when conducting a review.
- (3) Subsection (1) does not limit the general power of direction under section 14.
- (4) The Welsh Ministers may give a principal council directions relating to the exercise of its functions under this Part.
- (5) In particular, the Welsh Ministers may direct a principal council to—
- (a) conduct a review under section 25 or 31,
  - (b) have regard to such particular matters as may be specified in the direction when conducting a review.
- (6) A principal council must comply with a direction given by the Welsh Ministers under subsection (4).
- (7) Directions under this section may relate to a particular review, a type of review or to all reviews.
- (8) But before making a direction under this section relating to the review of a principal area or its electoral arrangements (or reviews of principal areas or their electoral arrangements generally), the Welsh Ministers must consult the Commission and any association appearing to them to be representative of local authorities.
- (9) In exercising any function under this Part, the Commission or a principal council must have regard to any guidance issued by the Welsh Ministers.

#### **49 Local inquiries**

- (1) The Commission or, as the case may be, a principal council, may cause a local inquiry to be held with respect to any review carried out by it under this Part.
- (2) The Welsh Ministers, the Commission or, as the case may be, a principal council may cause a local inquiry to be held in respect of a draft order prepared under section 43.
- (3) A person appointed to hold an inquiry may by summons require a person to attend at a time and place specified in the summons—
  - (a) to give evidence, or
  - (b) to produce any information relating to any matter in question which is held by, or is under the control of, the person.
- (4) A person appointed to hold an inquiry may take evidence on oath and for that purpose may administer oaths.

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- (5) A person required to attend under subsection (3) must be paid any reasonably incurred expenses.
- (6) Despite subsection (3)(b), a person may not be required to produce the title (or any instrument relating to the title) of any land which does not belong to a local authority.
- (7) A person commits an offence if the person—
  - (a) refuses or deliberately fails to comply with a requirement of a summons served on the person under subsection (3),
  - (b) deliberately alters, suppresses, conceals or destroys any information which the person is required to produce under this section.
- (8) A person guilty of an offence under subsection (7) is liable on summary conviction to a fine not exceeding level 3 on the standard scale or to imprisonment for a term not exceeding 6 months, or to both.
- (9) The persons or body causing an inquiry to be held under this section may make orders as to—
  - (a) the costs of the parties at the inquiry, and
  - (b) the parties by whom the costs are to be paid.
- (10) An order under subsection (9) may be made a rule of the High Court on the application of a party named in the order.

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