

*Status: Point in time view as at 01/04/2021.*

**Changes to legislation:** There are currently no known outstanding effects for the Local Government and Elections (Wales) Act 2021, Cross Heading: Determining whether financial limits have been exceeded. (See end of Document for details)

## SCHEDULE 12

### RESTRAINTS ON TRANSACTIONS AND RECRUITMENT ETC. BY MERGING COUNCILS AND RESTRUCTURING COUNCILS

#### *Determining whether financial limits have been exceeded*

- 7 (1) For the purpose of making a determination as to whether a land acquisition or disposal is a relevant land acquisition or disposal, the consideration for the acquisition or disposal in question is to be treated as including the consideration for any other land acquisition or disposal that—
- (a) is made by the merging council or restructuring council either—
    - (i) after the relevant date but before the acquisition or disposal in question, or
    - (ii) on the same day as that acquisition or disposal, and
  - (b) relates to the same or a similar description of matter as that acquisition or disposal.
- (2) For the purpose of making a determination as to whether a contract or agreement is a relevant contract or agreement, the consideration under the contract or agreement in question is to be treated as including the consideration under any other contract or agreement that—
- (a) is entered into by the merging council or restructuring council either—
    - (i) after the relevant date but before the contract or agreement in question, or
    - (ii) on the same day as that contract or agreement, and
  - (b) relates to the same or a similar description of matter as that contract or agreement.
- (3) For the purpose of making a determination as to whether the acquisition of share capital or loan capital in a body corporate is a relevant capital acquisition, the consideration in respect of the capital acquisition in question is to be treated as including the consideration in respect of any other acquisition of share capital or loan capital (other than an acquisition of loan capital where the conditions set out in paragraphs (a) and (b) of paragraph 6(5) are met) that—
- (a) is made by the merging council or restructuring council either—
    - (i) after the relevant date but before the capital acquisition in question, or
    - (ii) on the same day as that capital acquisition, and
  - (b) is made in the same body corporate as that capital acquisition.
- (4) For the purpose of making a determination as to whether a grant or other financial assistance (other than a loan) is a relevant grant or other financial assistance the amount of the grant or financial assistance in question is to be treated as including the amount of any other grant or financial assistance (other than a loan) that—
- (a) is given by the merging council or restructuring council either—
    - (i) after the relevant date but before the grant or financial assistance in question, or
    - (ii) on the same day as that grant or financial assistance, and
  - (b) is given to the same person as that grant or financial assistance.

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- (5) For the purpose of making a determination as to whether a loan is a relevant loan, the amount of the loan in question is to be treated as including the amount of any other loan that—
- (a) is given by the merging council or restructuring council either—
    - (i) after the relevant date but before the loan in question, or
    - (ii) on the same day as that loan, and
  - (b) is given to the same person as that loan.
- (6) In this paragraph—
- “contract or agreement” (“*contract neu gytundeb*”) (other than in “relevant contract or agreement”, as to which see paragraph 6(3)) means—
- (a) any contract, other than a capital contract, where—
    - (i) the period of the contract extends beyond the transfer date, or
    - (ii) under the terms of the contract, that period may be extended beyond the transfer date;
  - (b) any capital contract (within the meaning of paragraph 6(4));
  - (c) any framework agreement within the meaning of regulation 33(2) of the Public Contracts Regulations 2015 (S.I. 2015/102) where—
    - (i) the period of the framework agreement extends beyond the transfer date, or
    - (ii) under the terms of the framework agreement, that period may be extended beyond the transfer date;
- “land acquisition or disposal” (“*caffaeliad neu warediad tir*”) includes the things set out in paragraph 6(2);
- “loan” (“*benthyciad*”) (other than in “relevant loan”) means a loan where—
- (a) the period of the loan extends beyond the transfer date, or
  - (b) under the terms of the loan, that period may be extended beyond the transfer date;
- “the relevant date” (“*y dyddiad perthnasol*”) means—
- (a) the date on which the Welsh Ministers receive the merger application, or
  - (b) the date on which notice is given as described in section 129(6).

#### **Commencement Information**

- I1** Sch. 12 para. 7 in force at 21.1.2021 for specified purposes, see s. 175(1)(f)(2)(b)(ii)(m)(7)
- I2** Sch. 12 para. 7 in force at 1.4.2021 in so far as not already in force by S.I. 2021/297, art. 2(j)

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