



# Local Government (Wales) Act 1994

## 1994 CHAPTER 19

### PART I

#### LOCAL GOVERNMENT AREAS IN WALES

##### *The new areas and their councils*

#### **1 The local government areas**

(1) For section 20 of the Local Government Act 1972 (“the 1972 Act”) substitute—

##### **“20 New principal local government areas in Wales**

- (1) For the administration of local government on and after 1st April 1996, the local government areas in Wales shall be—
  - (a) the new principal areas; and
  - (b) the communities.
- (2) The new principal areas (determined by reference to areas which, immediately before the passing of the Local Government (Wales) Act 1994, are local government areas) are set out in Parts I and II of Schedule 4 to this Act.
- (3) Each of the new principal areas shall have the name given to it in Schedule 4.
- (4) The new principal areas set out in Part I of Schedule 4 shall be counties and those set out in Part II of that Schedule shall be county boroughs.
- (5) In this Act “principal area”, in relation to Wales, means a county or county borough.
- (6) The counties which were created by this Act, as originally enacted, as counties in Wales, and the districts within them, shall cease to exist on 1st April 1996 except that the preserved counties shall continue in existence (with, in some cases, modified boundaries) for certain purposes.

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- (7) The councils of the counties and districts mentioned in subsection (6) above shall cease to exist on 1st April 1996.
  - (8) The areas of the preserved counties are set out in Part III of Schedule 4 and are determined by reference to local government areas in existence immediately before the passing of the Local Government (Wales) Act 1994.
  - (9) The Secretary of State may by order change the name by which any of the preserved counties is for the time being known.
  - (10) Any such order shall be subject to annulment in pursuance of a resolution of either House of Parliament.
  - (11) The Welsh name of each of the new principal areas is shown in Schedule 4 immediately after its English name.”
- (2) Schedule 1 substitutes new Parts I, II and III in Schedule 4 to the 1972 Act.
  - (3) Schedule 2 provides for the application of certain enactments in relation to the preserved counties.
  - (4) Section 270(1) of the 1972 Act (definitions) is amended as follows.
  - (5) In the definition of “local authority” for “or community council” substitute “council but, in relation to Wales, means a county council, county borough council or community council;”.
  - (6) In the definition of “local government area”, for paragraph (b), substitute—  
 “(b) in relation to Wales, a county, county borough or community;”.
  - (7) After the definition of “prescribed” insert—  
 ““preserved county” means any county created by this 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 the Act of 1994, or any provision made under this Act, redrawing its boundaries;”.
  - (8) In the definition of “principal area” insert at the end “but, in relation to Wales, means a county or county borough.”

## **2 Constitution of new principal councils in Wales**

For section 21 of the 1972 Act substitute—

### **“21 Constitution of principal councils in Wales**

- (1) For every principal area in Wales there shall be a council consisting of a chairman and councillors.
- (2) Each such council shall be a body corporate and shall have the functions given to them by this Act or otherwise.
- (3) Each council for a county in Wales shall have the name of the county with the addition—

- (a) in the case of their English name, of the words “County Council” or the word “Council” (as in “Cardiganshire County Council” or “Cardiganshire Council”); and
  - (b) in the case of their Welsh name, of the word “Cyngor” (as in “Cyngor Sir Aberteifi”).
- (4) Each council for a county borough in Wales shall have the name of the county borough with the addition—
- (a) in the case of their English name, of the words “County Borough Council” or the word “Council” (as in “Caerphilly County Borough Council” or “Caerphilly Council”); and
  - (b) in the case of their Welsh name, of the words “Cyngor Bwrdeistref Sirol” or the word “Cyngor” (as in “Cyngor Bwrdeistref Sirol Caerffili” or “Cyngor Caerffili”).
- (5) In the case of Abertawe, Caerdydd and Powys subsection (3)(b) above shall have effect as if it required the addition of the words “Cyngor Sir”.

### **3 Establishment of new principal councils**

Schedule 3 makes provision (by substituting a new Schedule for Schedule 5 to the 1972 Act) with respect to the establishment of the new principal councils, on a date in 1995 to be fixed by the Secretary of State, and the election of their members.

### **4 Elections of councillors**

- (1) For section 25(2) of the 1972 Act (electoral divisions) substitute—
- “(2) For the purpose of the election of councillors, every principal area in Wales shall be divided into electoral divisions, each returning such number of councillors as may be provided by an order under paragraph 2 of Schedule 5 to this Act or under or by virtue of the provisions of Part IV of this Act.
- (3) There shall be a separate election for each electoral division.”
- (2) For section 26 of the 1972 Act substitute—

#### **“26 Elections of councillors**

- (1) The ordinary elections of councillors of the new principal councils shall take place in 1995 and in every fourth year after 1995.
- (2) The term of office of every such councillor shall be four years.
- (3) On the fourth day after any such ordinary election—
  - (a) the persons who were councillors immediately before the election shall retire; and
  - (b) the newly elected councillors shall assume office.”

### **5 Change of status from county to county borough**

For section 245A of the 1972 Act substitute—

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**“245A Change of status of Welsh county to county borough**

- (1) Where a petition is presented to Her Majesty by the council of a county in Wales praying for the grant of a charter under this section, Her Majesty, on the advice of Her Privy Council, may by charter confer on that county the status of a county borough.
- (2) No such petition shall be presented unless a resolution of the council has been passed by not less than two-thirds of the members voting at a meeting of the council specially convened for the purpose.
- (3) No charter under this section shall take effect before 1st April 1996.
- (4) A county borough which has acquired that status by a charter under this section—
  - (a) shall be a county borough; but
  - (b) shall not be treated as a borough for the purposes of any Act passed before 1st April 1974.
- (5) This section shall have effect subject to any provision made by a grant under Her Majesty’s prerogative and, in particular, to any provision granting the status of a royal borough or conferring any style on any person.”

*Electoral arrangements*

**6 Review of electoral arrangements for new principal areas**

For section 64 of the 1972 Act (special community review and review of electoral arrangements) substitute—

**“64 Review of electoral arrangements for Welsh principal areas**

- (1) As soon as practicable after the ordinary election of councillors for any of the Welsh principal areas held in 1995, the Welsh Commission shall—
  - (a) review the electoral arrangements for that area with a view to considering future electoral arrangements; and
  - (b) formulate proposals for those arrangements.
- (2) The provisions of Part IV of this Act shall apply to a review under subsection (1) above as they apply to a review under section 57 above.
- (3) In its application to a review under subsection (1) above, section 58 above shall have effect as if it required—
  - (a) the Welsh Commission to submit a report for any principal area before such date as the Secretary of State may direct, and
  - (b) the Secretary of State to make an order under section 58 above giving effect to the proposals of the Commission under subsection (1) above (whether as submitted to him or with modifications).”

## 7 Rules to be observed in considering electoral arrangements

(1) Schedule 11 to the 1972 Act (rules to be observed in considering electoral arrangements) shall be amended as follows.

(2) In paragraph 1 (rules for counties)—

- (a) in sub-paragraph (1), at the end add “but does not apply in relation to any county in Wales”; and
- (b) in sub-paragraph (2)(c) and (d), omit “or community”, in each place.

(3) After paragraph 1 insert—

### *“Welsh counties and county boroughs*

- 1A (1) This paragraph applies to the consideration by the Secretary of State or the Welsh Commission of the electoral arrangements for elections of councillors for principal areas in Wales.
- (2) Subject to any direction under sub-paragraph (3) below, the Welsh Commission shall, when considering the arrangements for elections of councillors for any principal area in Wales, provide for there to be a single member for each electoral division.
- (3) The Secretary of State may give a direction to the Welsh Commission requiring it to consider the desirability of providing for multi-member electoral divisions for the area to which the direction relates (which may be the whole or a specified part of a principal area in Wales).
- (4) For the purposes of this paragraph, an electoral division is a multi-member division if the arrangements made for the elections of councillors provide for a specified number of councillors (greater than one) to be elected for that division.
- (5) Having regard to any change in the number or distribution of the local government electors of the principal area likely to take place within the period of five years immediately following the consideration—
- (a) subject to paragraph (b), the number of local government electors shall be, as nearly as may be, the same in every electoral division in the principal area;
  - (b) where there are one or more multi-member divisions, the ratio of the number of local government electors to the number of councillors to be elected shall be, as nearly as may be, the same in every electoral division in the principal area (including any that are not multi-member divisions);
  - (c) every ward of a community having a community council (whether separate or common) shall lie wholly within a single electoral division; and
  - (d) every community which is not divided into community wards shall lie wholly within a single electoral division.
- (6) Subject to sub-paragraph (5) above, in considering the electoral arrangements referred to in sub-paragraph (1) above, regard shall be had to—

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- (a) the desirability of fixing boundaries which are and will remain easily identifiable; and
- (b) any local ties which would be broken by the fixing of any particular boundary.”

(4) In paragraph 4, after “Commissions” insert “by a Welsh principal council”.

*Communities and their councils*

## 8 Community meetings and continuation of community councils

For section 27 of the 1972 Act substitute—

*“Communities*

### **2 Community meetings and continuation of community councils**

- (1) A meeting of the local government electors for a community (“a community meeting”) may be convened for the purpose of discussing community affairs and exercising any functions conferred by any enactment on such meetings.
- (2) The community councils in existence on 1st April 1996 shall, subject to any provision made under this Act, continue in existence after that date.
- (3) Subsection (4) below applies where—
  - (a) the name of a community was given only in its English form or only in its Welsh form; but
  - (b) there is a generally accepted alternative form of that name, or alternative name, in Welsh or (as the case may be) in English.
- (4) The principal council within whose area the community lies shall, before 1st October 1997, take such steps as may be prescribed with a view to securing that there is both an English and a Welsh name for the community.”

## 9 Establishment, dissolution and grouping etc. of community councils

For section 28 of the 1972 Act substitute—

### **“28 Establishment or dissolution of community councils**

- (1) A community meeting of a community which does not have a separate community council may apply to the principal council within whose area it lies for an order establishing a council for the community.
- (2) A community meeting of a community which has a separate community council may apply to the principal council within whose area it lies for an order dissolving the community council.
- (3) If, on any application under this section, the principal council are satisfied that the relevant requirements of section 29B below and Schedule 12 to this Act have been complied with, they shall make the order applied for.

- (4) An order under this section establishing a separate community council for a community shall make such provision as appears to the council making it 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) An order under this section establishing a separate community council for a community grouped under a common community council shall not be made unless—
  - (a) the community is separated from the group, or
  - (b) the group is dissolved,by the order, or by an order under section 29A 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 making it to be necessary for the alteration of the group's community council.
- (7) Subject to section 30 below, an application under subsection (1) or (2) above may be made at any time.
- (8) This section is subject to section 29B below.”

## **10 Community councils for groups of communities**

For section 29 of the 1972 Act substitute—

### **“29 Community councils for groups of communities**

- (1) A community meeting of a community may apply to the principal council within whose area the community is situated—
  - (a) for an order grouping the community with some neighbouring community or communities which lie in the same principal area as the applicant, under a common community council, or
  - (b) for an order adding the community to a group of communities—
    - (i) which are all in the area of the same principal council as the community; and
    - (ii) for which there is a common community council.
- (2) If, on any application under this section, the principal council are satisfied that—
  - (a) the relevant requirements of section 29B below and Schedule 12 to this Act have been complied with, and
  - (b) in the case of an application under subsection (1)(b) above, that a community meeting of each of the communities in the group has consented to the applicant becoming a member of the group,they shall make the order applied for.
- (3) Subject to section 30 below, an application under subsection (1) above may be made at any time.
- (4) An order under this section shall provide for the name of the group in both an English and a Welsh form.

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- (5) An order under this section shall—
  - (a) make such provision as appears to the council making it 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 or, in the case of an order which adds a community to a group, for that community or for the wards of that community; and
  - (b) provide for the dissolution of the separate community council of any community included in the group.
- (6) An order under this section shall make such provision as appears to the council making it 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) An order under this section may provide for any necessary adaptations of this Act in relation to the group of communities.
- (8) This section is subject to section 29B below.”

## 11 Community councils for groups of communities: dissolution

After section 29 of the 1972 Act, insert—

### “29A Community councils for groups of communities: dissolution

- (1) The council of a group of communities may apply to the principal council within whose area the communities lie for an order dissolving the group.
- (2) A community meeting of a community included in a group of communities may apply to the principal council within whose area the community lies for an order separating the community from the group.
- (3) If, on any application under this section, the principal council are satisfied that—
  - (a) the relevant requirements of section 29B below and Schedule 12 to this Act have been complied with, and
  - (b) in the case of an application under subsection (1) above, that a community meeting of each of the communities in the group has consented to the dissolution of the community council,
 they shall make the order applied for.
- (4) Where a community council are dissolved by an order under this section, 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.
- (5) Where a community is separated from a group by an order under this section, 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.

- (6) Subject to section 30 below, an application under subsection (1) above may be made at any time.
- (7) This section is subject to section 29B below.”

## 12 Community councils: supplemental provisions

(1) After section 29A of the 1972 Act, insert—

### “29B Community councils: applications under section 28, 29 or 29A

- (1) An application under section 28, 29 or 29A above may be made only if—
  - (a) a poll of the local government electors in the community has been held;
  - (b) a majority of those voting in the poll supports the proposal; and
  - (c) in the case of an application under section 29(1)(a), the application is made jointly with the communities to be grouped under the common community council.
- (2) In the case of an application under section 29A(1), paragraphs (a) and (b) of subsection (1) above apply in relation to each of the communities concerned.
- (3) The consent required by section 29(2)(b) or 29A(3)(b) above may be given by a community meeting only if—
  - (a) a poll of the local government electors in the community has been held; and
  - (b) a majority of those voting in the poll supports the proposal.
- (4) At any community meeting at which there is discussed a proposal—
  - (a) for the establishment, or for the dissolution, of a community council,
  - (b) for the grouping of the community with another community or communities (on an application under section 29(1)(a) or (b) above), under a common community council;
  - (c) for the separation of the community from the communities with which it is grouped under a common community council;
  - (d) for the dissolution of the common community council for the communities with which it is grouped;
  - (e) for the giving of the consent required by section 29(2)(b) or 29A(3)(b) above,a decision to hold a poll on the question shall be effective only if not less than the required number of local government electors is present and voting.
- (5) The required number of local government electors is such number as is equal to 30% of the local government electorate or, if that number exceeds 300, is 300.
- (6) No poll shall be held for the purposes of this section before the end of the period of 42 days beginning with the day on which the decision to hold the poll was taken.

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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.
- (8) Where the result of any poll (“the previous poll”) held for the purposes of this section is the rejection of the proposal with respect to which the poll was held, no further poll on that question shall be held before the end of the period of two years beginning with the date on which the previous poll was held.”
- (2) For sub-paragraphs (2) and (3) of paragraph 30 of Schedule 12 to the 1972 Act substitute—
- “(2) Except in a case falling within sub-paragraph (3) below, public notice of any community meeting shall be given not less than 7 clear days before the meeting.
- (3) Where any business proposed to be transacted at a community meeting relates to any of the matters mentioned in section 29B(4) of this Act, public notice of the meeting shall be given not less than 30 clear days before the meeting.
- (3A) The notice required by sub-paragraph (2) or (3) above shall—
- (a) specify the time and place of the intended meeting;
  - (b) specify the business to be transacted at the meeting; and
  - (c) be signed by the person or persons convening the meeting.”

### 13 Constitution and powers of community councils

For section 33 of the 1972 Act substitute—

**“33 Constitution and powers of community councils**

- (1) A community council shall be a body corporate consisting of the chairman and community councillors and shall have the functions given to them by this Act or otherwise.
- (2) Each community council shall have the name of the community, with the addition—
  - (a) in English, of the words “Community Council” (as in “Dale Community Council” or “Llandrillo Community Council”); and
  - (b) in Welsh, of the words “Cyngor Cymuned” (as in “Cyngor Cymuned Dale” or “Cyngor Cymuned Llandrillo”).
- (3) A community council need not have a common seal.
- (4) Where a community council do not have a seal, any act of theirs which is required to be signified by an instrument under seal may be signified by an instrument signed and sealed by two members of the council.”

### 14 Consultation with community councils

After section 33 of the 1972 Act insert—

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### **“33A Consultation with community councils**

- (1) The Secretary of State may by order designate any matter—
  - (a) for the purposes of subsection (2) below; or
  - (b) for the purposes of subsection (3) below.
- (2) Where a new principal council are to consider any proposal which relates to a matter which is designated for the purposes of this subsection, the council shall—
  - (a) afford the relevant community councils an opportunity to make representations to them about the proposal;
  - (b) before making any decision in relation to the proposal, take into account any representations made to them by any relevant community council with respect to the proposal; and
  - (c) when they take a decision with respect to the proposal, notify without delay any relevant community council by whom any such representations have been made.
- (3) If a community council have given written notice to the relevant principal council—
  - (a) that they wish to be consulted about a specified proposal which is to be considered by the principal council, and which relates to a matter designated for the purposes of this subsection, or
  - (b) that they wish to be consulted about any proposal which is to be considered by the principal council and which relates to such a matter,the principal council shall take the steps mentioned in subsection (2) above in relation to that community council.
- (4) An order under this section may—
  - (a) prescribe circumstances (including, in particular, the need to act with urgency) in which subsections (2) and (3) above do not apply;
  - (b) give the Secretary of State power, in such circumstances as may be prescribed by the order, to provide that in relation to any principal council specified by him, those subsections shall not apply or shall apply only to the extent specified by him.
- (5) A contravention of the duty imposed by subsection (2) or (3) above shall not affect the validity of any decision of a principal council or of anything done in pursuance of any such decision.
- (6) In this section—

“relevant community council”, in relation to a principal council, means the council of any community which is, or group of communities which are, within the area of the principal council; and

“relevant principal council”, in relation to any community council, means the principal council within whose area the community is, or group of communities are, situated.
- (7) The power to make an order under this section shall include power—
  - (a) to make such incidental, consequential, transitional or supplemental provision as the Secretary of State thinks necessary or expedient; and

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- (b) to make different provision for different areas, including different provision for different localities and for different authorities.”

## **15 Elections of community councillors**

In section 35 of the 1972 Act (community councillors), for subsection (2) substitute—

“(2) There shall be ordinary elections of community councillors in 1995 and in every fourth year thereafter.

(2A) The term of office of the community councillors shall be four years.

(2B) On the fourth day after any such ordinary election—

- (a) the persons who were councillors immediately before the election shall retire; and
- (b) the newly elected councillors shall assume office.”

## **16 Community having the status of a town**

After section 245A of the 1972 Act insert—

### **“245B Community having the status of a town**

- (1) The council of a community which is not grouped with any other community may, subject to subsection (3) below, resolve that the community shall have the status of a town.
- (2) Where a community has the status of a town—
  - (a) the town council shall have the name of the community with the addition—
    - (i) in English, of the words “Town Council”; and
    - (ii) in Welsh, of the words “Cyngor Tref”;
  - (b) the chairman of the town council shall be entitled to the style of “town mayor” or “maer y dref”; and
  - (c) the vice-chairman of the town council shall be entitled to the style of “deputy town mayor” or “dirprwy faer y dref”.
- (3) Where the provisions of section 27(4) above apply in relation to a community, the council of that community shall not pass a resolution under subsection (1) above unless it is satisfied that those provisions have been complied with in relation to the community.
- (4) Any such resolution shall cease to have effect if the community to which it relates ceases to exist.
- (5) If a community council which has passed such a resolution is dissolved without the community ceasing to exist, the dissolution shall not affect the status of the community.
- (6) A community council by whom a resolution has been passed under subsection (1) above or, if the council has been dissolved, a community meeting of the community may resolve that the resolution shall cease to have effect.

- (7) On the passing of a resolution under subsection (6) above, the community shall cease to have the status of a town.
- (8) This section shall have effect subject to any provision made by a grant under Her Majesty’s prerogative and, in particular, to any provision conferring any style on any person.”

## PART II

### FUNCTIONS

#### *General*

#### **17 General provision for transfer of functions**

- (1) This section has effect for the purpose of adapting relevant legislative provisions and in particular for the purpose of providing for the exercise of functions conferred by such provisions.
- (2) A provision is a “relevant legislative provision” for the purposes of this section if it is a provision of—
- (a) any public general Act passed before, or during the same Session as, this Act; or
  - (b) an instrument which—
    - (i) was made before the passing of this Act, under a public general Act; and
    - (ii) is of a legislative character but is not in the nature of a local enactment.
- (3) This section has effect subject to any provision made by, or by any instrument under, this Act and is not to be taken as affecting any provision so made.
- (4) In any relevant legislative provision—
- (a) any reference to an area which is the area of a county council or the area of a district council, and
  - (b) any reference which is to be construed as a reference to such an area, shall be construed, in relation to Wales, as a reference to a new principal area.
- (5) In any relevant legislative provision—
- (a) any reference to the council of a county or district, and
  - (b) any reference which is to be construed as such, shall be construed, in relation to Wales, as a reference to the council of a new principal area.
- (6) Where, in relation to any relevant legislative provision, any question arises as to which new principal area is the appropriate new principal area for the purposes of that provision, that question shall be determined by order made by the Secretary of State.
- (7) Where any relevant legislative provision is by virtue of this section to be construed in accordance with subsection (4) or (5)—
- (a) it shall be so construed subject to any modifications necessary to give full effect to the provision; and

- (b) the Secretary of State may by order make such amendments or other modifications of the provision as he considers necessary or expedient in consequence of any provision made by or under this Act.

### *Planning*

## **18 New principal councils to be local planning authorities in Wales**

- (1) In this Act references to the planning Act are references to the Town and Country Planning Act 1990.
- (2) Section 1 of the planning Act (local planning authorities) is amended as follows.
- (3) After subsection (1), insert—
- “(1A) Subsection (1) does not apply in relation to Wales.
- (1B) In Wales—
- (a) the local planning authority for a county is the county council; and
- (b) the local planning authority for a county borough is the county borough council.”
- (4) After subsection (4), insert—
- “(4A) Subsection (4) does not apply in relation to Wales.
- (4B) As to any site in Wales, the local planning authority is also the mineral planning authority.”
- (5) At the end of the section add—
- “(6) The exercise, in relation to Wales, of functions conferred on local planning authorities is subject to section 4(3) and Schedule 1A.”
- (6) In subsection (3), omit the words “and in Wales” and in subsection (5)—
- (a) in paragraph (a), for “subsections (1) to (4) have” substitute “this section has”; and
- (b) in paragraph (b), for “(1) and (2)” substitute “(1) to (2)”.
- (7) Schedule 4 inserts a new Schedule 1A in the planning Act.

## **19 Joint and special planning boards in Wales**

- (1) In section 2 of the planning Act (joint planning boards), after subsection (1) insert—
- “(1A) Subsection (1) does not apply in relation to Wales.
- (1B) If it appears to the Secretary of State that it is expedient that a joint board should be established as the local planning authority for two or more areas, each of which is the whole or part of a Welsh county or county borough, he may by order—
- (a) constitute those areas or parts as a united district for the purposes of this Act; and
- (b) constitute a joint board as the local planning authority for that united district.

- (1C) A joint board constituted under subsection (1) or (1B) shall be known as a “joint planning board”.”
- (2) In Schedule 17 to the 1972 Act (National Parks), after paragraph 3 insert—
- “3A (1) Where a National Park is wholly comprised in one planning area in Wales, the Secretary of State may by order constitute a special planning board to discharge, as respects the area of the Park, the functions to which this Part of this Schedule applies.
- (2) Any enactment relating to joint planning boards constituted by an order under section 2 of the Town and Country Planning Act 1990 shall apply in relation to a special planning board constituted under this paragraph as it applies in relation to a joint planning board constituted under subsection (1B) of that section, but as if—
- (a) the area of the National Park were a united district; and
- (b) any reference (however expressed) to the constituent councils of the joint board (or which is to be construed as such a reference) were a reference to the council of the principal area in question.
- 3B A board reconstituted under paragraph 3 above or constituted under paragraph 3A above shall be known as “a special planning board”.”
- (3) Section 2(2) of the planning Act (local inquiry to be held in the absence of consent of councils concerned) shall not apply to the making of any order—
- (a) under section 2(1B) of that Act, where the united district constituted by the order comprises or includes the whole or any part of the area of a National Park; or
- (b) under paragraph 3A of Schedule 17 to the 1972 Act,
- if the board constituted by the order is to come into existence before 31st March 1997.
- (4) In section 2 of the planning Act—
- (a) in subsection (1), omit the words “(in this Act referred to as a “joint planning board”)”;
- (b) in subsection (2), for the words “such an order” substitute “an order under subsection (1) or (1B)”;
- (c) in subsection (3), after “county” insert “or county borough” (in both places); and
- (d) in subsection (4), after “(1)” insert “or (1B)”.

## **20 Unitary development plans and National Parks**

- (1) After section 10 of the planning Act (application of Chapter I), insert—

### **“10A Application of Chapter I in relation to Wales**

- (1) This Chapter also applies to the area of any local planning authority in Wales.
- (2) Subsections (3) and (4) apply where the area of a local planning authority in Wales includes—
- (a) the whole or any part of an area prescribed under section 23B(2) in relation to a National Park, and
- (b) other land.

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- (3) The provisions of this Chapter apply separately in relation to—
- (a) the Park area or, if there is more than one, each Park area, and
  - (b) the remaining area.
- (4) Any reference in any of the following sections of this Chapter to the area of the local planning authority (including any reference which falls to be so construed) shall be construed—
- (a) in its application in relation to any Park area, as a reference to that Park area, and
  - (b) in its application in relation to the remaining area, as a reference to that area.

- (5) In this section—

“the Park area”, in relation to a National Park, means the part of the local planning authority’s area which is within the area prescribed under section 23B(2) in relation to that Park or, where there is more than one such part, those parts taken as a whole;

“the remaining area” means the part of the local planning authority’s area which is not within the area so prescribed in relation to any National Park.”

- (2) In Chapter I of Part II of the planning Act, insert after section 28—

**“28A Application of Chapter I in relation to Wales: transitional provisions**

- (1) Until a unitary development plan becomes fully operative for the area of any local planning authority in Wales—
  - (a) Part IA of Schedule 2, and
  - (b) Part III of Schedule 5 to the Local Government (Wales) Act 1994 (transitional provisions in relation to structure and local plans),
 shall apply in relation to that area.
- (2) For the purposes of this Chapter, a unitary development plan for the area of a local planning authority in Wales has become fully operative when—
  - (a) it has become operative under this Chapter; or
  - (b) where different parts have become operative at different times, when all parts of it have become so operative.”
- (3) Schedule 5 shall have effect—
  - (a) Part I making minor and consequential amendments to Part II of the planning Act,
  - (b) Part II inserting a new Part IA in Schedule 2 to the planning Act, and
  - (c) Part III making transitional provision, including provision with respect to the completion and adoption by new authorities of—
    - (i) local plans, and
    - (ii) proposals for alteration or replacement of structure plans and local plans,
 prepared or in course of preparation on 1st April 1996.
- (4) Schedule 6 shall have effect—



- (a) Part I making minor and consequential amendments to the 1972 Act in relation to National Parks and countryside functions, and
- (b) Part II making minor and consequential amendments to enactments concerned with planning.

### *Education*

## **21 Local education authorities and minor authorities in Wales**

- (1) In section 114 of the Education Act 1944 (interpretation), in the definition of “local education authority” in subsection (1), after “the county,” insert “in relation to a county borough, the council of the county borough,”.
- (2) In section 192 of the 1972 Act (education), in subsection (1), after “non-metropolitan county” insert “in England” and at the end add “but, for each principal area in Wales, the local education authority shall be the council of that principal area”.
- (3) In section 114(1) of the Act of 1944, in the definition of “minor authority”, omit, in paragraph (b), “is a community having no community council or” and, in paragraph (c) (iii), “which is a community having no community council or”.

### *Transfer of other specific functions*

## **22 Transfer of other specific functions**

- (1) Schedule 7 makes provision for the transfer to the new principal councils of functions in relation to highways, road traffic and transport.
- (2) Schedule 8 makes provision for the transfer to the new principal councils of functions in relation to housing.
- (3) Schedule 9 makes provision for the transfer to the new principal councils of functions in relation to public health and related matters.
- (4) Schedule 10 makes provision for the transfer to the new principal councils of functions in relation to social services.
- (5) Schedule 11 makes provision for the transfer to the new principal councils of functions in relation to water, land drainage and coast protection.
- (6) Each of the Schedules referred to in this section includes minor and consequential amendments of other enactments.

## **23 Fire services**

- (1) In section 4 of the Fire Services Act 1947 (fire authorities), after second “county” insert “or, in Wales, of every county or county borough”.
- (2) A combination scheme may be made under section 5 or 6 of the Act of 1947, before 1st April 1996, with respect to two or more areas each of which is a new principal area.
- (3) Where any such combination scheme is made before 1st April 1996, it shall not come into force until that date, except so far as it relates to—

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- (a) the constitution of an authority as the fire authority for the combined area constituted by the scheme, and
  - (b) the performance by that authority of any functions necessary for bringing the scheme into full operation on that date.
- (4) Where the Secretary of State proposes to make such a combination scheme—
- (a) subsection (2) of section 6 of the Act of 1947 shall until 1st April 1996 be taken to require him to give notice to—
    - (i) any existing fire authority whose area lies wholly or partly within the proposed combined area; and
    - (ii) each of the new principal councils concerned; and
  - (b) the requirement in that subsection with respect to public local inquiries shall not apply if—
    - (i) the proposed scheme relates only to new principal areas; and
    - (ii) the notice is given before 1st April 1996.
- (5) Any such notice shall specify a period for making representations with respect to the proposed scheme.
- (6) Where the Secretary of State has given notice of a proposed scheme, in a case to which subsection (4) applies, he shall consider any representations which are made to him before the end of the specified period by any body to whom notice was given.

## 24 Police

- (1) In section 1(1) of the Police Act 1964 (police areas), omit the words “and Wales” from paragraph (a) and after that paragraph insert—
- “(aa) for every county and county borough in Wales;”.
- (2) In section 2 of that Act (police authorities), at the end add—
- “(8) In this section any reference to a non-metropolitan county is to be read, in relation to Wales, as including a reference to a county borough.”
- (3) An amalgamation scheme may be made under section 21(2) of the Act of 1964 (Secretary of State’s amalgamation schemes), before 1st April 1996, with respect to two or more areas each of which is a new principal area.
- (4) Where any such amalgamation scheme is made before 1st April 1996, it shall not come into force until that date, except so far as it relates to—
- (a) the constitution of an authority as the police authority for the combined area constituted by the scheme, and
  - (b) the performance by that authority of any functions necessary for bringing the scheme into full operation on that date.
- (5) Where the Secretary of State proposes to make such an amalgamation scheme—
- (a) paragraphs 1 and 2 of Schedule 3 to the Act of 1964 shall until 1st April 1996 be taken to require him to give notice—
    - (i) to any existing police authority whose area lies wholly or partly within the area of the proposed combined police authority;
    - (ii) where that police authority is a combined authority, to the councils of each of the counties comprised in the combined area; and
    - (iii) to each of the new principal councils concerned; and

- (b) the requirement in paragraph 3 of that Schedule with respect to public local inquiries shall not apply if—
  - (i) the proposed scheme relates only to new principal areas; and
  - (ii) the notice is given before 1st April 1996.
- (6) Any such notice shall specify a period for making representations with respect to the proposed scheme.
- (7) Where the Secretary of State has given notice of a proposed scheme, in a case to which subsection (5) applies, he shall, before the end of the specified period, consider any representations which are made to him by any body to whom notice was given.

### *Services*

## **25 Provision of services by one new principal council for another**

- (1) Any new principal council (“the contracting council”) may enter into an agreement with another such council (“the supplying council”) for the provision by the supplying council of services which the contracting council require for the purpose of, or in connection with, the discharge of any of their functions.
- (2) Any agreement under subsection (1) (a “service agency agreement”) may be made on such terms as to payment or otherwise as the parties consider appropriate.
- (3) Subsection (1) is subject to—
  - (a) the provisions made by or under this Act;
  - (b) any other enactment which provides for specific functions of a local authority to be discharged only by that authority;
  - (c) any other enactment which imposes requirements which must be satisfied before a local authority may enter into any agreement of the kind provided for by subsection (1) including, in particular, the provisions of—
    - (i) Part III of the Local Government, Planning and Land Act 1980 (restrictions on use by local authorities of direct labour organisations); and
    - (ii) Part I of the Local Government Act 1988 (local authorities to undertake certain activities only if they can do so competitively).
- (4) The power conferred by subsection (1) shall be exercisable subject to such regulations (if any) as the Secretary of State sees fit to make for the purposes of this section.
- (5) Any such regulations may, in particular, make provision—
  - (a) excluding prescribed matters from those which may be the subject of a service agency agreement;
  - (b) restricting (whether by reference to one or more areas or otherwise) the councils with which a principal council may make a service agency agreement;
  - (c) restricting the area or areas with respect to which the supplying council may provide services under a service agency agreement.
- (6) As respects the exercise of any of their other statutory powers, anything which falls to be done by the supplying council under a service agency agreement shall be treated as one of their statutory functions.

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- (7) The provisions of the Local Authorities (Goods and Services) Act 1970 (supply of goods and services by local authorities) do not affect, and are not affected by, the powers conferred on new principal councils by this section.
- (8) In section 1(4) of that Act (authorities to which Act applies), for “any county” substitute “any county, county borough”.
- (9) For the purposes of this section the Residuary Body shall be treated as a new principal council.

## **26 Service delivery plans**

- (1) Every new principal council shall prepare and publish a plan (“a service delivery plan”)—
  - (a) describing the manner in which they propose to perform their functions during the period beginning on 1st April 1996 and ending with 31st March 1997; and
  - (b) giving particulars of the arrangements for organisation and management which they propose to adopt.
- (2) Each new principal council shall—
  - (a) publish a draft of their proposed service delivery plan before 1st November 1995; and
  - (b) complete and publish their service delivery plan before 1st February 1996.
- (3) In preparing their service delivery plan, a council shall take into account any guidance given by the Secretary of State as to consultation or as to the contents of the plan.
- (4) A council’s service delivery plan shall be published in such manner as the council consider likely to bring it to the attention of persons (both inside and outside their area) who may be affected by the performance of their functions.
- (5) Copies of their service delivery plan shall be made readily available by each new principal council for inspection by any person during office hours.
- (6) Subsections (4) and (5) also apply to the draft service delivery plan required to be published by subsection (2)(a).

## **PART III**

### **DECENTRALISATION AND JOINT WORKING**

#### *Decentralisation schemes*

## **27 Decentralisation schemes: preparation**

- (1) If the conditions mentioned in subsection (2) are satisfied, the Secretary of State may give a direction to a new principal council requiring them to prepare and submit to him a decentralisation scheme for such area falling within the area of the council as the Secretary of State sees fit to specify in the direction.
- (2) The conditions are that—

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- (a) an application relating to the council has been made to the Secretary of State under this section by ten or more of their members;
  - (b) the application is expressed to be made in relation to a specified area falling within the area of the council; and
  - (c) at least ten of those persons making the application are members of the council who are connected with the area specified in the application.
- (3) In this section—
- “decentralisation scheme”, in relation to a council, means a scheme which provides for the exercise of specified functions of the council to be discharged by a committee of the council established for the purposes of the scheme; and
  - “direction” means a direction under subsection (1).
- (4) Any council to whom a direction has been given shall submit the required decentralisation scheme to the Secretary of State in accordance with the direction.
- (5) A direction may require a decentralisation scheme to be submitted before a specified date.
- (6) A committee established for the purposes of a decentralisation scheme is referred to in this Act as an area committee.
- (7) No application under subsection (2) may be made after 1st January 1996 and no direction may be given after 1st July 1996.
- (8) The Secretary of State shall not give a direction unless he is satisfied that a decentralisation scheme is likely to be appropriate for the area in question.
- (9) In considering whether a decentralisation scheme is likely to be appropriate for any area (“the local area”), the Secretary of State shall have regard to—
- (a) the desirability of providing for the efficient administration of local government functions both in relation to the area of the principal council as a whole and in relation to the local area; and
  - (b) the particular circumstances of the local area including its geographical, historical, cultural and demographic circumstances.
- (10) A direction may specify any area to which it relates by reference to specific boundaries or by a general description.
- (11) The Secretary of State may from time to time issue guidance with respect to the preparation and content of decentralisation schemes.
- (12) Any such guidance may be—
- (a) general, relating to all decentralisation schemes or all schemes of a specified description; or
  - (b) specific to a particular scheme.
- (13) In specifying any area in a direction, the Secretary of State shall have regard to, but not be bound by, the terms of the application in response to which it is given.
- (14) For the purposes of subsection (2), a member of a council is connected with a specified area if he is a member for an electoral division which, or any part of which, falls within that area.

## **28 Decentralisation schemes: approval and implementation**

- (1) Where a council have submitted a decentralisation scheme to the Secretary of State under section 27 he shall, before the end of the period of six months beginning with the date on which the scheme was submitted to him—
  - (a) approve the scheme as submitted;
  - (b) approve the scheme subject to such modifications as he considers appropriate; or
  - (c) reject the scheme.
- (2) Where he proposes not to approve the scheme as submitted, the Secretary of State shall notify the council concerned, before the end of that six month period, of the modifications which he proposes to make to the scheme, or (as the case may be) that he proposes to reject the scheme.
- (3) Before he approves a scheme subject to modifications, or rejects a scheme, the Secretary of State shall have regard to any representations which have been made to him by the council concerned.
- (4) Where the Secretary of State approves a decentralisation scheme, it shall be the duty of the council concerned to implement and maintain the scheme.
- (5) The Secretary of State's decision under subsection (1) shall be given in writing.
- (6) Where the Secretary of State approves a decentralisation scheme, he may give a direction to the council concerned as to the date by which the scheme is to be implemented.
- (7) Where the Secretary of State has rejected a decentralisation scheme, he may at any time before the end of the period of six months beginning with the date on which he rejected the scheme, direct the council concerned to prepare and submit to him a revised scheme under section 27.
- (8) Nothing in section 27(7) shall be taken to prevent the giving of a direction under subsection (7).
- (9) A direction under subsection (7) may require the revised scheme to be submitted to the Secretary of State before a specified date.

## **29 Area committees: safeguards**

- (1) Where an area committee has been established by a council in accordance with an approved decentralisation scheme—
  - (a) the council shall not, except with the agreement of the committee, abolish the committee or alter any arrangements in force with respect to the committee which were made in accordance with the scheme as originally approved or which have subsequently been agreed with the committee; and
  - (b) nothing in section 101(4) of the 1972 Act (power of local authority to exercise functions otherwise discharged by committee) shall be taken to authorise the council to exercise any functions which are to be discharged by the committee, except as provided for by the scheme.
- (2) Every decentralisation scheme shall include provision, to be given effect to by the standing orders of the council concerned, for the majority required in order for any

suspending resolution to be passed to be such majority greater than a simple majority as may be specified by the scheme.

- (3) In subsection (2) “suspending resolution”, in relation to a decentralisation scheme, means a resolution to suspend any of the arrangements in force with respect to an area committee established in accordance with the scheme.

### **30 Area committees: membership etc**

- (1) This section applies where an area committee has been established by a council in accordance with an approved decentralisation scheme.
- (2) The provisions of the 1972 Act with respect to arrangements for the discharge of functions by committees of local authorities and sub-committees, and the appointment of such committees and sub-committees, shall be subject to this section and section 31.
- (3) Every person who is a member of the council for an electoral division which falls within the area for which the committee is established shall be entitled to be appointed to the committee at his request.
- (4) The committee may appoint additional persons, including members of the council who are not entitled to membership of the committee under subsection (3), as members of the committee.
- (5) No other persons shall be eligible for appointment to the committee.
- (6) In this section, in relation to an area committee, “co-opted member” means any member appointed by the committee under subsection (4).
- (7) Where the Secretary of State has given a direction under section 297 of the Education Act 1993 (power to direct appointment of members of certain committees) which applies to the committee and can only be complied with by the appointment of one or more additional members to the committee, it shall be the duty of the committee to exercise its powers of appointment to secure compliance with the direction.
- (8) A co-opted member of an area committee shall not be entitled to vote at any meeting of the committee on any question which falls to be decided at that meeting.
- (9) Nothing in subsection (8) shall prevent the appointment of a person, in compliance with a direction under section 297 of the Act of 1993, as a voting member of an area committee.
- (10) In the application of section 101 of the 1972 Act (arrangement for discharge of functions by local authorities) in relation to the committee—
- (a) subsection (1) shall have effect as if it gave power to the committee, if authorised to do so by the decentralisation scheme, to arrange for the discharge of any of its functions by a local authority other than the authority who made the scheme;
  - (b) subsection (2) shall have effect with the omission of the words “unless the local authority otherwise direct” and (in the second place where they occur) the words “the local authority or”.
- (11) Sections 102(3) of the 1972 Act (power to include persons who are not members of the local authority concerned) and 15 of the Local Government and Housing Act 1989 (political balance on committees) shall not apply in relation to membership of the committee.

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- (12) The term of office of each of the co-opted members of an area committee shall be fixed by the committee.
- (13) Section 102(2) of the 1972 Act (number of members of committee and terms of office) shall not apply in relation to the committee.
- (14) In the case of an appointment made in order to comply with a direction under section 297 of the Act of 1993, the committee shall exercise its powers under subsection (12) subject to any provision of the direction relating to terms of office.

### **31 Sub-committees of area committees**

- (1) In this section “sub-committee” means a sub-committee of an area committee.
- (2) The members of a sub-committee shall be appointed by the area committee from among persons who are—
  - (a) members of the area committee appointed under subsection (3) of section 30; or
  - (b) entitled to be members of the area committee by virtue of that subsection.
- (3) Subject to subsection (10), a sub-committee may appoint additional persons, including persons who are not members of the area committee concerned, as members of the sub-committee.
- (4) No other persons shall be eligible for appointment to a sub-committee.
- (5) In this section, in relation to a sub-committee, “co-opted member” means any member of the sub-committee appointed under subsection (3).
- (6) Where the Secretary of State has given a direction under section 297 of the Education Act 1993 (power to direct appointment of members of certain committees) which applies to a sub-committee, it shall be the duty of the area committee concerned and the sub-committee to secure compliance with the direction.
- (7) A co-opted member of a sub-committee shall not be entitled to vote at any meeting of the sub-committee on any question which falls to be decided at that meeting.
- (8) Nothing in subsection (7) shall prevent the appointment of a person in compliance with a direction under section 297 of the Act of 1993 as a voting member of a sub-committee.
- (9) Sections 102(3) of the 1972 Act (power to include persons who are not members of the local authority concerned) and 15 of the Local Government and Housing Act 1989 (political balance on committees) shall not apply in relation to membership of a sub-committee.
- (10) The number of members of a sub-committee and their terms of office shall be fixed by the area committee concerned.
- (11) Section 102(2) of the 1972 Act (number of members of committee and terms of office) shall not apply in relation to the sub-committee.
- (12) In the case of an appointment made in order to comply with a direction under section 297 of the Act of 1993, the area committee shall exercise its powers under subsection (10) subject to any provision of the direction relating to terms of office.



### *Joint working*

#### **32 Provision of information to Secretary of State**

- (1) The Secretary of State may at any time before 31st March 1999 direct any new principal council to give to him—
  - (a) details of the arrangements which they have made, or propose to make, for the performance of specified functions of theirs; and
  - (b) information of a specified kind or description as to the performance of specified functions of theirs.
- (2) In subsection (1) “specified”, in relation to a direction, means specified in the direction.
- (3) Nothing in this section is to be taken as affecting the operation of any other provision under which a local authority may be required to provide information of any kind to the Secretary of State or to any other person.

#### **33 Joint working arrangements**

- (1) Where it appears to the Secretary of State—
  - (a) that particular functions of a new principal council should be discharged in accordance with arrangements entered into by that council and one or more other such councils in relation to the exercise of those functions, but
  - (b) that satisfactory arrangements for the exercise of those functions will not be, or are unlikely to be, in force on or after 1st April 1996,he may, at any time before 31st March 1999, give a direction to the councils concerned requiring them to make specified arrangements in relation to the exercise of specified functions.
- (2) The arrangements specified may, in particular, be, or include, arrangements for the joint exercise of functions.
- (3) In this section “specified”, in relation to a direction, means specified in the direction.
- (4) In considering whether to give a direction under subsection (1), the Secretary of State shall have regard, in particular, to the desirability of the functions in question being discharged effectively and in a financially efficient manner.
- (5) A direction under subsection (1) shall remain in force—
  - (a) until it is withdrawn by a notice in writing given by the Secretary of State to the councils concerned; or
  - (b) where a period is specified in the direction during which the direction is to have effect, and the direction has not been withdrawn by the Secretary of State, until the end of that period.
- (6) A direction under subsection (1) may at any time while it is in force be varied by the Secretary of State.
- (7) Nothing in subsection (5) or (6) shall be taken to affect the power of the Secretary of State to give a further direction under subsection (1).

### **34 Joint authorities**

- (1) Where a direction has been given by the Secretary of State under section 33 but it appears to him that—
  - (a) it has proved impracticable to implement the arrangements required by the direction,
  - (b) the required arrangements have been implemented but are not working satisfactorily, or
  - (c) the required arrangements are, or have been, working satisfactorily but are unlikely to continue to work satisfactorily,he may by order establish a body to act for the areas of the councils to which the direction relates.
- (2) A body established under subsection (1) shall be known as a joint authority and may be established as a body corporate.
- (3) A joint authority shall consist of such number of members as may be determined by the order establishing it.
- (4) Those members shall be appointed by the councils to which the order relates, from among their members, each council being entitled to appoint such number of members as may be specified in the order.
- (5) Where at any time the number of members of a joint authority is less than the required number, the Secretary of State may, if he is satisfied that the councils concerned have had a reasonable opportunity to make the necessary appointment or appointments—
  - (a) give such direction to the councils concerned or to any of them as he considers appropriate; and
  - (b) appoint such members (from among such persons as he considers appropriate) as may be required to complete the membership of the authority.
- (6) The joint authority shall discharge the functions to which the direction relates, from a date specified in the order establishing the authority until such alternative arrangements for the exercise of the functions as appear to the Secretary of State to be satisfactory are brought into force.
- (7) The power conferred on the Secretary of State by subsection (1) may not be exercised after 31st March 1999 but an order under subsection (1) which is made before that date shall continue in force until revoked by the Secretary of State.
- (8) An order under this section may—
  - (a) provide for the joint authority concerned to be treated, for all purposes or only for the purposes of such enactments as may be prescribed, as a new principal council;
  - (b) provide for such enactments relating to new principal councils as may be prescribed (either generally or by reference to specified enactments) to have effect in relation to the joint authority concerned subject to such modifications as may be prescribed;
  - (c) make provision enabling the Secretary of State to require the joint authority concerned to submit to him a scheme for winding itself up and for the transfer to any of the councils for whose areas the joint authority is established of any of the joint authority's property, rights and liabilities or of any functions which it carries out.

- (9) The Secretary of State may by order provide—
- (a) for excluding any functions, or any functions in any area, from those falling to be carried out by a joint authority; and
  - (b) for giving effect (with or without modifications) to any scheme submitted to him under a provision made by virtue of subsection (8) for the dissolution of a joint authority.
- (10) The power to make an order under this section includes, in particular, power to make provision for the transfer of property, rights and liabilities.

## PART IV

### FINANCE

#### **35 Council tax, rating and the community charge**

- (1) The new principal councils shall be billing authorities in relation to the financial year beginning on 1st April 1996 and in relation to subsequent financial years.
- (2) In this section “billing authority” means an authority which is a billing authority for the purposes of—
- (a) Part I of the Local Government Finance Act 1992 (council tax); and
  - (b) Part III of the Local Government Finance Act 1988 (non-domestic rating).
- (3) In the period before 1st April 1996, the old authorities concerned shall continue to exercise their functions as billing authorities in respect of matters arising in connection with financial years before the financial year beginning on that date.
- (4) After 31st March 1996, the new principal councils shall have the same functions in relation to council tax, rating (including non-domestic rating) and the community charge as the old authorities would have had—
- (a) in connection with those matters, and
  - (b) in relation to any financial year beginning before 1996, if the old authorities had not been abolished.
- (5) For section 1(2) of the Act of 1992 substitute—
- “(2) In this Part “billing authority” means—
- (a) in relation to England, a district council or London borough council, the Common Council or the Council of the Isles of Scilly, and
  - (b) in relation to Wales, a county council or county borough council.”
- (6) In section 39(1) of the Act of 1992 (precepting authorities), in paragraph (a) at the end add “in England”.

#### **36 Valuation lists for Welsh billing authorities**

After section 22 of the Local Government Finance Act 1992, insert—

**“22A Amalgamated valuation lists for Welsh billing authorities**

- (1) Every new listing officer shall, on 1st April 1996, compile a list (“the amalgamated list”) for the new billing authority for which he is appointed, based on the information provided for him under this section.
- (2) The amalgamated list shall contain the information which was included in the valuation lists compiled on 1st April 1993 for the old billing authorities (“the current lists”) so far as that information is relevant.
- (3) The amalgamated list shall also include the information which was included in any current list by way of an alteration, so far as that information is relevant.
- (4) A new listing officer’s amalgamated list shall be treated, for the purposes of this Act, as the valuation list for his new billing authority and shall be deemed to have come into force on 1st April 1993.
- (5) Where an amalgamated list contains information which is derived from any alteration made to any valuation list or lists from which it is derived, the amalgamated list shall be treated as having been varied on the date on which the alteration was made.
- (6) Subsections (2) to (8) of section 22 above shall not apply in relation to an amalgamated list.
- (7) Every listing officer shall—
  - (a) on or before 15th November 1995, provide the appropriate new listing officer with the information recorded in his valuation list as at 31st October 1995 so far as it is relevant; and
  - (b) on 31st March 1996, provide the appropriate new listing officer with the information recorded in his valuation list as at that date, so far as it is relevant.
- (8) A new listing officer receiving any information under subsection (7)(a) above shall send a copy of it to his new billing authority as soon as is reasonably practicable.
- (9) As soon as is reasonably practicable after compiling the amalgamated list, a new listing officer shall send a copy of it to his new billing authority.
- (10) A new billing authority receiving a copy of an amalgamated list under subsection (9) above shall, as soon as is reasonably practicable, deposit it at its principal office.
- (11) In this section—
  - “old authority” has the same meaning as in the Local Government (Wales) Act 1994;
  - “old billing authority” means a billing authority which is an old authority;
  - “new billing authority” means a billing authority which is a new principal council;
  - “listing officer” means a listing officer for an old billing authority;
  - “new listing officer” means a listing officer for a new billing authority; and

“new principal council” has the same meaning as in the Local Government (Wales) Act 1994.

- (12) For the purposes of this section—
- (a) references to a listing officer’s valuation list are references to the valuation list maintained by him under this Act;
  - (b) a new listing officer’s area is the area of the new billing authority for which he is appointed;
  - (c) the appropriate new listing officer, in relation to any information which relates to a dwelling is the new listing officer for the new billing authority in whose area the dwelling is situated; and
  - (d) information is relevant in relation to a new listing officer, or his area, if it relates to a dwelling which is in his area.”

### **37 Local non-domestic rating lists for Welsh billing authorities**

After section 41 of the Local Government Finance Act 1988, insert—

#### **“41A Local non-domestic rating lists for Welsh billing authorities**

- (1) Every new valuation officer shall, on 1st April 1996, compile a list (“the amalgamated list”) for the new billing authority for which he is appointed, based on the information provided for him under this section.
- (2) The amalgamated list shall contain the information which was included in the local non-domestic rating lists compiled on 1st April 1995 for the old billing authorities (“the current lists”) so far as that information is relevant.
- (3) The amalgamated list shall also include the information which was included in any current list by way of an alteration, so far as that information is relevant.
- (4) A new valuation officer’s amalgamated list shall be treated, for the purposes of this Act, as the local non-domestic rating list for his new billing authority and shall be deemed to have come into force on 1st April 1995.
- (5) Where an amalgamated list contains information which is derived from any alteration made to any list or lists from which it is derived, the amalgamated list shall be treated as having been varied on the date on which the alteration was made.
- (6) Subsections (2) to (6B) of section 41 above shall not apply in relation to an amalgamated list.
- (7) Every valuation officer shall—
  - (a) on or before 15th October 1995, provide the appropriate new valuation officer with the information recorded in his local non-domestic rating list as at 30th September 1995, so far as it is relevant; and
  - (b) on 31st March 1996, provide the appropriate new valuation officer with the information recorded in his local non-domestic rating list as at that date, so far as it is relevant.
- (8) A new valuation officer receiving any information under subsection (7)(a) above shall send a copy of it to his new billing authority as soon as is reasonably practicable.

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- (9) As soon as is reasonably practicable after compiling an amalgamated list, a new valuation officer shall send a copy of it to his new billing authority.
- (10) A new billing authority receiving a copy of an amalgamated list under subsection (9) above shall, as soon as is reasonably practicable, deposit it at its principal office.
- (11) In this section—
- “old authority” has the same meaning as in the Local Government (Wales) Act 1994;
- “old billing authority” means a billing authority which is an old authority;
- “new billing authority” means a billing authority which is a new principal council;
- “new principal council” has the same meaning as in the Local Government (Wales) Act 1994;
- “valuation officer” means a valuation officer for an old billing authority; and
- “new valuation officer” means a valuation officer for a new billing authority.
- (12) For the purposes of this section—
- (a) references to a valuation officer’s local non-domestic rating list are references to the local non-domestic rating list maintained by him under this Act;
  - (b) a new valuation officer’s area is the area of the new billing authority for which he is appointed;
  - (c) the appropriate new valuation officer, in relation to any information which relates to any hereditament is the new valuation officer for the new billing authority in whose area the hereditament is situated; and
  - (d) information is relevant in relation to a new valuation officer, or his area, if it relates to a hereditament which is in his area.”

### **38 Council funds for new principal councils**

- (1) Each new principal council shall establish, and then maintain, a fund to be known as their council fund.
- (2) Any sums received by a new principal council shall be paid into their council fund.
- (3) All payments by a new principal council shall be made out of their council fund.
- (4) Subsections (2) and (3) do not apply in relation to any sums to be paid into, or payments to be made out of, a trust fund.
- (5) Section 101(1)(b) of the 1972 Act (delegation) shall not apply as regards the functions of a new principal council in relation to their council fund.
- (6) Each new principal council shall keep accounts of sums paid into, and of payments made out of, their council fund.

- (7) Any account kept only in respect of the general expenses of a new principal council shall be known as their general account and any account kept only in respect of any class of their special expenses shall be known as a special account.
- (8) The Secretary of State may make regulations—
- (a) requiring assets of a prescribed description which fall within a council fund to be held in a separate fund within the council fund;
  - (b) requiring any fund (other than a trust fund) of a prescribed description which is established by a new principal council to be maintained as a separate fund within their council fund.
- (9) The Secretary of State may by regulations make provision with respect to the liability of new principal councils to make payments from their council funds in respect of precepts issued under Chapter IV of Part I of the Local Government Finance Act 1992.
- (10) The regulations may, in particular, include provision—
- (a) that anything falling to be paid must be paid—
    - (i) within a prescribed period; and
    - (ii) in instalments of such amounts, and at such times, as are determined by the billing authority in accordance with prescribed rules;
  - (b) that the billing authority must inform any precepting authorities when instalments will be paid and how they are to be calculated;
  - (c) that if an instalment is not paid to a precepting authority in accordance with the regulations, it is to be entitled to interest on the amount of the instalment;
  - (d) as to the circumstances in which the billing authority is to be treated as having discharged the liability mentioned in subsection (9);
  - (e) as to the recovery (by deduction or otherwise) of any excess amount paid by the billing authority to any precepting authority in purported discharge of the liability mentioned in subsection (9).
- (11) Schedule 12 makes minor and consequential amendments with respect to funds.

## PART V

### RESIDUARY MATTERS AND STAFF

#### **39 The Residuary Body for Wales or Corff Gweddilliol Cymru**

- (1) On 31st March 1996 or on such earlier day as the Secretary of State may by order appoint, there shall be a body corporate to be known as the Residuary Body for Wales or Corff Gweddilliol Cymru (but in this Act referred to as the Residuary Body).
- (2) Schedule 13 shall have effect with respect to the Residuary Body.

#### **40 The Staff Commission for Wales or Comisiwn Staff Cymru**

- (1) There shall be a body corporate to be known as the Staff Commission for Wales or Comisiwn Staff Cymru (but in this Act referred to as the Commission).
- (2) The Commission shall—

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- (a) advise the Secretary of State on the steps necessary to safeguard the interests of staff employed by—
    - (i) the old authorities;
    - (ii) the new principal councils; or
    - (iii) the Residuary Body;
  - (b) consider and keep under review—
    - (i) arrangements for the recruitment of the staff of any of those bodies; and
    - (ii) the organisation, management and remuneration of the staff of the new principal councils;
  - (c) consider and keep under review the arrangements for the transfer of staff from any of the old authorities in consequence of any provision made by or under this Act; and
  - (d) consider such staffing problems and other staffing matters as may be referred to it by the Secretary of State as arising out of any provision made by or under this Act.
- (3) The Secretary of State may give directions to the Commission as to its procedure and to any of the new principal councils or old authorities, or the Residuary Body, with respect to—
- (a) the supply of any information requested, and the implementation of any advice given, by the Commission; and
  - (b) the payment by such a council or authority, or by the Residuary Body, of any expenses incurred by the Commission in doing anything requested by that council or authority or by the Residuary Body.
- (4) Schedule 14 makes provision with respect to the constitution of the Commission and related matters.

#### **41 Continuity of employment in certain cases of voluntary transfer**

- (1) This section applies to a person (“the employee”) who at any time ceases to be employed by an old authority if—
- (a) the termination of his employment is attributable to any provision made by or under this Act;
  - (b) he is subsequently employed by another person; and
  - (c) by virtue of section 84 of the Employment Protection (Consolidation) Act 1978 (renewal or re-engagement) that subsequent employment precludes his receiving any redundancy payment under Part VI of that Act with respect to his terminated employment.
- (2) Schedule 13 to the Act of 1978 (computation of period of employment for the purposes of that Act) shall have effect as if it provided—
- (a) for the period of the employee’s employment by the old authority to count as a period of employment with his new employer; and
  - (b) for the change of employer not to break the continuity of the period of his employment.
- (3) For the purposes of any provision of the employee’s contract of employment with his new employer which depends on his length of service with that employer, the period



of his employment with the old authority shall count as a period of employment with his new employer.

#### **42 Transfers of staff**

- (1) This section applies to any person (“a designated employee”) who, immediately before 1st April 1996 was employed by an abolished body under a contract of employment which would have continued but for the abolition of that body and who is designated, or falls within a class or description of person designated, for the purposes of this section by an order made, at any time, by the Secretary of State.
- (2) The contract of employment between a designated employee and the abolished body concerned shall not be terminated by the abolition of the body but shall have effect from 1st April 1996 as if originally made between him and such new employer as may be specified by the relevant designation order under this section.
- (3) Such an order may specify as the new employer a new principal council or the Residuary Body.
- (4) Without prejudice to subsection (2)—
  - (a) all the rights, powers, duties and liabilities of the abolished body under, or in connection with, the contract shall by virtue of this section be transferred on 1st April 1996 to the new employer; and
  - (b) anything done before 1st April 1996 by or in relation to the abolished body in respect of the contract or the designated employee shall be deemed from that date to have been done by or in relation to the new employer.
- (5) Nothing in this section affects any right of a designated employee to terminate his contract of employment if a substantial change is made in his working conditions, to his detriment, but no such right shall arise by reason only of the change of employer effected by this section.
- (6) A class or description of person may be specified by an order under subsection (1) by reference to such list or other document or documents as may be identified in accordance with the order.
- (7) In this section “abolished body” means an old authority or any joint board which ceases to exist as a result of section 59.

#### **43 Compensation for loss of office or diminution of emoluments**

- (1) Where any person—
  - (a) is, at any time after the passing of this Act, in the service of an old authority, a new principal council or the Residuary Body, and
  - (b) suffers loss of employment or diminution of emoluments which is attributable to any provision made by or under this Act,compensation in respect of any such loss or diminution suffered by him shall be paid only in accordance with regulations made under section 24 of the Superannuation Act 1972.
- (2) Accordingly, none of the bodies mentioned in subsection (1) shall pay any such compensation under any other statutory provision, by virtue of any provision in a contract or otherwise.

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- (3) Subsections (1) and (2) do not preclude the making of any payment to which a person is entitled by virtue of contractual rights acquired by him before 1st December 1993.
- (4) No compensation shall be payable under regulations made under the Superannuation Act 1972, to or in respect of a person to whom subsection (1) applies, in respect of any loss or diminution attributable to the termination of a late contract on or before 1st April 1996.
- (5) In subsection (4)—
- “late contract” means a contract which is made after 30th November 1993 and provides for the employment of the person concerned for a fixed term extending beyond 31st March 1996; and
- “loss or diminution” means loss or diminution of a kind mentioned in subsection (1).
- (6) For the purpose of determining under section 82(5) or (6) or 84(3) of the Employment Protection (Consolidation) Act 1978—
- (a) whether the provisions of a new contract offered to a person employed by any such body as is mentioned in subsection (1) differ from the corresponding provisions of his previous contract, and
- (b) whether employment under the new contract is suitable in relation to that person,
- there shall be treated as forming part of the remuneration payable under the new contract any compensation to which that person is or, if he accepted the offer, would be entitled in accordance with this section.
- (7) Subject to subsection (6), nothing in this section shall be taken to affect any entitlement to a redundancy payment under Part VI of the Act of 1978 or to any payment by virtue of any provision of the Superannuation Act 1972 other than section 24 of that Act.

#### **44 Redundancy payments**

- (1) In determining the effect of any provision of—
- (a) Part IV, V or VI of the Employment Protection (Consolidation) Act 1978, or
- (b) Chapter II of Part IV of the Trade Union and Labour Relations (Consolidation) Act 1992,
- in relation to a person whose contract of employment is terminated as a result of this Act, it shall be assumed that he was dismissed by the old authority concerned by reason of redundancy immediately before 1st April 1996 and that his dismissal was proposed by the authority.
- (2) For the purposes of this section—
- (a) a person’s contract of employment is terminated as a result of this Act if—
- (i) immediately before 1st April 1996 he was in the service of an old authority under a contract of employment which would have continued in force if that authority had not been abolished; and
- (ii) his contract of employment is not transferred to a new principal council or to the Residuary Body; and
- (b) a contract of employment is transferred—

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- (i) to a new principal council, if it is treated by any provision made by this Act, or by or under any other enactment, as continued in force with that council on 1st April 1996; or
  - (ii) to the Residuary Body, if it is so treated as continued in force with the Residuary Body on that date.
- (3) The new principal council to whom an old authority's liability as respects any redundancy payment under Part VI of the Act of 1978 is transferred under this Act shall be treated as the employer of the person concerned for the purposes of sections 101, 102, 108 and 119 of the Act of 1978 (ancillary provisions about redundancy payments).
- (4) As respects any such redundancy payment, references to the relevant date in sections 81(4), 82(1) and 101 of the Act of 1978, and in Schedule 4 to that Act, shall be construed as references to 31st March 1996.

#### **45 Other compensation payments**

- (1) This section applies where any contract of employment made before 1st December 1993 is terminated as a result of this Act.
- (2) Subsection (2) of section 44 applies for the purposes of this section as it applies for the purposes of that section.
- (3) If the contract—
  - (a) provided for the employee's employment for a fixed term extending beyond 31st March 1996, but
  - (b) did not provide for the earlier termination of the contract by the authority concerned,the employee shall be treated as having been entitled, immediately before 1st April 1996, to receive from the old authority an amount equal to the damages which he would have been entitled to recover from that authority if they had not been abolished but had dismissed him immediately before that date.
- (4) If the contract (whether or not for a fixed term) provided for its termination by the old authority on payment of compensation for loss of employment, the employee shall be treated as having been entitled, immediately before 1st April 1996, to receive from the old authority an amount equal to the compensation which he would have been entitled to receive from that authority if they had not been abolished but had terminated the contract immediately before that date.
- (5) In subsection (4) "compensation for loss of employment" does not include any payment to be made under the contract in lieu of notice.
- (6) Where the amount of compensation payable under a contract differs according to the reasons for termination of the contract, the amount payable by virtue of subsection (4) shall be determined on the assumption that the contract was terminated by reason of redundancy within the meaning of the Employment Protection (Consolidation) Act 1978.
- (7) The Secretary of State may by regulations exclude the operation of this section in prescribed circumstances (and, in particular, in cases of engagement by new principal councils).

## PART VI

### TRANSITIONAL PROVISIONS

#### 46 Committees of existing councils for consideration of certain matters

- (1) The councils of each of the old authorities whose areas will be wholly or partly included in the area of a new principal council shall, as soon as is practicable after the passing of this Act, establish a joint committee (“a transition committee”) to consider and advise on transitional matters.
- (2) Each transition committee shall consist of such number of representatives of the authorities by whom it is established as may be agreed between them or, in default of agreement, as may be determined by the Secretary of State.
- (3) In making any determination under subsection (2), the Secretary of State shall secure that the number of persons who represent county councils is equal to the number who represent district councils.
- (4) A transition committee may co-opt additional persons to serve as members of the committee.
- (5) For the purposes of this section a matter is a transitional matter in relation to a new principal council if, in the opinion of the transition committee for that council, it is one which it is expedient for the committee to consider in order to ensure that the council will be able to function effectively as from 1st April 1996.
- (6) The Secretary of State may give a direction requiring—
  - (a) a particular transition committee,
  - (b) every transition committee falling within a class specified in the direction, or
  - (c) every transition committee,to consider any such matter as may be specified in the direction.
- (7) Any expenses incurred by a committee established under this section shall be defrayed by the authorities by whom the committee was established in such proportions as may be agreed between them or, in default of agreement, as may be determined by the Secretary of State.

#### 47 Old and new principal areas with the same name

- (1) Where a local government area established by this Act (“the new area”) has the same name as a local government area (“the old area”) in existence at any time before the commencement of section 1(1), references in any enactment passed before this Act to the old area by name are not to be read as references to the new area.
- (2) This section is subject to any provision to the contrary made by or under this Act.

#### 48 Groups of communities

- (1) Where, as a result of the creation of new principal areas by this Act, the communities within an existing group of communities will not all be within the same new principal area, the district council concerned shall, before 1st April 1996 make an order—
  - (a) dissolving the group; or

- (b) separating one or more of the communities from the group in order to secure that the remaining members of the group will all be within the same new principal area.
- (2) Any order under subsection (1) shall make such provision as appears to the district council necessary for the election, in accordance with the 1972 Act and Part I of the Representation of the People Act 1983, of a community council for any community which, as a result of the order, is no longer a member of the group.
- (3) Section 31 of the 1972 Act (provisions supplementary to sections 27 to 29 of that Act), applies in relation to an order made under this section as it applies to one made under section 29 of that Act.

## **49 Charities**

- (1) Where, immediately before the commencement of this section, any property is held exclusively for charitable purposes by any of the old authorities, as sole trustee, that property shall vest on the same trusts in the appropriate council.
- (2) Where, immediately before the commencement of this section, any power with respect to a charity was vested in the proper officer of an old authority or in the holder of any other office of an old authority that power shall vest in the corresponding officer of the appropriate council.
- (3) Where, immediately before the commencement of this section, an old authority or any officer of an old authority is included among the charity trustees of a charity, those trustees shall include instead the appropriate council or (as the case may be) the corresponding officer of that council.
- (4) Where subsection (1) applies and the property in question is held for the benefit of—
  - (a) a specified area,
  - (b) the inhabitants of a specified area, or
  - (c) any particular class or body of persons in a specified area,the appropriate council is the new principal council whose area comprises the whole, or the greater part, of the specified area.
- (5) In any other case falling within this section, the appropriate council is the new principal council whose area comprises the whole, or the greater part, of the area of the old authority in question.
- (6) The Secretary of State may by order make provision with respect to any of the matters dealt with by this section, either in substitution for the provision made by this section or by way of supplementing or modifying that provision, and either generally or in relation to prescribed cases or classes of case.
- (7) Nothing in this section—
  - (a) affects any power of Her Majesty, the court or any other person to alter the trusts of any charity; or
  - (b) applies in a case to which section 50 applies.
- (8) In this section “charity”, “charitable purposes”, “charity trustees”, “court” and “trusts” have the same meaning as in the Charities Act 1993.

**50 Welsh Church funds**

- (1) The Secretary of State shall by order designate such new principal councils in relation to such areas in Wales as he considers appropriate for the purposes of this section.
- (2) Any property which, immediately before the commencement of this section, is vested in an old authority and is required to be applied in accordance with a scheme shall be vested in such designated new principal council as the Secretary of State may by order specify.
- (3) Where, by virtue of this section, property is vested in a designated council whose designated area does not comprise the whole of the area of the old authority in question, the designated council shall transfer an apportioned part of the property to any other designated council whose designated area includes part of the area of the old authority.
- (4) The terms of any apportionment made for the purposes of subsection (3)—
  - (a) shall be agreed between the designated councils concerned, or
  - (b) if they fail to agree, shall be determined by arbitration before a single arbitrator appointed—
    - (i) by agreement between those councils, or
    - (ii) if they fail to agree, by the Secretary of State.
- (5) The vesting or transfer of any property by virtue of this section shall not affect—
  - (a) the application of the property in accordance with the scheme which is applicable to it immediately before the commencement of this section, or
  - (b) the amendment or revocation of any scheme by a further scheme.
- (6) In this section—
 

“designated” means designated by order under subsection (1); and

“scheme” means a scheme under section 19 of the Welsh Church Act 1914 (application of Welsh Church funds for charitable or eleemosynary purposes).

**51 Control of disposals and contracts**

- (1) On and after the operative date no old authority may, without the appropriate consent—
  - (a) dispose of any land or building if the consideration for the disposal exceeds £100,000;
  - (b) enter into any contract, other than a capital contract, in respect of which the consideration exceeds £100,000 where—
    - (i) the period of the contract extends beyond 31st March 1996; or
    - (ii) under the terms of the contract, that period may be extended beyond that date; or
  - (c) enter into any capital contract in respect of which the consideration exceeds £1,000,000.
- (2) In this section—
 

“appropriate consent” means the written consent of the successor to the old authority or, where there is more than one successor, the written consent of each successor;

“capital contract” means a contract in respect of which the consideration payable by the old authority concerned is expenditure for capital purposes;

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“expenditure for capital purposes” has the same meaning as it has for the purposes of Part IV of the Local Government and Housing Act 1989 (revenue accounts and capital finance of local authorities), by virtue of section 40 of that Act, and includes any expenditure which the authority concerned may (by virtue of a direction given under subsection (6) of that section) treat as expenditure for capital purposes;

“operative date” means the date fixed by order of the Secretary of State under paragraph 1 of Schedule 5 to the 1972 Act (as substituted by this Act); and

“successor”, in relation to an old authority, means any new authority whose area includes the whole, or any part, of the area of the old authority.

- (3) Any disposal made in contravention of this section shall be void.
- (4) No contract entered into in contravention of this section shall be enforceable against a successor.
- (5) Any consent for the purposes of this section may be given—
  - (a) in respect of a particular disposal or contract, or in respect of disposals or contracts of any class or description; and
  - (b) unconditionally or subject to conditions.
- (6) The provisions of section 123 of the 1972 Act (power to dispose of land), and of any other enactment relating to the disposal of land by local authorities, shall have effect subject to this section.
- (7) The consent required by this section is in addition to any consent required by any of those provisions.
- (8) In this section references to disposing of land include references to—
  - (a) granting or disposing of any interest in land;
  - (b) entering into a contract to dispose of land or to grant or dispose of any such interest; and
  - (c) granting an option to acquire any land or any such interest.
- (9) For the purpose of determining whether a limit specified in subsection (1) is exceeded in any case, there shall be taken into account the consideration—
  - (a) with respect to any other disposal of land or any building effected by the old authority after 30th November 1993, or
  - (b) under any other contract entered into by the old authority after that date, so far as the disposal or contract relates to the same or a similar description of matter as that to which the case under consideration relates.
- (10) Where the consideration or any of the consideration under a contract is not in money, the limits specified in subsection (1) shall apply to the value of the consideration.
- (11) Where a question arises under this section as to the value of any consideration and the authorities concerned fail to reach agreement, it shall be determined by the Secretary of State.

**52 Application of Part I of the Local Government Act 1988 during transitional period**

- (1) Sections 9 to 16 of the Local Government Act 1988 (accounts, reports and other information in relation to defined activities) shall apply in relation to work—
- (a) carried out by a Welsh authority in the transitional period (whether or not before the passing of this Act), and
  - (b) falling within an exempt activity,
- even though (as a result of its falling within that activity) sections 4 to 8 of that Act (restrictions in relation to works contracts and functional work) do not apply.
- (2) An activity is an exempt activity if—
- (a) on 31st March 1994, it was a defined activity for the purposes of the Act of 1988 and not the subject of an order under section 2(9) of the Act of 1988; and
  - (b) it is treated, by an exempting order having effect in relation to a period beginning after that date, as not being a defined activity.
- (3) In this section—
- “exempting order” means an order under section 2(9) of the Act of 1988 which specifies, as the period during which an activity is to be treated as not being a defined activity, a period ending on a date earlier than 1st April 1997;
- “transitional period”, in relation to an exempt activity, means the period specified in the exempting order; and
- “Welsh authority” means a county or district council, a new principal council or a combined fire authority for an area in Wales.
- (4) The Secretary of State may by order (an “extension order”) provide that, in relation to a particular order under section 2(9) of the Act of 1988, subsection (3) is to have effect as if the date mentioned in the definition of “exempting order” were such date later than 1st April 1997 as may be specified in the extension order.
- (5) Where sections 9 to 16 of the Act of 1988 apply by virtue of this section they shall be read with the following omissions—
- (a) in section 9 (keeping of accounts), subsection (4), and the references to subsection (4) in subsections (5) and (6);
  - (b) in section 11 (reporting for financial year), subsections (2)(c) and (e);
  - (c) in section 12 (providing information), subsections (1) and (2); and
  - (d) in section 13 (serving of notices for purpose of getting information), paragraphs (a), (b) and (ba) of subsection (1).
- (6) In the application of section 9, 10 or 11 of the Act of 1988 by virtue of this section, any condition which is required to have been fulfilled for that section to apply shall be taken to have been fulfilled.

**53 Continuity of exercise of functions**

- (1) The abolition of the old authorities shall not affect the validity of anything done by any of those authorities before their abolition.
- (2) Anything which at 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 relevant functions may be continued by or in relation to the authority (“the successor authority”) by which those



functions become exercisable or, as the case may be, become exercisable in respect of the area in question.

- (3) Where immediately before 1st April 1996 any relevant functions exercisable by an old authority are exercisable concurrently by another such authority, or by other such authorities in respect of their respective areas, subsection (2) shall have effect as if those functions had by virtue of this Act become functions of that other authority or of those other authorities in respect of their respective areas.
- (4) Anything done by or in relation to an old authority before 1st April 1996 in the exercise of or in connection with any relevant functions shall, so far as is required for continuing its effect on and after that date, have effect as if done by or in relation to the successor authority.
- (5) Subsection (4) applies in particular to—
  - (a) any decision, determination, declaration, designation, agreement or instrument made by an old authority;
  - (b) any regulations or byelaws made by an old authority;
  - (c) any licence, permission, consent, approval, authorisation, exemption, dispensation or relaxation granted by or to an old authority;
  - (d) any notice, direction or certificate given by or to an old authority;
  - (e) any application, request, proposal or objection made by or to an old authority;
  - (f) any condition or requirement imposed by or on an old authority;
  - (g) any fee paid by or to an old authority;
  - (h) any appeal allowed by or in favour of or against an old authority;
  - (i) any proceedings instituted by or against an old authority.
- (6) Any reference in this section to anything done by or in relation to an old authority includes a reference to anything which by virtue of any enactment is treated as having been done by or in relation to that authority.
- (7) Any reference (however framed) to an old authority in any document constituting, or relating to, anything to which the provisions of this section apply shall, so far as is required for giving effect to those provisions, be construed as a reference to the successor authority.
- (8) The provisions of this section are without prejudice to any provision made by or under this Act in relation to any particular functions and shall not be construed as continuing in force any contract of employment made by any of the old authorities.
- (9) The Secretary of State may, in relation to any particular functions, by order exclude, modify or supplement any of the provisions of this section or make such other transitional provision as he thinks necessary or expedient.
- (10) In this section “relevant functions” means statutory functions which by virtue of any provision made by or under this Act become functions of another authority, or of other authorities in respect of their respective areas.

## **54 Consequential and supplementary provision**

- (1) The Secretary of State may by order make such incidental, consequential, transitional or supplemental provision as he thinks necessary or expedient—
  - (a) for the general purposes, or any particular purpose, of this Act or in consequence of any of its provisions or for giving full effect to it; or

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- (b) in consequence of such of the provisions of any other Act passed in the same Session as this Act as apply to any area or authority affected by this Act.
- (2) An order under subsection (1) may, in particular, make provision—
- (a) for enabling any authority or body by whom any powers will become exercisable, on a date specified by or under this Act, by virtue of any provision made by or under this Act to take before that date any steps which are necessary as a preliminary to the exercise of those powers;
  - (b) for the making before any date specified by or under this Act of arrangements for securing the satisfactory operation from that date of any provision made by or under this Act and for defraying the cost of any such arrangements;
  - (c) for the transfer of property, rights or liabilities, and of related functions, from an abolished body or the Residuary Body to a new principal council or other public body or to the Residuary Body;
  - (d) for the management or custody of transferred property (whether real or personal);
  - (e) for applying (with or without modifications) or amending, repealing or revoking (with or without savings) any provision of an Act passed before this Act or in the same Session, or an instrument made under such an Act before 1st April 1996;
  - (f) for making savings, or additional savings, from the effect of any repeal made by this Act;
  - (g) with respect to the membership of any body, so far as that membership consists of persons elected by or appointed by or on the nomination of—
    - (i) any authority affected by this Act; or
    - (ii) any group of bodies which includes such an authority;
  - (h) dissolving any body corporate established by any Act passed, or any instrument made, before 1st April 1996;
  - (i) with respect to the functions or jurisdiction of any public body or of—
    - (i) any coroner, lord-lieutenant, lieutenant or high sheriff; or
    - (ii) any other officers (including police officers) within the area of any local authority affected by any provision of or made under this Act, and the costs and expenses of such public bodies and persons.
- (3) In subsection (2)(c) “abolished body” means an old authority or any joint board which ceases to exist as a result of section 59.
- (4) Any transfer made in accordance with any provision made by virtue of subsection (2)(c)—
- (a) may be made subject to terms, including financial terms; and
  - (b) may impose new rights or liabilities in respect of the property transferred.
- (5) The amendments that may be made under this section shall be in addition, and without prejudice, to those made by or under any other provision of this Act.
- (6) Any question arising under this Act as to which is the successor authority in respect of any particular functions may be determined by a direction given by the Secretary of State.
- (7) No other provision of this Act shall be taken to restrict the powers conferred by this section.

## **55 Magistrates' courts, justices of the peace etc**

- (1) The Lord Chancellor may by order make, with respect to any matters mentioned in subsection (2), such incidental, consequential, transitional or supplemental provision as he thinks necessary or expedient in consequence of any of the provisions of this Act.
- (2) The matters are—
  - (a) the functions or areas of jurisdiction of any justice of the peace, stipendiary magistrate, magistrates' court or keeper of the rolls for a commission area (within the meaning of the Justices of the Peace Act 1979); and
  - (b) commission areas, petty sessions areas and areas to which magistrates' courts committees relate.
- (3) The Lord Chancellor may by order alter, in such manner as appears to him expedient in connection with the alteration in any local government area made by this Act, any of—
  - (a) the commission areas in Wales specified in section 1 of the Act of 1979,
  - (b) the areas in Wales which constitute petty sessions areas under section 4 of that Act, or
  - (c) the areas in Wales to which magistrates' courts committees relate under section 19 of that Act.
- (4) Any order under this section may, in particular—
  - (a) make provision with respect to the costs and expenses of any persons with respect to whom provision is made by the order;
  - (b) apply (with or without modifications) or amend or repeal or revoke (with or without savings) any provision of an Act passed before this Act or in the same Session, or an instrument made under such an Act before 1st April 1996.
- (5) Subsections (5) and (7) of section 54 apply in relation to this section as they apply in relation to that section.

## **56 Transitional agreements as to property and finance**

- (1) Any public bodies affected by the alteration, abolition or constitution of any area by this Act may make agreements with respect to any property, income, rights, liabilities or expenses (so far as affected by the alteration, abolition or constitution) of, and any financial relations between, the parties to the agreement.
- (2) In subsection (1) “public body” does not include an old authority but does include a new principal council.
- (3) Any such agreement may provide—
  - (a) for the transfer or retention of any property, rights or liabilities, with or without conditions, and for the joint use of any property;
  - (b) for the making of payments by either party to the agreement in respect of property, rights or liabilities so transferred or retained, or of such joint use, and in respect of the remuneration or compensation payable to any person; and
  - (c) for the making of any such payment either by way of a capital sum or of a terminable annuity.
- (4) In default of agreement as to any disputed matter, the matter shall be referred to the arbitration of a single arbitrator—
  - (a) agreed on by the parties; or

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- (b) in default of agreement, appointed by the Secretary of State.
- (5) The award of the arbitrator may make any provision which may be included in an agreement under this section.
- (6) In subsection (4) “disputed matter” means any matter—
  - (a) which might be dealt with in an agreement under this section;
  - (b) which is the subject of an unresolved dispute between two or more public bodies; and
  - (c) for the resolution of which no provision is otherwise made.

## 57 Local Acts and instruments

- (1) Any local statutory provision to which this section applies and which is not continued in force by any other provision of this Act shall continue to apply on and after 1st April 1996 to the area, things or persons to which or to whom it applies before that date, but subject to the modifications made by subsections (3) to (5) and to any other necessary modifications.
- (2) The continuation by subsection (1) of an instrument made under any enactment shall not be taken to affect any power to vary or revoke the instrument which is exercisable apart from that subsection.
- (3) Subsection (1) has effect subject to the provisions of—
  - (a) this Act;
  - (b) any Act passed after this Act but before 1st April 1996; and
  - (c) any order made under section 54 or 55 or this section.
- (4) Any local statutory provision to which this section applies and which relates to functions exercisable by an old authority of any description, by virtue of any public general enactment, shall have effect as if for any reference to the authority by whom the functions are exercisable immediately before 1st April 1996 or to their area there were substituted a reference to—
  - (a) the authority by whom those functions are exercisable on and after that date; or
  - (b) (as the case may be) to so much of the area of the latter authority as comprises the area of the former authority or any part of that area.
- (5) In any local statutory provision to which this section applies but which does not fall within subsection (4), for any reference to the area of an old authority or to an old authority there shall be substituted a reference to so much of the new principal area as comprises the area of the old authority or any part thereof or, as the case may be, the council of that new principal area.
- (6) Subsections (4) and (5) have effect subject to any provision to the contrary made by, or by any instrument made under, this Act.
- (7) The Secretary of State may by order provide for the exercise of functions conferred by any local statutory provision to which this section applies and exclude the operation of any provision of this section where it would otherwise conflict with any provision of the order.
- (8) This section applies to any local statutory provision which is in force in Wales immediately before 1st April 1996 and is not expressly repealed or revoked by this Act.

- (9) In this section “local statutory provision” means a provision of—
- (a) a local Act (including an Act confirming a provisional order);
  - (b) a public general Act passed with respect only to the whole or part of a local government area in Wales as it existed immediately before the passing of this Act;
  - (c) an instrument made under any such local or public general Act; or
  - (d) an instrument in the nature of a local enactment made under any other Act.

## **58 Modification etc. of local Acts and instruments**

- (1) This section applies where any local statutory provision (“the relevant provision”) is—
- (a) continued in force in any area by section 57, or
  - (b) amended or modified in its application to any area by an order under section 54 or 55 (a “modifying order”).
- (2) The Secretary of State may by order or (as the case may be) the modifying order may—
- (a) extend the relevant provision throughout the new principal area in which it is continued in force;
  - (b) provide that the relevant provision as so continued, amended, modified or extended shall have effect in that area to the exclusion of any enactment for corresponding purposes, including any enactment contained in or applied by this Act;
  - (c) make such modifications of any such enactment as will secure that the enactment and the relevant provision will operate harmoniously in that area;
  - (d) repeal or revoke any local statutory provision to which this section applies and which appears to the Minister to have become spent, obsolete or unnecessary or to have been substantially superseded by any enactment or instrument which applies or may be applied to the area, persons or things to which or to whom the relevant provision applies;
  - (e) transfer to any authority appearing to the Minister to be appropriate any functions of an old authority under any local statutory provision to which this section applies which are not to become functions of some other authority under any provision of this Act (except section 54, 55, 57 or this section) or under any other instrument made under this Act;
  - (f) without prejudice to paragraph (e), make such modifications of any local statutory provision to which this section applies in its application to any new local government area as appear to the Minister to be expedient.
- (3) An order under this section which extends the area for which any local statutory provision is in force shall be provisional only.
- (4) In this section “the Minister” means—
- (a) in relation to an order made by the Secretary of State under subsection (2), the Secretary of State; and
  - (b) in relation to a modifying order containing provision made by virtue of subsection (2) of this section, the Minister making that order.

## **59 Existing joint boards and committees and port health districts**

- (1) Where an existing joint board was constituted by or under any enactment for exercising functions for any area (including any united district), the board shall continue in existence on and after 1st April 1996 and to exercise for that area the same functions as before that date (to the exclusion of new principal councils).
- (2) In subsection (1)—
  - “joint board” means a joint board every constituent member of which is a local authority in Wales; and
  - “area” does not include a port health district.
- (3) Subsection (1) does not apply to a joint board constituted for an area which on 1st April 1996 will be wholly within the area of a single new principal council if the board was constituted for the purpose of exercising functions which on and after that date would (apart from the existence of the board) be exercisable by that council.
- (4) Subsection (3) applies whether or not the board has additional functions which, apart from this section, would not be exercisable by the new principal council.
- (5) In a case to which subsection (3) applies—
  - (a) the functions of the board shall on 1st April 1996 become functions of the new principal council; and
  - (b) the joint board shall cease to exist on that date.
- (6) This subsection applies where—
  - (a) a port health district was constituted by an order under any enactment relating to public health; and
  - (b) a local authority or joint board, every constituent member of which is a local authority, is the port health authority for that district.
- (7) Where subsection (6) applies, the district shall continue to exist as a port health district on and after 1st April 1996.
- (8) Where, on 1st April 1996, a single new principal council will become the riparian authority in relation to a port health district continued in existence by subsection (7)—
  - (a) that authority shall, on that date, become the port health authority for that district; and
  - (b) any existing joint board constituted for that district shall cease to exist.
- (9) Where, on 1st April 1996, two or more new principal councils will become riparian authorities in relation to a port health district continued in existence by subsection (7), the port health authority for the district shall be—
  - (a) the existing port health authority, if that authority is a joint board; and
  - (b) the new principal council whose area comprises or abuts on the greater part of the district, in any other case.
- (10) Any question as to which new principal council’s area comprises or abuts on the greater part of a port health district shall be determined by the Secretary of State.
- (11) This subsection applies to any existing joint committee constituted under any enactment for the purpose of exercising functions for an area which on 1st April 1996 will lie within the areas of two or more new principal councils by whom those functions would apart from this subsection become exercisable on that date.

- (12) A joint committee to which subsection (11) applies—
- (a) shall continue to exist on and after 1st April 1996 as if duly appointed by or in connection with those new principal councils; and
  - (b) shall exercise those functions for the area for which the committee exercised them before that date.
- (13) Nothing in subsection (12) is to be taken as preventing new principal councils from making different arrangements for the discharge of functions.
- (14) The continuation in existence of any area or body by this section does not prejudice any power conferred by any enactment to amend or revoke the order constituting the area or body or the power to make provision with respect to the body conferred by section 54.
- (15) Subsections (1) and (3) do not apply to a joint planning board for a National Park in Wales.
- (16) The following provisions shall have effect for the construction of references to a local statutory provision to which section 57 applies—
- (a) any reference to an existing joint board which ceases to exist by virtue of this section, or any reference which is to be construed as such a reference, shall be construed as a reference to the new principal council by whom the functions of that board will become exercisable by virtue of this section;
  - (b) any reference to a united district or other area the existing joint board for which ceases to exist by virtue of subsection (3), or any reference which is to be construed as such a reference, shall be construed as a reference to so much of the area of the new principal council by whom the functions formerly exercisable by the existing joint board become exercisable on 1st April 1996, as comprises the united district or other area for which the board acted; and
  - (c) any reference to an existing local authority whose functions as port health authority become exercisable on 1st April 1996 by virtue of this section by a new principal council, or any reference which is to be construed as such a reference, shall be construed as a reference to that council.
- (17) In this section “existing” means existing immediately before 1st April 1996.
- (18) This section has effect subject to any provision made by or under this Act.

## PART VII

### MISCELLANEOUS AND SUPPLEMENTAL

#### 60 Records

- (1) Each new principal council shall make and maintain a scheme setting out their arrangements for the proper care, preservation and management of their records.
- (2) Each scheme shall include details of any relevant shared arrangements which the council concerned have made.
- (3) The council by whom a scheme has been made shall keep the scheme under review and, where they consider that it should be modified, make such adjustments to it as they consider appropriate.

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- (4) Before making, or modifying, their scheme a new principal council shall consult the Secretary of State and have regard to any advice that he may give.
- (5) Where the records of a new principal council relate to the area, or part of the area, of another such council, that other council shall have the right—
- (a) to inspect those records at all reasonable times (without payment of any fee); and
  - (b) to take copies of any of them, in such manner as carries no risk of damage.
- (6) The right conferred by subsection (5) is subject to any shared arrangements which affect the records concerned.
- (7) In this section—
- “documents” includes records, of whatever form and in whatever medium, which convey or are capable of conveying information;
- “records”, in relation to a council, means any documents which—
- (a) belong to the council or of which they have custody; and
  - (b) have been retained for reference and research purposes or because of their likely historical interest; and
- “shared arrangements”, in relation to a council, means any arrangements which the council have made with any other authority under section 25 of this Act or section 101 of the 1972 Act (arrangements for the discharge of functions by other local authorities).

## 61 Lieutenancies

- (1) In section 130 of the Reserve Forces Act 1980 (lieutenancies in England and Wales), at the end add—
- “(4) In this section and in sections 133 to 137 below “county” means, in relation to Wales, a preserved county (as defined by section 64 of the Local Government (Wales) Act 1994).”
- (2) Her Majesty may by Order in Council make such amendments in section 130 of the Act of 1980, with respect to the area for which any lord-lieutenant or lieutenant may be appointed, as Her Majesty considers appropriate in the light of the changes made by or under this Act with respect to the areas of local authorities in Wales.
- (3) Any such Order may make such incidental, consequential, transitional or supplemental provision (including provision amending the Act of 1980 or any other enactment) as appears to Her Majesty to be necessary or expedient.
- (4) In section 94 of the Act of 1980 (procedure for enlistment), at the end add—
- “(4) In subsection (2) above “county” means, in relation to Wales, a preserved county (as defined by section 64 of the Local Government (Wales) Act 1994).”
- (5) In section 133 of the Act of 1980 (deputy lieutenants), at the end add—
- “(6) In relation to Wales, subsection (5) above shall have effect as if the words from “(at” to “rate)” were omitted.”
- (6) In Schedule 7 to the Act of 1980 (provision of schemes for the constitution of associations), in paragraph 8(5), after the definition of “air force member” insert—



““county” means, in relation to Wales, a preserved county (as defined by section 64 of the Local Government (Wales) Act 1994);”.

## **62 Sheriffs**

(1) In section 3 of the Sheriffs Act 1887 (annual appointment of sheriff) at the end add—

“(4) In this Act “county”, in relation to Wales, means a preserved county (as defined by section 64 of the Local Government (Wales) Act 1994).”

(2) Her Majesty may by Order in Council make such amendments in section 3 of the Act of 1887, with respect to the area for which any sheriff may be appointed, as Her Majesty considers appropriate in the light of the changes made by this Act with respect to the areas of local authorities in Wales.

(3) Any such Order may make such incidental, consequential, transitional or supplemental provision (including provision amending the Act of 1887 or any other enactment) as appears to Her Majesty to be necessary or expedient.

(4) In section 6 of the Act of 1887 (nomination and appointment of sheriffs), after subsection (3) insert—

“(3A) In relation to Wales—

- (a) subsection (3) above shall apply as if it required the duplicate warrant to be transferred to, and enrolled and kept by, the proper officer of the appropriate county or county borough council; and
- (b) section 3(4) above shall not apply.

(3B) Any question as to which is the appropriate county or county borough council in relation to a particular warrant shall be determined by the Secretary of State.”

## **63 Regulations, orders and directions**

(1) Any power to make regulations or orders conferred on the Secretary of State or the Lord Chancellor by this Act shall be exercisable by statutory instrument.

(2) Any such instrument, other than one made under a provision mentioned in subsection (4), shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(3) No order shall be made under section 34 unless a draft of the order has been laid before, and approved by a resolution of, each House of Parliament.

(4) The provisions mentioned in subsection (2) are—

- (a) sections 17(6), 34, 39(1), 49(6), 53(9) and 66(3);
- (b) paragraph 18 of Schedule 5;
- (c) paragraph 1(3) of Schedule 13; and
- (d) paragraphs 12 and 18 of Schedule 17.

(5) Any regulations or order made under this Act may—

- (a) make such supplemental, incidental, consequential or transitional or saving provision as the Secretary of State or (as the case may be) the Lord Chancellor considers appropriate; and

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- (b) make different provision for different cases or classes of case or for different localities.
- (6) Any power of the Secretary of State to give a direction under this Act shall—
  - (a) include power to make different provision for different cases, including different provision for different localities and for different bodies; and
  - (b) shall be exercised in writing.

## 64 Interpretation

- (1) In this Act—
  - “the 1972 Act” means the Local Government Act 1972;
  - “the Commission” means the Staff Commission for Wales or Comisiwn Staff Cymru;
  - “decentralisation scheme” has the meaning given in section 27;
  - “financial year” means the period of twelve months beginning with 1st April;
  - “new”, in relation to any area or authority, means an area or authority established by or under this Act;
  - “old authority” means an authority which ceases to exist as a result of this Act;
  - “the planning Act” means the Town and Country Planning Act 1990;
  - “prescribed” means prescribed by an order or by regulations made by the Secretary of State;
  - “preserved county” means any county created by the 1972 Act as a county in Wales, as that county stood immediately before the passing of this Act but subject to any provision of this Act, or made under the 1972 Act, redrawing its boundaries;
  - “the Residuary Body” means the Residuary Body for Wales or Corff Gweddilliol Cymru.
- (2) A county borough established by this Act shall not be treated as a borough for the purposes of any Act passed before 1st April 1974.
- (3) Subject to the provisions of this section, this Act and the 1972 Act shall be construed as one.
- (4) Subject to any provision to the contrary, in any amendment of an enactment made by or under this Act “Wales” has the same meaning as in section 269 of the 1972 Act.

## 65 Expenses

- (1) There shall be defrayed out of money provided by Parliament—
  - (a) any expenses incurred by any Minister of the Crown under this Act; and
  - (b) any increase attributable to the provisions of this Act in the sums payable out of money so provided under any other enactment.
- (2) Any sums received by the Secretary of State under a provision of this Act shall be paid into the Consolidated Fund.

**66 Short title, commencement, extent etc**

- (1) This Act may be cited as the Local Government (Wales) Act 1994.
- (2) The following provisions of this Act—
  - (a) sections 1(1), (2) and (7), 3, 6, 7, 39, 40, 43, 46, 47, 48, 54, 55, 63 and 64,
  - (b) Schedules 1, 3, 13 and 14 and paragraphs 1, 4, 6 and 9 of Schedule 17, and
  - (c) subsections (1) to (4) and (9) of this section,shall come into force on the passing of this Act.
- (3) The other provisions of this Act shall come into force on such day as the Secretary of State may by order appoint.
- (4) Different days may be appointed by an order under subsection (3) for different purposes and different provisions.
- (5) Schedule 15 makes minor and consequential amendments of the 1972 Act.
- (6) Schedule 16 makes certain miscellaneous consequential amendments.
- (7) Schedule 17 contains transitional provisions and savings.
- (8) The repeals set out in Schedule 18, which include repeals of certain enactments which are spent, shall have effect.
- (9) This Act does not extend to Scotland or Northern Ireland except that any amendment or repeal of another enactment by this Act has the same extent as the enactment amended or repealed.