



# Local Government (Wales) Act 1994

## 1994 CHAPTER 19

### 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—
  - (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.

*Status: Point in time view as at 01/11/1996.*

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

- (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.

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- (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.

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- (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 [F<sup>1</sup>section 499 of the Education Act 1996] (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 [F<sup>2</sup>section 499 of the Act of 1996], 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 <sup>M1</sup>Local Government and Housing Act 1989 (political balance on committees) shall not apply in relation to membership of the committee.
- (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 [F<sup>2</sup>section 499 of the Act of 1996], the committee shall exercise its powers under subsection (12) subject to any provision of the direction relating to terms of office.

#### Textual Amendments

- F1** Words in s. 30(7) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37 Pt. I para. 123(2)** (with ss. 1(4), 561, 562, Sch. 39)
- F2** Words in s. 30(9)(14) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37 Pt. I para. 123(3)** (with ss. 1(4), 561, 562, Sch. 39)

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### Marginal Citations

**M1** 1989 c. 42.

## 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 [<sup>F3</sup>section 499 of the Education Act 1996] (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 [<sup>F4</sup>section 499 of the Act of 1996] 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 <sup>M2</sup>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 [<sup>F4</sup>section 499 of the Act of 1996], the area committee shall exercise its powers under subsection (10) subject to any provision of the direction relating to terms of office.

### Textual Amendments

- F3** Words in s. 31(6) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37 Pt. I para. 124(2)** (with ss. 1(4), 561, 562, **Sch. 39**)
- F4** Words in s. 31(8)(12) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37 Pt. I para. 124(3)** (with ss. 1(4), 561, 562, **Sch. 39**)

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**Marginal Citations**

**M2** 1989 c. 42.

**Status:**

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