

Draft Regulations laid before Senedd Cymru under section 172(2)(a) of the Local Government (Wales) Measure 2011, for approval by resolution of Senedd Cymru.

DRAFT WELSH STATUTORY
INSTRUMENTS

2021 No. (W.)

**LOCAL GOVERNMENT,
WALES**

**The Family Absence for Members
of Local Authorities (Wales)
(Amendment) Regulations 2021**

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Family Absence for Members of Local Authorities (Wales) Regulations 2013 (S.I. 2013/2901 (W. 280)) (“the 2013 Regulations”).

The 2013 Regulations make available to members of local authorities entitlements to periods of family absence. There are five types of family absence: maternity absence; newborn absence; adopter’s absence; new adoption absence and parental absence.

Regulation 2 of these Regulations substitutes various regulations in the 2013 Regulations as follows.

Regulation 2(2) substitutes a new regulation 14, which prescribes conditions that a member must satisfy in order to qualify for adopter’s absence. It also makes provision about how the duration of adopter’s absence or the date on which adopter’s absence begins may be varied.

Regulation 2(3) substitutes a new regulation 15, which provides that the period of adopter’s absence is 26 weeks unless the member provides written notice to the contrary (under regulation 14) or brings the period of adopter’s absence to an end (under regulation 17A).

Regulation 2(4) substitutes a new regulation 16 which makes provision about when the period of adopter’s absence may start.

Regulation 2(5) substitutes a new regulation 17 which provides that, subject to regulation 16, a member of a local authority (as defined in section 33 of the Local Government (Wales) Measure 2011) may choose when their adopter's absence is to start.

Regulation 2(6) inserts a new regulation 17A which makes provision about how a member of a local authority can bring their adopter's absence to an end earlier than the end of the period specified in regulation 15, which was notified under regulation 14(b)(ii) or varied under regulation 14(d).

Regulation 2(7) amends regulation 38 so that it applies to adopter's absence. As a result, a member of a local authority may attend meetings and perform duties in accordance with that regulation.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained from the Local Government Strategic Finance Division, Welsh Government, Cathays Park, Cardiff, CF10 3NQ.

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**LOCAL GOVERNMENT,
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**The Family Absence for Members
of Local Authorities (Wales)
(Amendment) Regulations 2021**

Made ***

Coming into force ***

The Welsh Ministers make the following Regulations in exercise of the powers conferred on them by section 26(1), (2), (4) and (5)(a) of the Local Government (Wales) Measure 2011⁽¹⁾.

In accordance with section 172(2)(a)⁽²⁾ of that Measure, a draft of these Regulations was laid before, and approved by a resolution of, Senedd Cymru.

Title and commencement

1.—(1) The title of these Regulations is the Family Absence for Members of Local Authorities (Wales) (Amendment) Regulations 2021.

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- (1) 2011 nawm 4. Section 61(4) of the Local Government and Elections (Wales) Act 2021 (asc 1) omitted section 26(3) of the Local Government (Wales) Measure 2011, thereby removing the limit on the length of adopter's absence that may be specified in regulations. See section 33 for the relevant definition of "regulations" and section 175 for the definition of "prescribed".
- (2) The reference in section 172(2) to the National Assembly for Wales now has effect as a reference to Senedd Cymru, by virtue of section 150A(2) of the Government of Wales Act 2006 (c. 32). Section 172(2)(a) was amended by section 150(1)(b)(i) of the Local Government and Elections (Wales) Act 2021; section 150(1)(b)(ii) also makes another amendment to section 172(2)(a) which is not yet in force.

(2) These Regulations come into force on 1 April 2021.

Amendments to the Family Absence for Members of Local Authorities (Wales) Regulations 2013

2.—(1) The Family Absence for Members of Local Authorities (Wales) Regulations 2013⁽¹⁾ are amended as follows.

(2) For regulation 14 substitute—

“Prescribed conditions

14. For the purposes of section 26(1) of the Measure, the prescribed conditions are that—

- (a) the member is the child’s adopter;
- (b) the member gives the head of democratic services written notice of—
 - (i) the date the member intends the adopter’s absence to start; and
 - (ii) the duration of the period of adopter’s absence the member intends to take, if less than 26 weeks;
- (c) where the member wishes to vary the start of the adopter’s absence which has been specified under paragraph (b)(i), the member gives the head of democratic services written notice of the new start date at least one week before the date specified under paragraph (b)(i), or at least one week before the new date, whichever is the earlier, or, if that is not reasonably practicable, as soon as is reasonably practicable; and
- (d) where the member wishes to vary the duration of the adopter’s absence, the member gives the head of democratic services written notice of the new duration at least one week before the expected end of the period of absence in accordance with the duration specified under paragraph (b)(ii), or at least one week before the new intended end of the period of absence, whichever is the earlier, or if that is not reasonably practicable, as soon as is reasonably practicable.”

(3) For regulation 15 substitute—

(1) S.I. 2013/2901 (W. 280).

“Period of adopter’s absence

15.—(1) The period of adopter’s absence is 26 weeks, unless the member gives written notice under regulation 14(b)(ii), (d) or 17A that the period of adopter’s absence will be shorter than 26 weeks.

(2) Where more than one child is placed with the member as part of the same arrangement, a member is entitled to adopter’s absence only in respect of the first child placed with the member for adoption.”

(4) For regulation 16 substitute—

“When adopter’s absence may be taken

16. Adopter’s absence may only be taken so as to begin either—

(a) on the day on which the child is placed with the member for adoption; or

(b) on any of the 14 days preceding that day.”

(5) For regulation 17 substitute—

“Member to choose start date of adopter’s absence

17. Subject to regulation 16, a member may choose the date on which their adopter’s absence is to start.”

(6) After regulation 17 insert—

“Bringing a period of adopter’s absence to an end

17A. A member may bring a period of adopter’s absence to an end earlier than the end of the period set out in regulation 15, which was notified under regulation 14(b)(ii) or varied under regulation 14(d) by notifying the head of democratic services in writing of their intention to do so at least 7 days before their return.”

(7) In regulation 38(1), after “maternity absence” insert “, adopter’s absence”.

Name

Minister for Housing and Local Government, one of the Welsh Ministers

Date