

Explanatory Memorandum to the Local Government and Elections (Wales) Act 2021 (Consequential Amendments) Regulations 2021

This Explanatory Memorandum has been prepared by the Local Government Department of the Welsh Government and is laid before Senedd Cymru in conjunction with the above regulations and in accordance with Standing Order 27.1.

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Local Government and Elections (Wales) Act 2021 (Consequential Amendments) Regulations 2021.

Julie James MS

Minister for Housing and Local Government

9 February 2021

1. Description

The Local Government and Elections (Wales) Act 2021 (Consequential Amendments) Regulations 2021 (“the Regulations”) make necessary amendments to primary and secondary legislation as a consequence of commencing provisions within Chapter 1 of Part 6 (performance and governance of principal councils) and provisions disapplying the Local Government (Wales) Measure 2009 (“the 2009 Measure”) to principal councils and National Park authorities.

Those provisions are to be commenced on 1 April 2021, through the Local Government and Elections (Wales) Act 2021 (Commencement No. 2 and Saving Provisions) Order 2021.

2. Matters of special interest to the Legislation, Justice and Constitution Committee

No specific matters identified.

3. Legislative background

The powers enabling these Regulations to be made are contained in section 173 of the Local Government and Elections (Wales) Act 2021 (“the 2021 Act”) which provides the Welsh Ministers with a power to make regulations containing supplementary, incidental or consequential provisions for the purposes of, in consequence of, or for giving full effect to, any provision of that Act. Section 173(2) provides that such regulations may amend, modify, repeal or revoke any enactment.

As the Regulations amend primary legislation, section 174(4) and (5)(t) of the 2021 Act specifies that they may not be made unless they have been laid in draft before, and approved by a resolution of, Senedd Cymru.

Subject to approval by the Senedd, the Regulations will be made by the Minister for Housing and Local Government and come into force on 1 April 2021.

3. Purpose and intended effect of the legislation

The Regulations make consequential amendments to primary and secondary legislation arising from the commencement of the provisions in Chapter 1 of Part 6, which relate to the performance and governance of principal councils (defined in section 171 of the 2021 Act as a council for a county in Wales or a council for a county borough in Wales), and from the disapplication of the 2009 Measure to principal councils and National Park authorities for a National Park in Wales. The amendments in these Regulations also facilitate the future repeal of the 2009 Measure, which is provided for by section 170 of the 2021 Act.

Under the 2009 Measure, principal councils (referred to in the 2009 Measure as county councils and county borough councils), National Park authorities and fire and rescue authorities were known as “Welsh improvement authorities”. That term was subsequently used in some legislation as a way of referring to these authorities.

The 2009 Measure is disapplied to principal councils by section 113 and to National Park authorities by section 169 of the 2021 Act, which are brought into force on 1 April 2021 by the Local Government and Elections (Wales) Act 2021 (Commencement No. 2 and Saving Provisions) Order 2021.

Chapter 1 of Part 6 of the 2021 Act establishes a new regime for assessing the performance and governance of principal councils in Wales, replacing the regime which applied to those councils under Part 1 of the 2009 Measure. The regime in Chapter 1 of Part 6 of the 2021 Act does not apply to fire and rescue authorities or National Park authorities.

The amendments contained in these regulations are necessary in consequence of, and for giving full effect to, Chapter 1 of Part 6 and section 169 of the 2021 Act. These amendments are also necessary to pave the way for the repeal of the 2009 Measure as provided for in section 170 of the 2021 Act.

The amendments within these Regulations:

- (a) amend enactments reliant upon the operation of the 2009 Measure;
- (b) amend enactments to remove references to Part 1 of the 2009 Measure and, in some cases, replace them with reference to Part 6 of the 2021 Act;
- (c) amend enactments to remove reference to “Welsh improvement authority” and, in some cases, replace those references with a reference to principal councils and/or fire and rescue authorities and/or National Parks authorities.

4. Consultation

No formal consultation has taken place as the Regulations make only consequential technical amendments.

5. Regulatory Impact Assessment (RIA)

A regulatory impact assessment has not been prepared in respect of these consequential amendment regulations as they simply make amendments to statute and do not impose or reduce costs for business, charities or voluntary bodies or the public sector.