

SL(5)744 – The Local Government and Elections (Wales) Act 2021 (Consequential Amendments) Regulations 2021

Background and Purpose

These Regulations make consequential amendments to primary and secondary legislation arising from the commencement on 1 April 2021 of the provisions in Chapter 1 of Part 6 of the Local Government and Elections (Wales) Act 2021 ("the 2021 Act"), 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 Local Government (Wales) Measure 2009 ("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 the Explanatory Memorandum to the Regulations states will be 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.



Procedure

Draft Affirmative.

The Welsh Ministers have laid a draft of the Regulations before the Senedd. The Welsh Ministers cannot make the Regulations unless the Senedd approves the draft Regulations.

Technical Scrutiny

No points are identified for reporting under Standing Order 21.2 in respect of this instrument.

Merits Scrutiny

The following two points are identified for reporting under Standing Order 21.3 in respect of this instrument.

1. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd

Regulation 4(3) inserts wording into section 33(3)(b) of the Local Government Act 1999 which will, amongst other things, permit grants to be made by the Welsh Ministers to the Wales Audit Office in respect of expenditure incurred or to be incurred by the Auditor General for Wales under Chapter 3 of Part 6 of the 2021 Act. Chapter 3 of Part 6 of the 2021 Act is not yet in force. The Explanatory Memorandum to the Regulations refers only to Chapter 1 of Part 6 being brought into force on 1 April 2021 by the Local Government and Elections (Wales) Act 2021 (Commencement No. 2 and Saving Provisions) Order 2021 ("the 2021 Order"). In order to confirm the effect of regulation 4(3), the Welsh Government is asked to confirm when and how Chapter 3 of Part 6 of the 2021 Act is to be brought into force.

2. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd

The Explanatory Memorandum to the Regulations refers to the 2021 Order which is to bring into force Chapter 1 of Part 6 of the 2021 Act (performance and governance of principal councils) and section 169 of the 2021 Act (disapplying the 2009 Measure to National Park Authorities). The Committee notes that at the time of writing the 2021 Order has not yet been made and invites the Welsh Government to confirm when this is expected to occur.

Welsh Government response

A Welsh Government response is required.

Legal Advisers

Legislation, Justice and Constitution Committee

23 February 2021

