

*Draft Regulations laid before Senedd Cymru under section 174 of the Local Government and Elections (Wales) Act 2021, for approval by resolution of Senedd Cymru.*

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DRAFT WELSH STATUTORY  
INSTRUMENTS

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**2021 No. (W.)**

**LOCAL GOVERNMENT,  
WALES**

**The Local Government and  
Elections (Wales) Act 2021  
(Consequential Amendments)  
Regulations 2021**

**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations make amendments which are consequential on Chapter 1 of Part 6 of the Local Government and Elections (Wales) Act 2021 (asc 1) (“the 2021 Act”), and on the disapplication and repeal of the Local Government (Wales) Measure 2009 (nawm 2) (“the 2009 Measure”) by the 2021 Act.

Chapter 1 of Part 6 of the 2021 Act establishes a new system for assessing the performance and governance of county councils and county borough councils in Wales, replacing the system which applied to those councils under Part 1 of the 2009 Measure. The system in Part 1 of the 2009 Measure also applied to National Park authorities in Wales and fire and rescue authorities in Wales (and will continue to apply to fire and rescue authorities until provisions in the 2021 Act disapplying it in relation to those authorities come into force). The system in Chapter 1 of Part 6 of the 2021 Act does not apply to fire and rescue authorities or National Park authorities.

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

The 2009 Measure is disapplied in relation to county councils and county borough councils by section 113 of the 2021 Act. It is disapplied in relation to fire and rescue authorities by section 168 of that Act. It is disapplied in relation to National Park authorities by section 169 of that Act. The 2009 Measure is repealed in full by section 170 of that Act.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, it was not considered necessary to carry out a regulatory impact assessment as to the likely costs and benefits of complying with these Regulations.

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**LOCAL GOVERNMENT,  
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**The Local Government and  
Elections (Wales) Act 2021  
(Consequential Amendments)  
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*Made*

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*Coming into force*

*1 April 2021*

The Welsh Ministers, in exercise of the powers conferred by section 173 of the Local Government and Elections (Wales) Act 2021<sup>(1)</sup>, make the following Regulations.

A draft of these Regulations has been approved by a resolution of Senedd Cymru in accordance with section 174(4) and (5)(t) of that Act.

**Title and commencement**

**1.**—(1) The title of these Regulations is the Local Government and Elections (Wales) Act 2021 (Consequential Amendments) Regulations 2021.

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

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<sup>(1)</sup> 2021 asc 1.

## **Local Government, Planning and Land Act 1980**

2. In the Local Government, Planning and Land Act 1980(1), in section 2 (duty of authorities to publish information), in subsection (1) —

(a) after paragraph (h) insert—

“(ha) a National Park authority  
for a National Park in  
Wales;”;

(b) omit “or a Welsh improvement authority for the purposes of Part 1 of the Local Government (Wales) Measure 2009”(2).

## **Social Security Administration Act 1992**

3.—(1) The Social Security Administration Act 1992(3) is amended in accordance with paragraphs (2) to (4).

(2) In section 139A (persons to report on administration of housing benefit), in subsection (2), in paragraph (b) for “or Part 1 of the Local Government (Wales) Measure 2009”(4) substitute “or the performance requirements set out in section 89 of the Local Government and Elections (Wales) Act 2021”.

(3) In section 139C (reports), in subsection (1), in paragraph (b) for “or Part 1 of the Local Government (Wales) Measure 2009”(5) substitute “or the performance requirements set out in section 89 of the Local Government and Elections (Wales) Act 2021”.

(4) In section 139D (directions), in subsection (1), for paragraph (ca)(6) substitute—

“(ca) a copy of a report has been sent to a local authority under section 95(7)(b)(i) of the Local Government and Elections (Wales) Act 2021 and to the Secretary of State under subsection (9) of that section.”

(5) Paragraphs (1) to (4) cease to have effect when the provision in Part 1 of Schedule 14 to the Welfare

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(1) 1980 c. 65.

(2) The words to be omitted were inserted by paragraph 2 of Schedule 1 to the Local Government (Wales) Measure 2009 (nawm 2) (“the 2009 Measure”). There are other amendments to the subsection not relevant to this amendment.

(3) 1992 c. 5.

(4) The words to be omitted were inserted by paragraph 4 of Schedule 1 to the 2009 Measure. There are other amendments to the subsection not relevant to this amendment.

(5) The words to be omitted were inserted by paragraph 5 of Schedule 1 to the 2009 Measure. There are other amendments to the subsection not relevant to this amendment.

(6) Paragraph (ca) was originally inserted by section 39(3) of the Welfare Reform Act 2007 (c. 5) and was substituted by paragraph 6 of Schedule 1 to the 2009 Measure.

Reform Act 2012<sup>(1)</sup> (repeals relating to abolition of benefits superseded by universal credit) which repeals sections 139A, 139C and 139D of the Social Security Administration Act 1992 comes fully into force.

### **Local Government Act 1999**

**4.**—(1) The Local Government Act 1999<sup>(2)</sup> is amended as follows.

(2) In section 19<sup>(3)</sup> (contracts: exclusion of non-commercial considerations), in subsection (5)—

(a) for paragraph (aa)<sup>(4)</sup> substitute—

“(aa) a county council or county borough council in Wales,”;

(b) after paragraph (aa) insert—

“(ab) a National Park authority for a National Park in Wales,

(ac) a fire and rescue authority in Wales, constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies.”.

(3) In section 33 (finance), in subsection (3)<sup>(5)</sup>, in paragraph (b), at the end insert “or Chapter 1 or 3 of Part 6 of the Local Government and Elections (Wales) Act 2021”.

### **Local Government Act 2003**

**5.**—(1) The Local Government Act 2003<sup>(6)</sup> is amended as follows.

(2) In section 36 (grants in connection with designation for service excellence)—

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(1) 2012 c. 5. The provision in Part 1 of Schedule 14 to the Welfare Reform Act 2012 which repeals sections 138 to 140G of the Social Security Administration Act 1992, in so far as that repealing provision relates to the abolition of council tax benefit, was brought into force on 1 April 2013 by article 8(c) of and Schedule 4 to the Welfare Reform Act 2012 (Commencement No.8 and Savings and Transitional Provisions) Order 2013 (S.I. 2013/358).

(2) 1999 c. 27.

(3) Section 19 was placed under a new cross-heading “Exclusion of non-commercial considerations” by paragraph 2 of Schedule 7 to the Local Government and Public Involvement in Health Act 2007 (c. 28), which also inserted subsection (5) into section 19.

(4) Paragraph (aa) was inserted by paragraph 18 of Schedule 1 to the 2009 Measure.

(5) Subsection (3) was amended by paragraph 17 of Schedule 1 to the Public Audit (Wales) Act 2004 (c. 23) and section 36 of the 2009 Measure. Paragraph (b) of subsection (3) was substituted by paragraph 16 of Schedule 4 to the Public Audit (Wales) Act 2013 (anaw 3). There are other amendments to the subsection not relevant to these regulations.

(6) 2003 c. 26.

(a) in subsection (1) for “or to a Welsh improvement authority within the meaning of section 1 of the Local Government (Wales) Measure 2009”(1) substitute “or to a relevant Welsh authority”;

(b) after subsection (3) insert—

“(4) In subsection (1) “relevant Welsh authority” means—

(a) a county council or county borough council in Wales;

(b) a National Park authority for a National Park in Wales;

(c) a fire and rescue authority in Wales, constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies.”

(3) In section 36A(2) (grants by Ministers of the Crown in respect of best value authorities etc.)—

(a) in subsection (1) for “or a Welsh improvement authority or Welsh improvement authorities”(3) substitute “or a relevant Welsh authority or relevant Welsh authorities”;

(b) in subsection (2), in paragraph (b) for “Welsh improvement authority”(4) substitute “relevant Welsh authority”;

(c) in subsection (3) for “or a Welsh improvement authority”(5) substitute “or a relevant Welsh authority”;

(d) in subsection (7) for the definition of “Welsh improvement authority”(6) substitute—

““relevant Welsh authority” means—

(a) a county council or county borough council in Wales;

(b) a National Park authority for a National Park in Wales;

(c) a fire and rescue authority in Wales, constituted by a scheme under section

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(1) The words to be omitted were inserted by paragraph 24 of Schedule 1 to the 2009 Measure. There are other amendments to subsection (1) not relevant to these regulations.

(2) Section 36A was added by section 143(1) of the Local Government and Public Involvement in Health Act 2007.

(3) The words to be omitted were inserted by paragraph 25(a) of Schedule 1 to the 2009 Measure.

(4) The words to be omitted were inserted by paragraph 25(b) of Schedule 1 to the 2009 Measure.

(5) The words to be omitted were inserted by paragraph 25(c) of Schedule 1 to the 2009 Measure.

(6) The definition of “Welsh improvement authority” was inserted by paragraph 25(d) of Schedule 1 to the 2009 Measure.

2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies.”

(4) In section 36B(1) (grants by Welsh Ministers in respect of Welsh best value authorities)—

- (a) in subsection (1) for the words from “compliance by a Welsh improvement authority” to the end<sup>(2)</sup> substitute “compliance by a Welsh principal council or Welsh principal councils with the performance requirements set out in section 89 of the Local Government and Elections (Wales) Act 2021 or the requirements of, or any requirements imposed under, Chapter 1 of Part 6 of that Act”;
- (b) in subsection (2) for “or Welsh improvement authority”<sup>(3)</sup> substitute “or Welsh principal council”;
- (c) in subsection (6) for the definition of “Welsh improvement authority”<sup>(4)</sup> substitute—

““Welsh principal council” means a county council or county borough council in Wales.”;
- (d) in the heading, for “best value authorities” substitute “principal councils”.

(5) In section 95 (power to trade in function-related activities through a company), in subsection (7), in the definition of “relevant authority”—

- (a) for paragraph (aa)<sup>(5)</sup> substitute—

“(aa) a county council or county borough council in Wales;”;
- (b) after paragraph (ac)<sup>(6)</sup> insert—

“(ad) a fire and rescue authority in Wales, constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies;

(ae) a National Park authority for a National Park in Wales;”.

(6) In section 97 (power to modify enactments in connection with charging or trading), in subsection

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(1) Section 36B was inserted by section 143(1) of the Local Government and Public Involvement in Health Act 2007.

(2) The words to be omitted were inserted by paragraph 26(a) of Schedule 1 to the 2009 Measure.

(3) The words to be omitted were inserted by paragraph 26(b) of Schedule 1 to the 2009 Measure.

(4) The definition of “Welsh improvement authority” was inserted by paragraph 26(c) of Schedule 1 to the 2009 Measure.

(5) Paragraph (aa) was inserted by paragraph 28 of Schedule 1 to the 2009 Measure.

(6) Paragraph (ac) was inserted by paragraph 83(4) of Schedule 1 to the Policing and Crime Act 2017 (c. 3).

(11), in the definition of “relevant authority”(1), for paragraph (b) substitute—

“(b) in relation to Wales—

- (i) a county council or county borough council in Wales;
- (ii) a community council;
- (iii) a National Park authority for a National Park in Wales;
- (iv) a fire and rescue authority in Wales, constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies.”

(7) In section 101 (staff transfer matters: general)—

(a) omit subsection (5A)(2);

(b) in subsection (7A)(3)—

(i) for paragraph (aa)(4) substitute—

“(aa) a county council or county borough council in Wales;”;

(ii) after paragraph (aa) insert—

“(ab) a National Park authority for a National Park in Wales;

(ac) a fire and rescue authority in Wales, constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies;”.

(8) In section 124 (general interpretation) omit the definition of “Welsh improvement authority”(5).

### **Public Audit (Wales) Act 2004**

**6.**—(1) The Public Audit (Wales) Act 2004(6) is amended as follows.

(2) In section 41 (studies for improving economy etc. in services), in subsection (1), in paragraph (a)(7)

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- (1) The definition of “relevant authority” was substituted by article 40(2)(g)(ii) of the Welsh Ministers (Transfer of Functions) Order 2018 (S.I. 2018/644).
  - (2) Subsection (5A) was inserted by paragraph 30(a) of Schedule 1 to the 2009 Measure.
  - (3) Subsection (7A) was inserted by paragraph 3(9)(c) of Schedule 7 to the Local Government and Public Involvement in Health Act 2007.
  - (4) Paragraph (aa) was inserted by paragraph 30(b) of Schedule 1 to the 2009 Measure.
  - (5) The definition of “Welsh improvement authority” was inserted by paragraph 31 of Schedule 1 to the 2009 Measure.
  - (6) 2004 c. 23.
  - (7) Paragraph (a) was amended by paragraph 27(2) of Schedule 8 to the Local Government and Public Involvement in Health Act 2007, paragraph 35 of Schedule 1 to the 2009 Measure and paragraph 46 of Schedule 4 to the Public Audit (Wales) Act 2013.



for “local government bodies in Wales that are Welsh improvement authorities for the purposes of Part 1 of the Local Government (Wales) Measure 2009” substitute “—

- (i) county councils and county borough councils in Wales;
- (ii) fire and rescue authorities in Wales constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies;
- (iii) National Park authorities for National Parks in Wales;”.

(3) In section 54 (restriction on disclosure of information)—

(a) in subsection (1)(1)—

- (i) in paragraph (aa)(2) after “pursuant to” insert “a provision of Chapter 1 of Part 6 or”;
- (ii) in paragraph (b)(3) after “Local Government (Wales) Measure 2009” insert “or Chapter 1 of Part 6 of the Local Government and Elections (Wales) Act 2021”;

(b) in subsection (2)(4), in paragraph (b)(5), after “Local Government (Wales) Measure 2009” insert “or Chapter 1 of Part 6 of the Local Government and Elections (Wales) Act 2021”.

## **Local Government and Public Involvement in Health Act 2007**

7. In the Local Government and Public Involvement in Health Act 2007(6), in Schedule 8 (best value: minor and consequential amendments) omit paragraph 27.

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- (1) Subsection (1) was amended by paragraph 55 of Schedule 4 to the Public Audit (Wales) Act 2013.
  - (2) Paragraph (aa) was inserted by paragraph (a) of section 160 of the Local Government and Elections (Wales) Act 2021.
  - (3) Paragraph (b) was amended by paragraph 36 of Schedule 1 to the 2009 Measure and paragraph 55 of Schedule 4 to the Public Audit (Wales) Act 2013.
  - (4) Paragraphs (ba) and (bb) were inserted into subsection (2) by paragraph (b) of section 160 of the Local Government and Elections (Wales) Act 2021.
  - (5) Paragraph (b) was amended by paragraph 36 of Schedule 1 to the 2009 Measure and paragraph 55 of Schedule 4 to the Public Audit (Wales) Act 2013.
  - (6) 2007 c. 28.

### **Education (Wales) Measure 2011**

**8.** In the Education (Wales) Measure 2011<sup>(1)</sup>, in section 3 (duty of education body to collaborate), in subsection (4) omit paragraph (c).

### **Social Services and Well-being (Wales) Act 2014**

**9.** In the Social Services and Well-being (Wales) Act 2014<sup>(2)</sup>, in section 10 (local authorities and the code) omit subsection (2).

### **Criminal Justice and Courts Act 2015**

**10.** In the Criminal Justice and Courts Act 2015<sup>(3)</sup>, in section 22 (care provider offence: excluded care providers), in subsection (5), in paragraph (a) for the words from “section 29(6)(a)” to the end substitute “section 107 of the Local Government and Elections (Wales) Act 2021 (asc 1) (direction that a function be performed by the Welsh Ministers or their nominee)”.

### **School Funding (Wales) Regulations 2010**

**11.** In the School Funding (Wales) Regulations 2010<sup>(4)</sup>, in Schedule 1, in paragraph 20 for subparagraph (c) substitute—

“(c) functions of the authority under Chapter 1 of Part 6 of the Local Government and Elections (Wales) Act 2021 (performance and governance of county and county borough councils), and the provision of advice to assist governing bodies in procuring goods and services;”.

*Name*

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

*Date*

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(1) 2011 nawm 7.  
(2) 2014 anaw 4.  
(3) 2015 c. 2.  
(4) S.I. 2010/824.