

STATUTORY INSTRUMENT CONSENT MEMORANDUM

THE LEGISLATIVE REFORM (PAYMENTS BY PARISH COUNCILS, COMMUNITY COUNCILS AND CHARTER TRUSTEES) ORDER 2013

1. This Statutory Instrument Consent Memorandum is laid under Standing Order (“SO”) 30A.2. SO 30A prescribes that a Statutory Instrument Consent Memorandum must be laid and a Statutory Instrument Consent Motion may be tabled before the National Assembly for Wales (“Assembly”) if a UK Statutory Instrument makes provision in relation to Wales amending primary legislation within the legislative competence of the Assembly.
2. The Legislative Reform (Payments by Parish Councils, Community Councils and Charter Trustees) Order 2013 was laid in draft before Parliament on 11 November 2013 and before the Assembly on 12 November. The order can be found at:

[The Legislative Reform \(Payments by Parish Councils, Community Councils and Charter Trustees\) Order 2013](#)
3. Section 11 of the Legislative and Regulatory Reform Act 2006 (LRRRA 2006) provides that an Order cannot contain provision which is within the legislative competence of the National Assembly, unless the Assembly agrees to it.
4. Section 1 of the LRRRA 2006 enables provision to be made for the purpose of removing or reducing burdens resulting directly or indirectly for any person from any legislation. For the purposes of section 1 “burden” means a financial cost, an administrative inconvenience, an obstacle to efficiency, productivity or profitability or a sanction, criminal or otherwise, which affects the carrying on of any lawful activity.

Summary of the Order and its objective

5. The objective of the Order is to remove an outdated burden on the affected bodies. The Order would remove the requirement for every cheque or other order for the payment of money by a parish and community council to be signed by two members of the council – the “two signature rule”. With the advent of electronic banking this requirement is considered out-dated.
6. The Order would remove the unnecessary burden on parish and community councils and chartered trusts and facilitate the use of modern methods of banking for payments such as electronic banking to ensure financial management is adequate and effective whilst maintaining sound financial control.
7. The Order applies in relation to England and Wales.

Provision to be made by the Order for which consent is sought

8. Article 2 – repeals subsection (5) of section 150 of the Local Government Act 1972 (“the 1972 Act”). This will remove the requirement for every cheque or other order for the payment of money by a parish or community council to be signed by two members of the council. The Order also removes a similar requirement for every cheque or other order for payment of money by charter trustees to be signed by two charter trustees.
9. It is the view of the Welsh Government that the requirement of signing cheques currently provided for within section 150(5) of the 1972 Act falls within the legislative competence of the National Assembly for Wales as set out under the local government subject heading and in particular in relation to the “powers and duties of local authorities and their members and officers” under Part 1 of Schedule 7 to the Government of Wales Act 2006.

Advantages of utilising this Legislative Reform Order

10. There is no appropriate legislative vehicle for the National Assembly for Wales (NAW) to make a similar provision. Section 1 of the Legislative and Regulatory Reform Act 2006, in accordance with which this Order is made, provides that a Minister of the Crown may make provision the purpose of which is to remove or reduce any burden resulting from any legislation, which specifically includes Acts of Parliament and Measures and Acts of the Assembly. Section 11 of that Act specifically envisages such an Order to include provision within the legislative competence of the Assembly, but only with the agreement of the Assembly. Therefore it is considered appropriate for the Order to apply in relation to England and to Wales.
11. It is the view of the Welsh Government that it is appropriate to deal with these provisions in this Order as it represents the most appropriate and proportionate legislative vehicle to enable these provisions to apply in Wales at the earliest opportunity and ensure consistency in the provisions applied to parish and community councils and charter trustees across England and Wales so that a burden on all these bodies is removed.
12. For parish and community councils the benefits would include the simplification of financial transactions, saving time and would make electronic payment easier, thus allowing access to discounts for electronic payment and avoiding bank charges associated with previous payment methods.
13. Larger councils would be able to adopt a tiered approach to payment control that would make better use of members’ time and improve

control. At present such an arrangement is unlikely to be consistent with section 150(5).

14. If the Order is made, guidance will be provided to the affected bodies in the Practitioners Guide prepared and published jointly by One Voice Wales and Society of Local Council Clerks and endorsed by the Wales Audit Office. This guidance will assist the councils to comply with their general statutory duties to make proper arrangements for their financial affairs and to have a sound system of internal control. This is considered to provide equal or better protection for public funds whilst permitting modern methods of payment and more efficient control procedures.
15. The Order would not prevent the present arrangements continuing if a parish or community council preferred to maintain the two signature rule. A robust framework to protect the councils' funds will be in place after the repeal.

Financial Implications

16. There are no anticipated financial implications for the Welsh Government.

Lesley Griffiths
Minister for Local Government and Government Business
November 2013