

SL(5)539 – The Local Authorities (Coronavirus) (Meetings) (Wales) Regulations 2020

Background and Purpose

These Regulations make provision in relation to local authority meetings, and the publication of and access to certain local authority documents during the COVID-19 pandemic.

For the purposes of these Regulations “local authority” includes principal and community councils, an executive of a principal council, a port health authority, National Park Authorities and Fire and Rescue Authorities. It also includes committees, sub-committees and joint committees of two or more of these bodies.

Part 2 of these Regulations makes provision to enable meetings of local authorities held before 1 May 2021 to be held by means of remote attendance.

Part 3 makes provision about requirements relating to local authority meetings. Regulations 6 to 8 make provision about when annual meetings of principal councils, community councils and National Park authorities may be held in 2020. Regulation 9 makes provision ensuring a local authority is not restricted in determining when meetings (other than the annual meetings addressed by regulations 6 to 8) may be held before 1 May 2021. Regulation 10 makes provision about failures to attend meetings. Regulations 11 to 13 make provision about elections of chairs, vice-chairs and deputy chairs (as the case may be) at the 2020 annual meetings of principal councils, community councils, National Park authorities and the Swansea Bay Port Health Authority. Regulation 14 makes provision in relation to other appointments which are made at local authority meetings held before 1 May 2021. Regulation 15 enables the standing orders of a local planning authority to provide for the substitution of members of local planning authority committees and sub-committees. Regulation 16 makes provision about the manner of voting at community council meetings. Regulations 17 and 18 make provision about notices of meetings of principal councils, community councils and National Park authorities held before 1 May 2021, and summonses to members to attend those meetings.

Part 4 makes modifications to public access requirements in relation to certain local authority meetings, decisions of principal council executives, and notices and documents relating to those meetings or decisions. Regulation 20 modifies provisions of the Public Bodies (Admission to Meetings) Act 1960 (c. 67) and regulation 21 modifies provisions of Part 5A of the Local Government Act 1972 (c. 70). Those provisions relate to public access to meetings and to notices and documents relating to meetings. Regulation 22 makes provision about the preparation of the minutes of a meeting under Schedule 12 to the Local Government Act 1972. Regulation 23 modifies provisions of the Local Authorities (Executive Arrangements) (Decisions, Documents and Meetings) (Wales) Regulations 2001 (S.I. 2001/2290) (W. 178) in relation to public access to meetings of executives of principal councils and to notices and documents relating to those meetings and to executive decisions.

Procedure

Negative.



Technical Scrutiny

The following 2 points are identified for reporting under Standing Order 21.2 in respect of this instrument.

Standing Order 21.2 (vi) - that its drafting appears to be defective or it fails to fulfil statutory requirements.

1. Regulation 21(4) substitutes text for section 100C of the Local Government Act 1972. In subsection 6(b) of that substituted text the cross reference to subsection (2) appears to be incorrect. We believe it should refer to subsection (9).
2. Regulation 23(8)(f)(i) includes a reference to regulation 24(6) of these Regulations. We believe the reference should be to regulation 23(6). There is no regulation 24(6).

Merits Scrutiny

The following 2 points are identified for reporting under Standing Order 21.3 in respect of this instrument.

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 Assembly.

1. The 21 day rule under the Statutory Instruments Act 1946 (incorporated in Schedule 10 of the Government of Wales Act 2006) provides that instruments should be laid 21 days before they come into force. This enables Members to seek to annul such instruments before they have effect, as confusion can be caused if legislation is annulled after it has been implemented. However, in this case, the Welsh Government consider that the circumstances justify a breach of that rule. The Minister for Finance and Trefnydd, as required under section 11A of the Statutory Instruments Act 1946, has notified the Llywydd of the breach in a letter dated 21 April 2020 so that the matter can be brought to the attention of Members.

The letter notes that in view of the circumstances surrounding the COVID-19 pandemic, not adhering to the 21 day convention is thought necessary and justifiable in this case. The letter explains that the Regulations were required to come into force on 22 April 2020 to enable local authorities to continue to function. Local authorities are not able to make these changes by amendments to their own standing orders or other local rules as requirements for meetings are generally set out in detail in primary and secondary legislation. Without the changes set out in the Regulations, local authorities are unable to hold any meetings safely. This is preventing them from their vital efforts to respond to the COVID-19 pandemic. These arrangements will remain in place for meetings held before 1st May 2021.

2. It is noted in the Explanatory Memorandum, and in the letter referred to above, that due to the immediacy of the Regulations, they have not been subject to consultation, however, the Welsh Government has been in regular contact with the UK Government and with bodies representing local government in Wales.

Implications arising from exiting the European Union

No implications are identified for reporting under Standing Order 21.3 in respect of this instrument.

Government Response

Technical scrutiny points:



Cynulliad Cenedlaethol Cymru
Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad
—
National Assembly for Wales
Legislation, Justice and Constitution Committee

1. The Welsh Government agrees with the first technical scrutiny point. Subsection (6)(b) of the substituted text in regulation 21(4) should refer to subsection (9), not subsection (2). The Welsh Government has sought a correction slip to correct this point.
2. The Welsh Government agrees with the second technical scrutiny point. Regulation 23(8)(f)(i) should refer to regulation 23(6) of the Local Authorities (Coronavirus) (Meetings) (Wales) Regulations 2020, not regulation 24(6). The Welsh Government has sought a correction slip to correct this point.

Committee Consideration

The Committee considered the instrument and Government response at its meeting on 4 May 2020 and reports to the Assembly in line with the reporting points above.

