

Explanatory Memorandum to the Fire and Rescue Authorities (Improvement Plans)(Wales) Order 2010

This Explanatory Memorandum has been prepared by the Department of Social Justice and Local Government and is laid before the National Assembly for Wales.

(i) Description

This Order will set the date after which a Fire and Rescue Authority (“FRA”) must publish their “improvement plan” under Section 15(6) & (7) of the Local Government (Wales) Measure 2009 (“the Measure”).

(ii) Matters of Special Interest to the Subordinate Legislation Committee

No matters of special interest.

(iii) Legislative Background

The Order will be made in exercise of the powers conferred on the Welsh Ministers by sections 15(7), 50(1) and 50(3) of the Measure.

Section 15(6) states that the authority must make arrangements for the publication of a description of the authority’s plans for discharging its duties under sections 2(1), 3(2) and 8(7) in a financial year together with, if the authority thinks fit, its plans for subsequent years (an “improvement plan”).

Section 15(7) provides that those arrangements must be framed so that the information is published -

- (a) As soon as is reasonably practicable after the start of the financial year to which the plan must relate; or
- (b) As soon as is reasonably practicable after such other date as the Welsh Ministers may specify by order.

This instrument will follow the negative resolution procedure.

(iv) Purpose and intended effect of the legislation

This Order specifies the date after which a FRA’s improvement plan for a financial year must be published. The Order applies only to improvement authorities in Wales which are fire and rescue authorities constituted by a scheme to which section 4 of the Fire and Rescue Services Act 2004 applies.

This Order will set out that FRAs Improvement Plans should be published as soon as is reasonably practicable after 30 September of the year prior to the financial year to which the plan relates.

(v) Implementation

It is intended that the Order will come into force on 1 April 2010.

(vi) Consultation

Consultation was commenced on 9 November for eight weeks. Please refer to the Regulatory Impact Assessment consultation paragraph below for further information.

(vii) Regulatory Impact Assessment

a) Options

Option 1: Do Nothing

Under Part 1 of the Measure an authority must make arrangements for the publication of its improvement plan as soon as is reasonably practicable after the start of the financial year to which the plan relates or as soon as is reasonably practicable after such other date as the Welsh Ministers may specify by Order. The policy intention is to combine the consultation and publication processes for FRAs Risk Reduction Planning (RRP) with requirements under the Measure to consult and publish improvement plans. Without this Order the FRAs would be under a statutory duty to comply with the existing provisions of the Measure, and publish their improvement plans as soon as is reasonably practicable after the start of the financial year to which the plans relate, which would mean that FRAs would have to carry out a consultation on their improvement objectives to feed into an improvement plan at the start of the financial year and then undertake an additional consultation to feed into their RRP arrangements for the 31 October deadline.

Option 2: Make the Legislation

The Order will ensure that FRAs are under a statutory duty to publish their improvement plans as soon as is reasonably practicable after 30 September of the year prior to the financial year to which their plans relate. This would fit in with the current arrangement to publish RRP by 31 October.

b) Benefits

The Order will enable FRAs to be compliant with the Measure while allowing citizens and communities to have access to one plan which clearly identifies the priorities of the FRA in any given year. Having one plan will reduce any overlap and confusion that may be caused by the same or similar priorities being consulted on and published in two separate documents and thereby reducing the burden on FRAs.

c) Costs

The cost of audit is met by individual FRAs and is agreed between the individual FRA and Wales Audit Office ("WAO") on an annual basis. In addition monies to fund/part fund improvement inspections for FRAs (which include All Wales and specific studies resulting from the improvement process, and funding of the WAO relationship manager and interim corporate Assessment process) is provided for centrally. Costs, which include all of the above plus the WAOs involvement in the Assembly Government led operational assurance of service delivery assessment process, have been identified as £88,491.

d) Competition Assessment

Not applicable.

e) Consultation

The consultation was commenced on 9 November for 8 weeks. Seven responses were received in total with the responses from the 3 Fire and Rescue Authorities detailed below.

- **Mid and West Wales Fire and Rescue Service** – were content with the proposal commenting that the Authority has integrated the publication of its Risk Reduction Planning and Improvement Plan for some time and have found that this has benefited their citizens and communities by providing risk reduction and improvement in one concise document. The combination also minimises the burden of consultation and production processes.
- **South Wales Fire and Rescue Authority** – had concerns that joining the risk reduction plan and Improvement Plan may increase confusion, although in principle one plan appears to be a sound way forward. In addition the FRA would find it helpful if a final date for publication is defined to avoid confusion and question whether the 31 October is intended as this final publication deadline.
- **North Wales Fire and Rescue Service** – supported the proposal that FRAs should unify their annual processes of consulting on and publishing their Risk Reduction Plans / Annual Action Plans and their Improvement Plans. The FRA commented that this seems a sensible way of providing a coherent account to the public of FRAs priorities and performance whilst reducing the potential administrative burden on FRAs of running two similar processes simultaneously. The FRA also supports the retention of 31 October as the annual deadline.

7. The proposed Assembly Government response is set out below:-

- Section 15(7) of the Local Government (Wales) Measure 2009 provides the Welsh Ministers with a power to specify, by Order, an alternative date “as soon as is reasonably practicable **after**” which information is to be published. As such, a “by date” cannot be specified. The proposed date of after 30 September of the year prior to the financial year to which the plan relates will allow for the publication deadline of 31 October to be used.
- The Welsh Assembly Government are working with the FRAs to ensure that guidance on the implementation of Part 1 of the Measure provides clarity on the production of a combined plan. This guidance will set out that the expected publication date of the combined Improvement Plan/RRP is no later than 31 October.

f) Post implementation review

This will be undertaken following the publication of the first combined improvement plan under the statutory requirements of the Measure.

g) Summary

This Order will set the date by which a FRA must publish their improvement plan under Section 15(7) of the Local Government (Wales) Measure 2009.