

**Explanatory Memorandum to the Local Government and Elections (Wales) Act 2021 (Consequential Amendments and Transitional Provision) (Chief Executives) Regulations 2022**

This Explanatory Memorandum has been prepared by the Department for Local Government and is laid before Senedd Cymru in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

**Minister's Declaration**

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Local Government and Elections (Wales) Act 2021 (Consequential Amendments and Transitional Provision) (Chief Executives) Regulations 2022.

Rebecca Evans MS  
Minister for Finance and Local Government  
25 March 2022

## **PART 1**

### **1. Description**

The Local Government and Elections (Wales) Act 2021 (Consequential Amendments and Transitional Provision) (Chief Executives) Regulations 2022 (“the Regulations”) make amendments consequential on section 54 (chief executives) of the Local Government and Elections (Wales) Act 2021 (“the 2021 Act”). They also make transitional provision in relation to existing officers who are designated as heads of paid service for county councils and county borough councils in Wales, and a revocation provision relating to the Local Authorities (Standing Orders) (Wales) Regulations 2006 (“the 2006 Regulations”).

The Regulations come into force on 5 May 2022.

### **2. Matters of special interest to the Legislation, Justice and Constitution Committee**

None.

### **3. Legislative background**

Section 54 of the 2021 Act requires principal councils (county councils and county borough councils) to appoint a chief executive. This requirement replaces the requirement on principal councils to designate one of their officers as their head of paid service under section 4 of the Local Government and Housing Act 1989 (“the 1989 Act”).

Schedule 5 to the 2021 Act makes consequential amendments to primary legislation as a result of section 54, however, consequential amendments to secondary legislation are not included in that Schedule.

Section 54 of, and Schedule 5 to the 2021 Act come into force on 5 May 2022 by virtue of the Local Government and Elections (Wales) Act 2021 (Commencement No. 1 and Saving Provision) Order 2021 (article 6(h) and (s)).

These Regulations are made under section 173(1) of the 2021 Act and section 8(4) of the Local Government and Housing Act 1989 (“the 1989 Act”).

Section 174(6) of the 2021 Act provide that the negative procedure will apply to Regulations made under section 173(1) of the 2021 Act. Section 190(2) of the 1989 Act provides that the same procedure will apply to Regulations made under section 8(4) of that Act.

### **4. Purpose and intended effect of the legislation**

As set out in section 3 above, Schedule 5 to the 2021 Act makes consequential amendments to primary legislation as a result of section 54 of the 2021 Act, however, consequential amendments to secondary legislation are not included.

The Regulations make the necessary consequential amendments to secondary legislation, transitional provision in relation to the existing heads of paid service for county councils and county borough councils and a revocation provision in relation to the 2006 Regulations.

Regulation 1 sets out the title and commencement date of the Regulations. The Regulations come into force on 5 May 2022.

Regulations 2 – 8 make consequential amendments to the following legislation:

- The Local Authorities (Contracts) Regulations 1997
- The 2006 Regulations
- The Local Authorities (Executive Arrangements) (Functions and Responsibilities) (Wales) Regulations 2007
- The Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (Wales) Regulations 2013
- The Accounts and Audit (Wales) Regulations 2014
- The Prevention of Social Housing Fraud (Detection of Fraud) (Wales) Regulations 2014

Regulation 9(1) sets out transitional provision, which provides that the officer that is designated as the head of the authority's paid service under section 4 of the 1989 Act immediately before 5 May 2022 is to be treated as the chief executive under section 54 of the 2021 Act. Regulation 9(2) provides that the appointment regime as set out in paragraphs 1 and 2 of Part 1 of Schedule 1 to the 2006 Regulations does not apply to the heads of paid service treated as chief executives under regulation 9(1).

Regulation 10 revokes regulation 11 of the Local Authorities (Standing Orders) (Wales) Regulations 2006. This provision no longer has effect in practice.

## **5. Consultation**

No formal consultation has taken place on these Regulations as the Regulations make only consequential technical amendments and transitional provision. The policy relating to section 54 of the 2021 Act was consulted upon as part of the Local Government and Elections (Wales) Bill ("the Bill").

## **6. Regulatory Impact Assessment (RIA)**

A regulatory impact assessment has not been prepared in respect of the Regulations as they make consequential and technical amendments to existing legislation, transitional provision and revocation provision, and do not impose or reduce costs for business, charities or voluntary bodies or the public sector. This is in line with the policy set out in the Welsh Ministers' Code of Practice for carrying out regulatory impact assessments for subordinate legislation. The Regulatory Impact Assessment (RIA) which accompanied the Bill showed there to be no additional costs associated with the section 54 duty to appoint a chief executive.