

Explanatory Memorandum to the National Parks and Access to the Countryside Act 1949 (Meaning of Public Body) (Wales) Regulations 2021

This Explanatory Memorandum has been prepared by the Local Government Department of the Welsh Government and is laid before Senedd Cymru in conjunction with the above Regulations 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 National Parks and Access to the Countryside Act 1949 (Meaning of Public Body) (Wales) Regulations 2021.

Rebecca Evans MS
Minister for Finance and Local Government
09 November 2021

1. Description

The National Parks and Access to the Countryside Act 1949 (Meaning of Public Body) (Wales) Regulations 2021 amends section 11A of the National Parks and Access to the Countryside Act 1949 in order that when Corporate Joint Committees, established by regulations made under Part 5 of the Local Government and Elections (Wales) Act 2021, exercise or perform any function in relation to, or affecting, land in a National Park they must have regard to the purposes specified in section 5(1) of the National Parks and Access to the Countryside Act 1949. These purposes being conserving and enhancing their natural beauty, wildlife and cultural heritage and promoting opportunities for the understanding and enjoyment of the special qualities of National Parks by the public.

Those provisions come into force on the 3 December 2021.

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

No specific matters identified.

3. Legislative background

The powers enabling these Regulations to be made are contained in sections 84(2) and 174 of the Local Government and Elections (Wales) Act 2021.

Section 84(2) provides the Welsh Ministers with a power to make provision in connection with Part 5 of the Local Government and Elections (Wales) Act 2021 which amend, modify, apply (with or without modifications) or disapply any enactment.

Section 174 requires that these Regulations will be subject to the affirmative resolution procedure in the Senedd.

Subject to approval by the Senedd, the Regulations will be made by the Minister for Finance and Local Government and come into force on 3 December 2021.

4. Purpose and intended effect of the legislation

The National Parks and Access to the Countryside Act 1949 (Meaning of Public Body) (Wales) Regulations 2021 (“the Regulations”) amends section 11A of the National Parks and Access to the Countryside Act 1949 (“the Act”) in order that when Corporate Joint Committees, established by regulations made under Part 5 of the Local Government and Elections (Wales) Act 2021, exercise or perform any function in relation to, or affecting, land in a National Park they must have regard to the purposes specified in section 5(1) of the Act. These purposes being conserving and enhancing their natural beauty, wildlife and cultural heritage and promoting opportunities for the understanding and enjoyment of the special qualities of National Parks by the public.

The Regulations form a package of amendments to legislation that will underpin all Corporate Joint Committees and put in place the necessary legislative framework for the effective administration and governance of Corporate Joint Committees.

Corporate Joint Committees are corporate bodies, established via regulation, and consist of those principal councils in Wales which are specified in the establishment regulations. In some circumstances National Park authorities in Wales are also included in a Corporate Joint Committee, where this is the case this will also be set out in the relevant Corporate Joint Committee establishment regulations.

The overall intent in establishing Corporate Joint Committees is that a Corporate Joint Committee will be treated as part of or a member of the 'local government family' and will largely be subject to the same or similar powers and duties as local authorities in the way that they operate and are governed.

The amendments within the Regulations amends section 11A(4) of the Act so as to add Corporate Joint Committees to the definition of a "public body". It also introduces a definition of Corporate Joint Committees at section 11A(7).

5. Consultation

The application of wider public body duties was considered as part of the consultation on the draft Corporate Joint Committee Establishment Regulations which ran from 12 October 2020 to 4 Jan 2021. In line with the approach to treating Corporate Joint Committees as part of the 'local government family' respondents agreed that Corporate Joint Committees should be subject to a wide range of public body duties— including the duty to have regard to the purposes for which National Parks were designated (this duty was inserted into the National Parks and Access to the Countryside Act 1949 by the Environment Act 1995).

6. Regulatory Impact Assessment (RIA)

A separate regulatory impact assessment has not been prepared in respect of these Regulations. However, the regulatory impact assessment to accompany The Mid Wales Corporate Joint Committee Regulations 2021, The North Wales Corporate Joint Committee Regulations 2021, The South East Wales Corporate Joint Committee Regulations 2021 and The South West Wales Corporate Joint Committee Regulations 2021 assessed the potential costs and benefits associated with establishing the Corporate Joint Committees through regulations. In assessing the potential costs and benefits the RIA considers the overarching policy intent that Corporate Joint Committees should be treated as part of the 'local government family' including being subject to wider public sector duties such as those in the National Parks and Access to the Countryside Act 1949 (as amended by the by the Environment Act 1995).

The RIA did not seek to account separately for the costs associated with the CJC compliance with the wider public sector duties. It was assumed for the purpose of the RIA that exercising such duties will be something which was undertaken by the corporate body function of a CJC and the costs for exercising the public body duties within these Regulations are included in the range of costs provided for the overall

corporate body function in the RIA.

A copy of the [RIA](#) to accompany The Mid Wales Corporate Joint Committee Regulations 2021, The North Wales Corporate Joint Committee Regulations 2021, The South East Wales Corporate Joint Committee Regulations 2021 and The South West Wales Corporate Joint Committee Regulations 2021 is available as part of the relevant documentation to accompany those regulations.