

Explanatory Memorandum to the Government of Wales Act 2006 (Budget Motions and Designated Bodies) (Amendment) Order 2021

This Explanatory Memorandum has been prepared by Permanent Secretary's Group 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 Government of Wales Act 2006 (Budget Motions and Designated Bodies) (Amendment) Order 2021.

Rebecca Evans MS
Minister for Finance and Local Government
1 December 2021

PART 1

1. Description

1.1 The Government of Wales Act 2006 (Budget Motions and Designated Bodies) (Amendment) Order 2021 (“the 2021 Order”) amends the Government of Wales Act 2006 (Budget Motions and Designated Bodies) Order 2018 (the “2018 Order”), which designates bodies in relation to the Welsh Ministers. The effect of the 2021 Order is to insert further bodies into the list of designated bodies contained within the Schedule to the 2018 Order. The purpose of such designation is so that information relating to the resources expected to be used by such bodies can be included within a Budget Motion.

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

2.1 Section 126A(9) and (10) of the Government of Wales Act 2006 (“GOWA 2006”) provide that the 2021 Order may be subject to either the affirmative or the negative resolution procedure.

2.2 The Minister for Finance and Local Government is of the view that the 2021 Order be subject to the negative resolution procedure as there are no factors indicating the use of the affirmative procedure. The 2021 Order designates bodies for the purposes of including within a Budget motion, information relating to the resources expected to be used by those bodies. Inclusion of the resources of the designated bodies within the Budget Motion will minimise alignment discrepancies between the Budget, Budget Motion and consolidated accounts, but will have no effect on the resource limits of those bodies. The subject matter of the 2021 Order can therefore be regarded as administrative as the effect on the Budget will be presentational.

2.3 Conversely, factors that tend to support the use of the affirmative procedure include where the legislation involves substantial government expenditure. This Order does not give rise to substantial government expenditure.

2.4 Section 126A(3) GOWA 2006 permits a body to be designated for a particular financial year, or generally. The Minister for Finance and Local Government is of the view that the bodies to which the 2021 Order applies continue to be designated “generally”. This is in line with all previous orders and means that the bodies will remain designated and will not need to be designated annually.

3. Legislative background

3.1 This 2021 Order is made by the Welsh Ministers in exercise of the powers conferred on them by section 126A(2) and (3) GOWA 2006. This is the fifth Order made by the Welsh Ministers under these powers.

- 3.2 In accordance with section 126A(4) and (6) GOWA 2006, the Welsh Ministers have consulted, where they think it appropriate, with HM Treasury, and HM Treasury has consented to the making of the 2021 Order.
- 3.3 The 2021 Order is being made under the negative resolution procedure in accordance with section 126A(9) GOWA 2006.
- 3.4 The bodies are being designated “generally” pursuant to section 126A(3) GOWA 2006.

4. Purpose and intended effect of the legislation

Background

- 4.1 In March 2015, the Finance Committee of the Fourth Assembly recommended, as part of its inquiry into Best Practice Budget Processes, that “the Welsh Government work closely with the Wales Audit Office to help ensure that the alignment of the budget and the Welsh Government’s accounts with the Treasury’s budget boundary is completed timeously and successfully”.
- 4.2 Under current arrangements, there are 3 main documents which set out the financial position of the bodies funded by the Welsh Consolidated Fund;
- the Budget to plan, monitor and control income and expenditure;
 - the Annual and Supplementary Budget Motions to gain Senedd approval for income and expenditure; and
 - after the year end, the Consolidated Accounts, to report and account for income and expenditure.

The boundaries of each of these documents i.e., the income and expenditure of the bodies which are included, should be similar enough to understand the links and inter-relationships between them. This promotes transparency and understanding of the Welsh Government public expenditure.

- 4.4 Alignment ensures that the Welsh Government’s consolidated accounts use the same boundary for the Budget Motions as that used by HM Treasury for the control of public expenditure, where those bodies are designated and material. Alignment will mean that the scope of the main control mechanisms is consistent. The first two phases of alignment corrected the material differences. Ensuring all new central government bodies are aligned prevents future mis-alignments.

Purpose

- 4.5 The 2021 Order amends the 2018 Order which designates specified bodies in relation to the Welsh Ministers for the purpose of including within a Budget motion the resources expected to be used by those bodies. The effect of the

2021 Order is that it inserts further bodies to the list of designated bodies contained within the Schedule to the 2018 Order.

Effect

- 4.6 The designation of the bodies in the 2021 Order will allow closer alignment of the Budget Motions to the existing Welsh Government Consolidated Accounts Boundary. The resources expected to be used by the designated bodies can therefore be included within a Budget Motion.
- 4.7 The 2021 Order, therefore, aligns the HM Treasury budget boundary to the Budget Motions and the Welsh Government Consolidated Accounts, enabling expenditure to be more easily tracked through the Budget Motions and Consolidated Accounts process. This will provide the benefits of increased transparency and understanding of Welsh public expenditure, making it easier for the Senedd, and the wider public, to understand and challenge spending plans and outturn. In turn, this should contribute to better involvement and awareness of public expenditure in Wales, therefore, indirectly contributing to well-being goals.
- 4.8 The 2021 Order leads to a more efficient approach to the impact on scrutiny of Budget Motions by the Finance Committee and the consolidated accounts by the Public Accounts Committee as variances between budget and outturn will be more consistent. In addition, the number of reconciliations required within the schedules supporting the Budget Motions will be reduced.
- 4.9 There would be no impact on the Main Expenditure Group budgets and limited impact on preparation of the consolidated accounts.
- 4.10 The 2021 Order does not amend or consolidate any other piece of legislation.

5. Consultation

- 5.1 A separate consultation was not considered to be applicable as extensive consultation has already taken place with officials from all parties, including on alignment, as part of the creation process of the new bodies inserted into the Schedule to the 2018 Order by the 2021 Order. For existing bodies a separate consultation took place in May 2019 from which extensive engagement has continued directly with the bodies and Welsh Government officials.
- 5.2 HM Treasury were consulted in accordance with section 126A(6) GOWA 2006, on the bodies proposed for designation and have consented to the making of the 2021 Order.

6. Regulatory Impact Assessment (RIA)

- 6.1 A Regulatory Impact Assessment has not been prepared to accompany the 2021 Order; it is not expected to impose any cost on business, local government or the voluntary sector. This is consistent with the Welsh Ministers' Regulatory Impact Assessment Code for Subordinate Legislation.
- 6.2 Bodies to be designated in the 2021 Order already form part of the Welsh Government budgetary controls and so Welsh Government Groups are already monitoring in-year spending.