Explanatory Memorandum to the Accounts and Audit (Wales) (Amendment) 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 Accounts and Audit (Wales) (Amendment) Regulations 2021.

Julie James MS
Minister for Housing and Local Government

18 March 2021
1. Description

The Accounts and Audit (Wales) (Amendment) Regulations 2021 amend the Accounts and Audit (Wales) Regulations 2014 to provide that Corporate Joint Committees established by regulations made under Part 5 of the Local Government and Elections (Wales) Act 2021 are subject to the provisions of the Accounts and Audit (Wales) Regulations 2014 where relevant.

Those provisions come into force on the 8th of April 2021.

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

None.

3. Legislative background

The powers enabling these Regulations to be made are contained in section 39 and 58 of the Public Audit (Wales) Act 2004. Section 39 provides the Welsh Ministers with a power to make provision about the accounts of a local government body in Wales to which Part 2 of the Public Audit (Wales) Act 2004 applies. Section 12(1) of the Public Audit (Wales) Act 2004 lists the bodies to which Part 2 applies. Corporate Joint Committees were added to the list of local government bodies in Wales in section 12(1) of the 2004 Act by the Public Audit (Wales) Act 2004 (Amendment) (Local Government Bodies in Wales) Order 2021. Section 58 of the Public Audit (Wales) Act 2004 provides the Welsh Ministers with a power to make regulations containing supplementary, incidental or consequential provisions and to make different provisions for different cases, including different provisions for different localities and different bodies.

These Regulations will be subject to the negative procedure in the Senedd by virtue of paragraph 35 of Schedule 11 to the Government of Wales Act 2006, and come into force on 8th of April.

4. Purpose and intended effect of the legislation

The Accounts and Audit (Wales) (Amendment) Regulations (“amendment regulations”) amend the Accounts and Audit (Wales) Regulations 2014 (“2014 regulations”) made under section 39 of the Public Audit (Wales) Act 2004. The amendment regulations provide that Corporate Joint Committees established under Part 5 of the Local Government and Elections (Wales) Act 2021 are subject to the provisions of the 2014 regulations where relevant.

The amendment regulations make provision with respect to the accounts and audit of bodies whose accounts are required to be audited in accordance with section 39 of the Public Audit (Wales) Act 2004.

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

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 establishment regulations.

Corporate Joint Committees were added to the list of local government bodies in Wales for the purposes of section 12(1) of the 2004 Act by the Public Audit (Wales) Act 2004 (Amendment) (Local Government Bodies in Wales) Order 2021.

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 largely subject to the same or similar powers and duties as local authorities in the way that they operate and are governed.

The amendment regulations seek to ensure that there is good and appropriate financial management in place for Corporate Joint Committees. This includes putting in place the financial duties and rules which require a Corporate Joint Committee to act prudently in spending, to have proper accounting practices in place and to be subject to appropriate external audit arrangements.

The amendments within these regulations:

a. Insert Corporate Joint Committees into the Accounts and Audit (Wales) Regulations 2014, including inserting reference to the Local Government and Elections (Wales) Act 2021 under which the Corporate Joint Committees are established

b. Define Corporate Joint Committees in the context of the 2014 regulations

c. Insert provision into the regulations to require a Corporate Joint Committee to deposit with each constituent authority, and if relevant the appropriate National Park authority, a copy of the auditor’s report and the accounting statements (made under the Public Audit (Wales) Act 2004).

5. Consultation

In accordance with section 39(2) of the Public Audit (Wales) Act 2004, the Welsh Ministers have consulted the Auditor General for Wales, the Welsh Local Government Association and the Chartered Institute of Public Finance and Accountancy.

In addition the application of an appropriate accounting, audit and financial management regime 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 the same financial administration and governance legislation and framework as principal councils in Wales.
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 the application of an appropriate accounting, audit and financial management regime. The costs associated with the application of these Accounts and Audit (Wales) (Amendment) Regulations 2021 to Corporate Joint Committees was considered therefore as part of the regulatory impact assessment on the Corporate Joint Committee regulations themselves.

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.

https://senedd.wales/media/11ahrkka/sub-ld14136-em-e.pdf