

Explanatory Memorandum to the Environment (Wales) Act 2016 (Public Authorities subject to the Biodiversity and Resilience of Ecosystems Duty) 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 Environment (Wales) Act 2016 (Public Authorities subject to the Biodiversity and Resilience of Ecosystems Duty) Regulations 2021.

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

1. Description

The Environment (Wales) Act 2016 (Public Authorities subject to the Biodiversity and Resilience of Ecosystems Duty) Regulations 2021 amends section 6 of the Environment (Wales) Act 2016 (“the 2016 Act”) to include Corporate Joint Committees within the definition of ‘public authority’ in section 6(9) which are subject to the biodiversity and resilience of ecosystems duty (“the biodiversity duty”).

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 Environment (Wales) Act 2016 (Public Authorities subject to the Biodiversity and Resilience of Ecosystems Duty) Regulations 2021 (“the 2021 Regulations”) amend section 6 the 2016 Act to include Corporate Joint Committees within the definition of ‘public authority’ in section 6(9) which are subject to the biodiversity duty. As a result of these Regulations, Corporate Joint Committees will be required to consider the Nature Recovery Action Plan for Wales when making decisions.

The 2021 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.

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 amendments within these regulations inserts Corporate Joint Committees into section 6 of the Environment (Wales) Act 2016 under the definition of “*public authority*.”

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 the same public body duties as principal councils in Wales – including the biodiversity duty.

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 wider public body duties such as the Biodiversity and Resilience of Ecosystems Duty. The costs associated with the application of these duties 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.