

Explanatory Memorandum to the Government of Wales Act 2006 (Budget Motions and Designated Bodies) (Amendment) Order 2024

This Explanatory Memorandum has been prepared by the Chief Operating Officer'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 2024.

Rebecca Evans MS
Minister for Finance and Local Government
17 January 2024

PART 1

1. Description

1.1 The Government of Wales Act 2006 (Budget Motions and Designated Bodies) (Amendment) Order 2024 (“**the 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 Order is to substitute a new Schedule for the Schedule to the 2018 Order. The new Schedule will insert four new bodies into the list of designated bodies contained within the Schedule to the 2018 Order, update the names of two bodies which have previously been designated and add the company numbers for ten previously designated bodies. The purpose of the new designations 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 Legislation, Justice and Constitution Committee

2.1 Section 126A(9) and (10) of the Government of Wales Act 2006 (“**GoWA 2006**”) provide that the 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 Order be subject to the negative resolution procedure as there are no factors indicating the use of the affirmative procedure. The 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 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. The Order does not give rise to substantial government expenditure.

2.4 Section 126A(3) of 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 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 Section 126A(1) of GoWA 2006 provides the Welsh Ministers with the power to include information relating to the resources expected to be used by a designated body in relation to a relevant person in a Budget motion for a financial year. The Welsh Ministers have the power to designate bodies for this purpose by way of an order by virtue of section 126A(2) and (3) of GoWA 2006. The Order is made by the Welsh Ministers in exercise of the powers conferred on them by section 126A(2) and (3) of GoWA 2006.
- 3.2 In accordance with section 126A(6) of GoWA 2006, the Welsh Ministers have consulted with HM Treasury (“**the Treasury**”) on the bodies to be designated within the Order. In accordance with section 126A(4) of GoWA 2006, the Welsh Ministers have sought and received the Treasury’s consent before making the Order.
- 3.3 The Order is being made under the negative resolution procedure in accordance with section 126A(9) of 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 Cymru approval for income and expenditure; and
 - after the year end, the Consolidated Accounts, to report and account for income and expenditure.
- 4.3 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 is used by the 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 misalignments.

Purpose

4.5 The 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 Order is that it substitutes a new Schedule for the Schedule to the 2018 Order. The new Schedule will insert four new bodies into the list of designated bodies contained within the Schedule to the 2018 Order, update the names of two of the bodies which have previously been designated and add the company numbers for ten previously designated bodies.

Effect

4.6 The designation of the bodies in the 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 Order, therefore, aligns the 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 Cymru, 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 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 Order does not amend or consolidate any other piece of legislation.

5. Consultation

5.1 A separate consultation is not considered applicable for the Order as extensive consultation takes place with officials as part of the business as usual process of setting up a new body. In addition, extensive consultation has already taken place with officials from all parties as part of a consultation targeting all existing arms-length bodies that took place in May 2019.

5.2 The Treasury were consulted in accordance with section 126A(6) of GoWA 2006 on the bodies proposed for designation. The Welsh Ministers have also received the Treasury's consent in accordance with section 126A(4) of GoWA 2006.

6. Regulatory Impact Assessment ("RIA")

6.1 A RIA has not been prepared to accompany the Order; it is not expected to impose any cost or savings on the public, private, charity or voluntary sectors. Further, it is purely a technical order to increase transparency in reporting the financial position of the public sector in Wales. Accordingly, the decision not to prepare a RIA is consistent with the Welsh Ministers' Regulatory Impact Assessment Code for Subordinate Legislation.

6.2 Bodies to be designated in the Order already form part of the Welsh Government budgetary controls and so Welsh Government Groups are already monitoring in-year spending.