

## **Explanatory Memorandum to the Government of Wales Act 2006 (Budget Motions and Designated Bodies) (Amendment) Order 2023**

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 2023.

Rebecca Evans MS  
Minister for Finance and Local Government  
17 January 2023

## **PART 1**

### **1. Description**

- 1.1 The Government of Wales Act 2006 (Budget Motions and Designated Bodies) (Amendment) Order 2023 (“the 2023 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 2023 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 Legislation, Justice and Constitution Committee**

- 2.1 Section 126A(9) and (10) of the Government of Wales Act 2006 (“GOWA 2006”) provide that the 2023 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 2023 Order be subject to the negative resolution procedure as there are no factors indicating the use of the affirmative procedure. The 2023 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 2023 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 2023 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 2023 Order is made by the Welsh Ministers in exercise of the powers conferred on them by section 126A(2)(a) and (3) GOWA 2006. This is the seventh Order made by the Welsh Ministers under these powers.

- 3.2 In accordance with section 126A(6) GOWA 2006, the Welsh Ministers have consulted with HM Treasury on the bodies to be designated within the 2023 Order. The bodies designated within the 2023 Order do not receive funding from the other consolidated funds other than the Welsh Consolidated Fund. Accordingly, it has not been necessary to obtain Treasury consent in accordance with section 126A(4) GOWA 2006 before making the 2023 Order.
- 3.3 The 2023 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.
- 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 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 misalignments.

## Purpose

4.5 The 2023 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 2023 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 2023 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 2023 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 2023 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 2023 Order does not amend or consolidate any other piece of legislation.

## **5. Consultation**

5.1 A separate consultation is not considered applicable for the 2023 Order as extensive consultation has already taken place with officials from all parties. A consultation targeting all existing arms-length bodies took place in May 2019, this included three of the bodies in the 2023 Order (namely Education Workforce Council, Her Majesty's Chief Inspector of Education and Training in Wales and Qualifications Wales). Extensive consultation has continued with officials from all parties since the initial consultation, including on alignment. Consultation with Welsh Government officials also takes place as part of the business as usual creation process for new arms-

length bodies, this includes the remaining body in the 2023 Order (Adnodd Cyfyngedig).

5.2 HM Treasury were consulted in accordance with section 126A(6) GOWA 2006 on the bodies proposed for designation.

## **6. Regulatory Impact Assessment (“RIA”)**

6.1 A RIA has not been prepared to accompany the 2023 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 2023 Order already form part of the Welsh Government budgetary controls and so Welsh Government Groups are already monitoring in-year spending.