

Explanatory Memorandum to the Local Government and Elections (Wales) Act 2021 (Consequential Amendments) (Job-sharing and Assistants to the Executive) Regulations 2022

This Explanatory Memorandum has been prepared by the Department for Local Government 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 Local Government and Elections (Wales) Act 2021 (Consequential Amendments) (Job-sharing and Assistants to the Executive) Regulations 2022.

Rebecca Evans MS
Minister for Finance and Local Government
29 March 2022

PART 1: DESCRIPTION

1. Overview

- 1.1 The Local Government and Elections (Wales) Act 2021 (“the 2021 Act”) makes provision enabling local authority members to be appointed as assistants to a local authority executive (section 57) and for two or more members on a local authority executive to share office (section 58).
- 1.2 The Local Government and Elections (Wales) Act 2021 (Consequential Amendments) (Job-sharing and Assistants to the Executive) Regulations 2022 (‘the Regulations’) make amendments which are consequential on sections 57 and 58 of, and Schedule 7 to, the 2021 Act, which amend provisions in Part 2 of, and Schedule 1 to, the Local Government Act 2000 (“the 2000 Act”). These amendments are required to supplement the operation of sections 57 and 58 of the 2021 Act by local authorities.

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

- 2.1 The Regulations are required to ensure that job-sharing arrangements work as intended, and apply consistently to local authority, democratic services committees, standards committees, and governance and audit committees.
- 2.2 The Regulations are required to come into force as soon as possible after the local government elections in May 2022 in order for the job-sharing provisions in section 58 of, and Schedule 7 to, the 2021 Act to apply consistently and fairly. They are, subject to Senedd approval, to be made and brought into force as soon as possible after their debate in Plenary on 10 May 2022.
- 2.3 Though this will be after the date of the next ordinary local government elections on 5 May 2022, and after the date sections 57 and 58 of, and Schedules 6 and 7 to, the 2021 Act come into force (also 5 May 2022), it is considered that given the work councils are required to undertake in respect of the election of a new council, the difference in timing between the commencement of these Regulations and the relevant provisions of the 2021 Act will have minimal detrimental practical implications for local government.
- 2.4 Due to the Covid-19 pandemic and the significant amount of subordinate legislation required to implement the 2021 Act it has been necessary to prioritise, which has resulted in the Regulations being laid at this time.

3. Legislative background

Job-sharing - executive members of principal councils

3.1 Section 58 of the 2021 Act introduces Schedule 7 of that Act which makes amendments to the 2000 Act. Those amendments require local authorities to make provision in their executive arrangements enabling two or more members to share office on an executive, including the office of executive leader. To accommodate the job-sharing of executive offices, amendments are also made permitting an increase in the maximum number of members of an executive from 10 to:

- 12, when at least two of the members have been elected or appointed to share office; or
- 13, when at least three of the members have been elected or appointed to share office.

3.2 Further provisions prescribe that at executive meetings, executive members who share the same office only have one vote between them in respect of any matter on which they have a right to vote and that together, those executive members only count as one person for the purposes of determining whether a meeting is quorate.

3.3 Section 58 of, and Schedule 7 to, the 2021 Act come into force on 5 May 2022 by virtue of the Local Government and Elections (Wales) Act 2021 (Commencement No. 1 and Saving Provision) Order 2021.

3.4 Additional consequential amendments are required to be made to ensure that job-sharing arrangements work as intended, and apply consistently to local authority, democratic services committees, standards committees, and governance and audit committees.

Assistants to the Executive

3.5 Section 57 of the 2021 Act amends the 2000 Act to provide that local authorities may make provision in their executive arrangements for local authority members to be appointed to assist the executive in carrying out its functions. Any members who are appointed, are entitled to attend and speak at meetings of the executive or at committees of the executive but are not members of the executive.

3.6 Schedule 6 to the 2021 Act makes consequential amendments to the Local Government (Wales) Measure 2011, by providing that only either one assistant to the executive or one member of the executive may be appointed to a local authority governance and audit committee or democratic services committee for the purposes of allocating the one seat available on each of those committees to members of the executive. No equivalent provision was made in respect of a local authority standards committee.

3.7 Section 57 of, and Schedule 6 to, the 2021 Act come into force on 5 May 2022 by virtue of the Local Government and Elections (Wales) Act 2021 (Commencement No. 1 and Saving Provision) Order 2021.

- 3.8 Section 173 of the 2021 Act sets out the power for the Welsh Ministers to make supplementary, incidental, or consequential regulations which they consider necessary or expedient for the purposes of giving full effect to any provision of the 2021 Act.
- 3.9 The Regulations amend primary legislation and are made subject to the draft affirmative resolution procedure in accordance with section 174(4) and 5(t) of the 2021 Act.

4. Purpose and intended effect of the legislation

- 4.1 The Regulations make the necessary consequential amendments to ensure that the provisions in the 2021 Act applying to the appointment of assistants to the executive and sharing of office on a local authority executive work as intended, and apply consistently to local authority, democratic services committees, standards committees, and governance and audit committees.
- 4.2 The Local Government (Wales) Measure 2011 is amended to provide that two or more members of a local authority who share office on its executive, may be appointed to that local authority's democratic services committee, or its governance and audit committee but that those members together only count as one member for the purposes of membership, voting and requisitioning a meeting in respect of each committee.
- 4.3 The Standards Committee (Wales) Regulations 2001 ("the 2001 Regulations") are amended to provide that a local authority standards committee can only include one executive member or an assistant to the executive, from that local authority. Further, where two or more local authorities establish a joint standards committee, then that committee can only include one executive member or an assistant to the executive, from each constituent local authority.
- 4.4 The 2001 Regulations are further amended to provide that two or more members of a local authority executive who share office may be appointed to its standards committee but that those members together only count as one member for the purposes of the size and composition of the committee, voting, and determining whether a meeting is quorate.
- 4.5 The Local Authorities (Executive Arrangements) (Modification of Enactments and Other Provisions) (Wales) Order 2002 is amended to provide that neither an interim mayor nor interim executive members, are to be treated as members of a local authority executive for the purpose of the statutory limit imposed on the number of executive members set out in section 11 of the 2000 Act.

5. Consultation

5.1 No formal consultation has taken place as the Regulations make only consequential technical amendments. The provisions in section 57 and 58 of the 2021 Act were subject to consultation with stakeholders and scrutiny during the passage of the Local Government and Elections (Wales) Bill through the Senedd.

6. Regulatory Impact Assessment (RIA)

6.1 A regulatory impact assessment has not been prepared in respect of these Regulations as they only make consequential technical amendments to existing legislation and do not impose or reduce costs for business, charities or voluntary bodies or the public sector. This is in line with the policy set out in the Welsh Ministers' Code of Practice for carrying out regulatory impact assessments for subordinate legislation.