

## **Explanatory Memorandum to the Family Absence for Members of Local Authorities (Wales) Regulations 2013**

This Explanatory Memorandum has been prepared by the Local Government Department of the Welsh Government and is laid before the National Assembly for Wales 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 Family Absence for Member of Local Authorities (Wales) Regulations 2013. I am satisfied that the benefits outweigh any costs.

Lesley Griffiths

Minister for Local Government and Government Business, one of the Welsh Ministers

14 October 2013

## **1. Description**

1.1 The Family Absence for Members of Local Authorities (Wales) Regulations 2013 (“the Regulations”) prescribe the conditions that members of local authorities must satisfy to be entitled to a period of family absence. The Regulations also make provision, amongst other things, about the extent of the various periods of absence; the cancellation of periods of absence and bringing absence to an end.

## **2. Matters of special interest to the Constitutional and Legislative Affairs Committee**

None

## **3. Legislative background**

The Regulations are made under Part 2 of the Local Government (Wales) Measure 2011 (“the 2011 Measure”) and prescribe the conditions to be satisfied for a member to be entitled to a period of family absence.

Section 23 of the 2011 Measure allows members who are entitled to a period of family absence to be absent from meetings of the authority, including executive meetings where applicable, during periods of family absence, in accord with regulations made under this Part of the 2011 Measure. The 2011 Measure creates an entitlement to five types of family absence: maternity absence; newborn absence; adopter’s absence; new adoption absence; and parental absence.

The entitlement created by the 2011 Measure is subject to members satisfying conditions prescribed by the Welsh Ministers in the Regulations.

The Welsh Ministers, in exercise of the powers conferred by sections 9, 24, 25, 26, 27, 28, 29 and 172 of the 2011 Measure, make these Regulations.

## **4. Purpose & intended effect of the legislation**

- 4.1 Sections 23 to 33 of the 2011 Measure make available to members of local authorities an entitlement to a period of family absence.
- 4.2 They are designed to permit a member of a principal council to have authorised absence from council duties for a specified period of time – dependent on the type of absence – in relation to the birth or adoption of a child.

- 4.3 The Regulations prescribe the conditions that members of local authorities must satisfy to be entitled to a period of family absence and also make provision, amongst other things, about the extent of the various periods of absence; the cancellation of periods of absence and bringing absence to an end.
- 4.4 The conditions for qualifying for family absence include notification requirements and, where requested by the head of democratic services, the production of evidence.
- 4.5 The Regulations also make provision relating to record keeping, duties to inform, cancellation of family absence by the local authority, complaints and standing orders relating to the functions of members whilst taking a period of family absence.

### **Regulatory Impact Assessment (RIA)**

- 5.1 Options for achieving the policy objectives in relation to the Regulations, as discussed in Section 4, are:

Option 1 – Do nothing and do not make the Regulations;  
Option 2 – Make the Regulations.

#### *Option 1 – Costs and benefits*

- 5.2 There would be no financial costs to the Welsh Government or local authorities as a result of failing to make the Regulations. Doing nothing, however, would prevent local authorities from introducing family absence arrangements for their members.

#### *Option 2 - Costs and Benefits*

- 5.3 Making the Regulations will enable the introduction of family absence entitlement for members of county and county borough councils. The introduction of the Regulations makes clear that giving birth to or adopting children, or giving support to a partner in this position, is a legitimate reason for councillors being unable to fulfil their duties and is an important equal opportunities reform.
- 5.4 There is a potential cost to the authority concerned if the Independent Remuneration Panel for Wales decide that any additional remuneration is payable to a councillor who may deputise for the absent councillor in some way.

## **6. Consultation**

6.1 The Welsh Government issued an electronic public consultation on the draft Regulations. The consultation ran for 12 weeks from 22<sup>nd</sup> March to 14<sup>th</sup> June and requested views on the content of the draft Regulations, and on the draft statutory guidance.

6.2 The consultation was available on the Welsh Government website, and was sent directly to:

The Equality and Human Rights Commission  
Leaders and Chief Executives of County and County Borough Councils  
Head of Democratic/Members Services of County and County Borough Councils  
Monitoring Officers of County and County Borough Councils  
Lawyers in Local Government  
The Welsh Local Government Association  
Independent Remuneration Panel for Wales

6.3 A total of 12 responses were received, several respondents welcomed the introduction of the new entitlements for family absence.

## **Competition Assessment**

7.1 There are no market implications associated with the making of these Regulations. It has no impact on business, charities or the voluntary sector.