

**EXPLANATORY MEMORANDUM TO THE GOVERNMENT OF WALES
ACT 1998 (LOCAL DEMOCRACY AND BOUNDARY COMMISSION FOR
WALES) (AMENDMENT) ORDER 2016**

This Explanatory Memorandum has been prepared by the Education and Public Services Group and is laid before the National Assembly for Wales 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 1998 (Local Democracy and Boundary Commission for Wales) (Amendment) Order 2016.

Mark Drakeford
Cabinet Secretary for Finance and Local Government

13 September 2016

1. Description

1.1 The Government of Wales Act 1998 (Local Democracy and Boundary Commission for Wales) (Amendment) Order 2016 (“the Order”) amends paragraph 4 of Schedule 17 to the Government of Wales Act 1998, by altering the description of one of the bodies listed in the Schedule.

1.2 Schedule 17 to the Government of Wales Act 1998 (“the 1998 Act”) provides a list of Welsh public bodies which are subject to some provisions in the 1998 Act regarding accounts and audit. Paragraph 4 currently provides that the ‘Local Government Boundary Commission for Wales’ is one of those Welsh Public Bodies.

1.3 The Local Government (Democracy) (Wales) Act 2013 (“the 2013 Act”) reformed the framework of rules within which the then called Local Government Boundary Commission for Wales operated. The 2013 Act enhanced its responsibilities and changed its name to ‘The Local Democracy and Boundary Commission for Wales’.

1.4 This Order will amend paragraph 4 of Schedule 17 to the Government of Wales Act 1998, by replacing the reference to the ‘Local Government Boundary Commission for Wales’ with a reference to the ‘Local Democracy and Boundary Commission for Wales’ to reflect the changes introduced by the 2013 Act.

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

2.1 None

3. Legislative background

3.1 Under section 144(8)(c) of the Government of Wales Act 1998, the Welsh Ministers may make an Order to amend any of the Parts of Schedule 17 by altering the description of any body. This power was originally vested in the Secretary of State, but section 144(8) was amended by paragraph 45(7)(a) of Schedule 10 to the Government of Wales Act 2006 so as to substitute the Welsh Ministers for the Secretary of State

3.2 In accordance with section 144(8ZA), this Order is subject to the approval of the National Assembly for Wales (the affirmative procedure).

4. Purpose and intended effect of the legislation

Background

4.1 The Local Government (Democracy) (Wales) Act 2013 reformed the framework of rules within which the then called Local Government Boundary Commission for Wales operated. The Act enhanced its responsibilities and changed its name. Under section 2 of the Act, the new name is the Local Democracy and Boundary Commission for Wales

The issue

4.2 This Order is needed as a consequence of that Act

Purpose

4.3 This Order will amend paragraph 4 of Schedule 17 to the Local Government of Wales Act 1989 so the name “Local Government Boundary Commission for Wales” is substituted by “Local Democracy and Boundary Commission for Wales”

Effect

4.4 The effect of the Order is that the Welsh Ministers will be able to make orders regarding the accounts, auditing and reporting of the ‘Local Democracy and Boundary Commission for Wales’, in accordance with section 144 of the 1998 Act

Risk if legislation changes are not made

4.5 If the Local Democracy and Boundary Commission for Wales is not correctly specified in Schedule 17, the following risks could be realised:

- A key component of good governance may not be provided - the Welsh Ministers may not be able to direct the financial management of Commission / not be able to exercise their powers under section 144 of the 1998 Act and make provisions regarding the accounts, auditing and reporting of the Local Democracy and Boundary Commission for Wales
- There might be inconsistency in terms of the financial management duties placed on organisations in the same sectors.

5. Consultation

5.1 As this Order is a technical consequence of the Local Government (Democracy) (Wales) Act 2013 changing the name of a Welsh Government Sponsored Body, the Welsh Ministers have not consulted on this Order.

6. Regulatory Impact Assessment (RIA)

6.1 No Regulatory Impact Assessment has been completed for this Order is not expected to impose any cost on business, local government or the voluntary sector. This is consistent with the Welsh Ministers' Regulatory Impact Assessment Code for Subordinate Legislation. The costs relating to the Local Democracy and Boundary Commission's change of name were considered as part of the Regulatory Impact Assessment for the Local Democracy (Wales) Act 2013.