

EXPLANATORY MEMORANDUM

Explanatory Memorandum to the Local Authorities (Capital Finance and Accounting) (Wales) (Amendment) Regulations 2020

This Explanatory Memorandum has been prepared by Local Government Finance Policy Division in the Education and Public Services Division and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

Ministers Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Local Authorities (Capital Finance and Accounting) (Wales) (Amendment) Regulations 2020.



Julie James
Minister for Housing and Local Government
4 February 2020

i. Description

This Statutory Instrument amends existing Regulations, the Local Authorities (Capital Finance and Accounting) (Wales) Regulations 2003 (“the 2003 Regulations”).

The 2003 Regulations provide the regulatory regime for accounting practices to be followed by a local authority in Wales. They contain detailed provisions for the capital finance and accounting controls, including the rules on the use of capital receipts and what is to be treated as capital expenditure. They also modify accounting practice in various ways to prevent adverse impacts on authorities’ revenue resources.

The Local Authorities (Capital Finance and Accounting) (Wales) (Amendment) Regulations 2020 (“the Regulations”) make provision in connection with the local government capital finance and accounting regime in Wales. Specifically the 2020 Regulations will mitigate the impact of fair value movements on pooled investment funds on local authority budget setting due to new International Financial Reporting Standards (IFRS) for Financial Instruments (IFRS9). This will place local authorities in Wales on an equivalent footing to counterparts in England.

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

None.

iii. Legislative Background

Under Part 1 of the Local Government Act 2003 (“the 2003 Act”), the Welsh Ministers have power to make provisions in regulations regarding certain aspects of capital finance and accounting rules and practices. The powers are expressed as being those of the Secretary of State, however, section 24 of the 2003 Act provides that in its application to Wales, Part 1 has effect as if for any reference to the Secretary of State there were substituted a reference to the Welsh Ministers.

In particular, the Regulations are made by the Welsh Ministers in exercise of the powers conferred by section 21(1), 24 and 123(1) of the 2003 Act.

The Regulations are subject to the negative resolution procedure.

iv. Purpose and intended effect of the legislation

The 2003 Regulations contain detailed provisions for the capital finance and accounting controls applicable to local government bodies in Wales, including the rules on the use of capital receipts and what is to be treated as capital expenditure.

They also modify accounting practice in various ways to prevent adverse impacts on authorities' revenue resources.

The Regulations make one important change:-

Many local authorities have holdings in pooled investment funds. Pooled investment funds are viewed as a safe alternative investment to bank deposits and are often used by local authorities as a way to manage cash efficiently. In theory, pooled investment funds offer investors a larger diversification than regular bank deposits and generate higher returns.

The Regulations amend the 2003 Regulations to mitigate the impact of fair value movements on pooled investment funds on local authority budget setting due to new International Financial Reporting Standards (IFRS) for Financial Instruments (IFRS9). This will place local authorities in Wales on an equivalent footing to counterparts in England.

The amendments to the 2003 Regulations will come into force before 31 March 2020.

v. Consultation

A consultation on the proposed amendments to the 2003 Regulations was undertaken over the period from 14 November 2019 to 31 December 2019 with key stakeholders. This included, all local government bodies in Wales, Wales Audit Office, Welsh Local Government Association, One Voice Wales and the Chartered Institute of Public Finance and Accountancy.

Stakeholders were invited to comment on the proposed 2020 Regulations. In total, 4 responses were received. Responses were received from the following categories of organisations and individuals.

Local Authorities – 3
Others – 1

There were no changes made to the draft regulations as a result of responses. The local authority responses were all supportive of the proposed amendments and welcomed the move to align the Welsh regulations to those in England.

The remaining response was from a treasury management advisor and was generally supportive but suggested an amendment to the definition of a pooled investment fund and to mitigate the impact of the withdrawal from the EU on exit day. Amendments to the Regulations had been made in 2017 and dealt with both issues raised. The advisor also suggested that gains and losses incurred in 2018-19 be included. This has not been incorporated as all accounts for the Welsh authorities for that financial year have been completed and audited with no concerns raised.

vi. Regulatory Impact Assessment (RIA)

A regulatory impact assessment has not been produced for this instrument as the amendments to the Regulations do not create an additional regulatory burden. No impact on business, charities or the voluntary sector is foreseen.

vii. Post implementation review

The current regulatory framework has been in place since December 2003. Since that time the effectiveness of the system in place has been kept under regular review by the Welsh Government and in regular formal and informal situations with interested stakeholders, examples being Local Authorities, Welsh Local Government Association and Wales Audit Office.

viii. Summary

The 2020 Regulations will mitigate the impact of fair value movements on pooled investment funds on local authority budget setting due to new International Financial Reporting Standards (IFRS) for Financial Instruments (IFRS9). This will place local authorities in Wales on an equivalent footing to counterparts in England.