

EXPLANATORY MEMORANDUM TO

THE LOCAL GOVERNMENT (CONSTITUTING A JOINT COMMITTEE A BODY CORPORATE) ORDER (NORTHERN IRELAND) 2015

SR 2015 No. 183

Introduction

This Explanatory Memorandum has been prepared by the Department of the Environment (the Department) to accompany S.R. 2015 No. 183 which is laid before the Northern Ireland Assembly.

The Statutory Rule is made in exercise of the powers conferred by Section 19(9) of the Local Government Act (Northern Ireland) 1972 (the 1972 Act) and Section 14(2) of the Local Government Act (Northern Ireland) 2014 (the 2014 Act) and is subject to the negative resolution procedure.

Purpose

The purpose of the Statutory Rule is to reconstitute the joint committee known as arc21 as a body corporate after the reform of local government takes effect on 1 April 2015 to ensure its continuation, and to dissolve the body corporate known as SWaMP2008.

The Rule will constitute the arc21 joint committee formed by the new participant councils as a body corporate and fix its functions. It will revoke the Local Government (Constituting Joint Committees as Bodies Corporate) Order (Northern Ireland) 2012.

The Rule makes provision for the proper transfer of staff, assets and liabilities of the existing arc21 to the successor arc21 and from SWaMP2008 to the Council for the District of Armagh, Banbridge and Craigavon. It applies the Transfer of Undertakings (Protection of Employment) Regulations 2006 to the transfer of staff, and makes specific provision for the transfer of their pension rights and liabilities.

Background

Under the provisions of Section 19 of the 1972 Act, a council may concur with one or more other councils to appoint a joint committee for any purpose of joint interest, and may delegate to the committee any functions of the council relating to the purpose for which it is formed.

Section 19(9) of the 1972 Act confers on the Department the power, upon application by the councils concerned, to make provision by order for the purpose of constituting a joint committee as a body corporate; fixing the functions of the body corporate and applying to that body any transferred provision. It also provides for the winding up and dissolution of that body.

District councils were encouraged to form groups and partnerships for the purpose of waste management planning in the first Waste Management Strategy for Northern Ireland published in March 2000. The arc21 joint committee was constituted as a body corporate in 2004 and the SWaMP2008 joint committee was constituted as a body corporate in 2008, for the purpose of implementing the policies set out in their Waste Management Plans. The Local Government (Constituting Joint Committees as Bodies Corporate) Order (Northern Ireland) 2012 consolidated the previous Orders and made consequential amendments to the functions and provisions of the arc21 and SWaMP2008 bodies corporate.

The Department wrote to the Chief Executives of the 11 new District Councils seeking decisions on the future working arrangement for local government waste management. The arc21 councils advised that they wished to continue as body corporate, and the SWaMP2008 council advised that they did not wish to apply for body corporate status and the Department was requested to dissolve SWaMP2008.

However, the addition of the arc21 joint committee of the existing Newry and Mourne District Council means that the successor arc21 will not be geographically coterminous with the existing arc21, and the Department was advised that the best way to give legislative effect to the wishes of the new councils is through a new Order which would dissolve the existing arc21 and SWaMP2008 under the provisions of section 19 of the 1972 Act, and incorporate the new arc21 joint committee under the provisions of the 2014 Act.

Consultation

Throughout the process of developing this legislation, the Department has engaged with arc21, SWaMP2008 and their constituent councils, and wrote to the Chief Executives of the new councils seeking decisions on the preferred future arrangements for waste management. Given that the changes are an internal local government matter, the Department considers that it is not necessary to have a more general consultation.

Equality Impact

There are no equality issues associated with the proposed legislation.

Regulatory Impact

A Regulatory Impact Assessment was not required as there would be no costs or savings resulting from the proposed legislation.

Financial Implications

There are no financial implications associated with these regulations.

Section 24 of the Northern Ireland Act 1998

The Statutory Rule complies with the provisions set out in Section 24 of the Northern Ireland Act 1988.

EU Implications

There are no EU implications associated with this legislation.

Parity or Replicatory Measure

There are no similar measures in England, Scotland or Wales.