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WELSH STATUTORY INSTRUMENTS

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**2021 No. 1166 (W. 288)**

**LOCAL GOVERNMENT, WALES**

**The General Power of Competence (Commercial Purpose) (Conditions) (Wales) Regulations 2021**

*Made* - - - - - *20 October 2021*

*Coming into force* - - - - - *1 November 2021*

The Welsh Ministers make the following Regulations in exercise of the powers conferred upon them by section 28(4), 28(5)(b) and 28(6)(c) of the Local Government and Elections (Wales) Act 2021<sup>(1)</sup>.

In accordance with section 174(5)(b) of that Act, a draft of this instrument has been laid before, and approved by a resolution of, Senedd Cymru.

In accordance with section 28(7) of that Act, the Welsh Ministers have consulted such persons as appear to the Welsh Ministers likely to be affected by these Regulations.

**Title, commencement and interpretation**

**1.**—(1) The title of these Regulations is the General Power of Competence (Commercial Purpose) (Conditions) (Wales) Regulations 2021 and they come into force on 1 November 2021.

(2) In these Regulations—

“the 2021 Act” (“*Deddf 2021*”) means the Local Government and Elections (Wales) Act 2021;

“authority” (“*awdurdod*”) means a principal council within the meaning of section 171(1) of the 2021 Act [F1 or an eligible community council within the meaning of section 30(1) of the 2021 Act] ;

“company” (“*cwmni*”) means a company within the meaning of section 27(4) of the 2021 Act;

“the general power” (“*y pŵer cyffredinol*”) means the general power of competence conferred on an authority by section 24 of the 2021 Act.

**F1** Words in reg. 1(2) inserted (5.5.2022) by The General Power of Competence (Commercial Purpose) (Conditions) (Wales) (Amendment) Regulations 2022 (S.I. 2022/423), regs. 1(2), 2

**Commencement Information**

**11** Reg. 1 in force at 1.11.2021, see reg. 1(1)

*Status: Point in time view as at 05/05/2022.*

*Changes to legislation: There are currently no known outstanding effects for the The General Power of Competence (Commercial Purpose) (Conditions) (Wales) Regulations 2021. (See end of Document for details)*

## Conditions to be met before exercising the general power to do things for a commercial purpose

2.—(1) Before exercising the general power to do things for a commercial purpose, an authority must—

- (a) prepare a business case in support of the proposed exercise of the general power; and
  - (b) approve that business case.
- (2) A “business case” under regulation 2(1) means a comprehensive statement as to—
- (a) the aims and objectives of the proposed exercise of the general power;
  - (b) the costs, investments and other resources required to achieve those aims and objectives;
  - (c) the financial outcomes that are expected to be achieved by the proposed exercise of the general power;
  - (d) any other relevant outcomes that are expected to be achieved by the proposed exercise of the general power;
  - (e) any risks associated with the proposed exercise of the general power including an assessment of the severity of those risks, and any actions that the authority proposes to take to mitigate those risks;
  - (f) the impact (including on the terms and conditions of employment) on any staff that it intends to supply to a company through which it is exercising the general power to do things for a commercial purpose; and
  - (g) the intended arrangements for the staffing of the company through which it is exercising the general power to do things for a commercial purpose, including the proposed terms and conditions of employment of any staff to be employed.

### Commencement Information

**I2** Reg. 2 in force at 1.11.2021, see [reg. 1\(1\)](#)

## Publication of business case

3. An authority must publish any business case approved in accordance with regulation 2(1)(b) as soon as reasonably practicable.

### Commencement Information

**I3** Reg. 3 in force at 1.11.2021, see [reg. 1\(1\)](#)

## Requirement to recover costs etc

4. An authority must recover the costs of any accommodation, goods, services, staff or any other thing that it supplies to a company through which it is exercising the general power to do things for a commercial purpose, from that company.

### Commencement Information

**I4** Reg. 4 in force at 1.11.2021, see [reg. 1\(1\)](#)

*Rebecca Evans*  
Minister for Finance and Local Government, one  
of the Welsh Ministers

**Status:** Point in time view as at 05/05/2022.

**Changes to legislation:** There are currently no known outstanding effects for the The General Power of Competence (Commercial Purpose) (Conditions) (Wales) Regulations 2021. (See end of Document for details)

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

Section 24 of the Local Government and Elections (Wales) Act 2021 (“the Act”) confers a general power of competence on principal councils and eligible community councils. In particular, the general power of competence confers on those authorities a power to do certain things for a commercial purpose.

The power to do things for a commercial purpose is subject to conditions set out in section 27 of the Act. Under section 27(2), the exercise of the general power for a commercial purpose must be done through a company.

Section 28(4) of the Act provides a power for the Welsh Ministers to provide, by regulations, for the exercise of the general power to be subject to additional conditions.

Regulation 2 prescribes additional conditions that a principal council must meet before exercising the general power of competence to do things for a commercial purpose.

Regulation 3 requires a principal council to publish any business case approved in accordance with regulation 2(1)(b) as soon as reasonably practicable.

Regulation 4 requires a principal council to recover any costs incurred by it in anything it supplies to a company through which the general power is exercised for a commercial purpose, from that company.

The Welsh Ministers’ Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained from the Local Government Democracy Division, Welsh Government, Cathays Park, Cardiff, CF10 3NQ.

**Status:**

Point in time view as at 05/05/2022.

**Changes to legislation:**

There are currently no known outstanding effects for the The General Power of Competence (Commercial Purpose) (Conditions) (Wales) Regulations 2021.