
WELSH STATUTORY INSTRUMENTS

2021 No. 357 (W. 108)

LOCAL GOVERNMENT, WALES

The Local Authorities (Executive Arrangements)
(Decisions, Documents and Meetings)
(Wales) (Amendment) Regulations 2021

<i>Made</i>	- - - -	<i>18 March 2021</i>
<i>Laid before Senedd Cymru</i>		<i>19 March 2021</i>
<i>Coming into force</i>	- -	<i>1 May 2021</i>

The Welsh Ministers, in exercise of the powers conferred on them by sections 22(6), (7), (8), (9), (10), (11) and (12)(1) and 105(2)(a) and (b) of the Local Government Act 2000(2), make the following Regulations.

Title, commencement and interpretation

1.—(1) The title of these Regulations is the Local Authorities (Executive Arrangements) (Decisions, Documents and Meetings) (Wales) (Amendment) Regulations 2021.

(2) These Regulations come into force on 1 May 2021.

(3) In these Regulations, “the principal Regulations” means the Local Authorities (Executive Arrangements) (Decisions, Documents and Meetings) (Wales) Regulations 2001(3).

Amendment of regulation 2 of the principal Regulations

2. In regulation 2 (interpretation) of the principal Regulations, at the appropriate place insert—
““remote means”, in relation to a meeting to which these Regulations apply, means a meeting held by means of any equipment or other facility which enables persons who are not in the same place to speak to and be heard by each other (whether or not the equipment or facility enables those persons to see or be seen by each other);”.

(1) Paragraph 28 of Schedule 3 to the Localism Act 2011 (c. 20) substituted the words “Welsh Ministers” for “Secretary of State” in section 22 of the Local Government Act 2000. There are other amendments to that section which are not relevant to these Regulations.

(2) 2000 c. 22. See section 22(13) for the definition of “prescribed”.

(3) S.I. 2001/2290 (W. 178), amended by S.I. 2002/1385 (W. 135) and 2007/951 (W. 82), and modified by S.I. 2020/442 (W. 100).

Amendment of regulation 4 of the principal Regulations

3.—(1) Regulation 4(4) (admission of the public to meetings of local authority executives and their committees) of the principal Regulations is amended as follows.

- (2) In paragraph (6), for sub-paragraph (a) (but not the “and” immediately after it) substitute—
- “(a) public notice of the meeting must be given by publishing it on the website of the authority—
- (i) at least three clear days before the meeting, or
 - (ii) if the meeting is convened at shorter notice, then at the time it is convened;”.
- (3) After paragraph (6) insert—
- “(6A) The notice given under paragraph (6)(a) must—
- (a) where the meeting or part of the meeting is open to the public and is held through remote means only, give details of the time of the meeting and how to access it;
 - (b) where the meeting or part of the meeting is open to the public and is held partly through remote means or is not held through remote means, give details of the time and place of the meeting and how to access it;
 - (c) where the meeting is not open to the public and is held partly through remote means or is not held through remote means, give details of the time and place of the meeting and the fact that it is not open to the public;
 - (d) where the meeting is not open to the public and is held through remote means only, give details of the time of the meeting, and the fact that it is being held through remote means only and is not open to the public.”

Amendment of regulation 5 of the principal Regulations

4.—(1) Regulation 5(5) (access to agenda and connected reports for public meetings) of the principal Regulations is amended as follows.

- (2) In paragraph (1), for “open to inspection by members of the public at the principal offices of the authority” substitute “published on the website of the authority”.
- (3) In paragraph (2), for “provided” substitute “published”.
- (4) In paragraph (3)—
- (a) in the words before sub-paragraph (a)—
 - (i) for “to be open to inspection” substitute “to be published on the website of the authority”;
 - (ii) for “so open” substitute “so published”;
 - (b) in sub-paragraph (a), for “open to inspection” substitute “published”;
 - (c) for sub-paragraph (b) substitute—

“(b) where an item is added to an agenda which has been published on the website of the authority, the item (or the revised agenda), and any report for the meeting relating to the item, must be published on the website of the authority from the time the item is added to the agenda;”

(4) Regulation 4 was temporarily modified, by regulation 23(3) of the Local Authorities (Coronavirus) (Meetings) (Wales) Regulations 2020 (S.I. 2020/442 (W. 100)) (“the 2020 Regulations”) in relation to meetings held between 22 April 2020 and the end of 30 April 2021.

(5) Regulation 5 was temporarily modified by regulation 23(4) of the 2020 Regulations in relation to in relation to meetings held between 22 April 2020 and the end of 30 April 2021.

- (d) in the words after sub-paragraph (b), for “open to inspection by the public” substitute “published on the website of the authority”.
- (5) In paragraph (4)(6), in sub-paragraph (a)—
 - (a) for “open to inspection by members of the public” substitute “published on the website of the authority”;
 - (b) omit “for”.
- (6) In paragraph (5), for “open to inspection by the public” substitute “published on the website of the authority”.
- (7) In paragraph (6)—
 - (a) after “excluded” insert “and which is not held through remote means only”;
 - (b) at the end insert “, but where a meeting is held partly through remote means this paragraph does not apply to members of the public attending remotely”.
- (8) In paragraph (8), for “Paragraph (3)” substitute “Paragraph (2)”.

Amendment of regulation 6 of the principal Regulations

5. In regulation 6 (recording of decisions taken at meetings of local authority executives and their committees) of the principal Regulations, in paragraph (2), after sub-paragraph (b) insert—
- “(ba) a record of the names of the members of the decision making body who attended the meeting and of any apologies for absence;”.

Amendment of regulation 7 of the principal Regulations

6. In regulation 7 (recording of executive decisions made by individuals) of the principal Regulations, in paragraph (4), after sub-paragraph (b) insert—
- “(ba) a record of the name of the decision-maker;”.

Amendment of regulation 8 of the principal Regulations

- 7.—(1) Regulation 8(7) (inspection of documents following executive decisions) of the principal Regulations is amended as follows.
- (2) In the heading, for “Inspection” substitute “Publication”.
 - (3) In paragraph (1), for the words after sub-paragraph (b) from “shall” to the end, substitute “is published on the website of the authority as soon as is reasonably practicable”.
 - (4) In paragraph (2) for “available for public inspection” substitute “published”.

Amendment of regulation 9 of the principal Regulations

- 8.—(1) Regulation 9(8) (inspection of background papers) of the principal Regulations is amended as follows.
- (2) In the heading, for “Inspection”, substitute “Publication”.
 - (3) In the words before paragraph (a), for the words from “made” to “public” substitute “published”.

(6) Paragraph (4) was substituted by regulation 2(2) of the Local Authorities (Executive Arrangements) (Decisions, Documents and Meetings) (Wales) (Amendment) Regulations 2002 (S.I. 2002/1385 (W. 135)).

(7) Regulation 8 was temporarily modified by regulation 23(5) of the 2020 Regulations in relation to meetings held, and executive decisions taken, between 22 April 2020 and the end of 30 April 2021.

(8) Regulation 9 was temporarily modified by regulation 23(6) of the 2020 Regulations in relation to meetings held, and executive decisions taken, between 22 April 2020 and the end of 30 April 2021 so that it was to be read as if it were omitted.

(4) For paragraph (b) substitute—

- “(b) each of the documents included in that list must be published on the website of the authority as soon as is reasonably practicable but if, in the opinion of the proper officer, it is not reasonably practicable to publish on the website of the authority a document included in the list at least one copy of the document must be available for inspection by members of the public as soon as is reasonably practicable at the principal offices of the local authority.”

Amendment of regulation 10 of the principal Regulations

9.—(1) Regulation 10(9) (additional rights of access to documents for members of local authorities) of the principal Regulations is amended as follows.

(2) In paragraph (1), in the words after sub-paragraph (b)—

- (a) for “be open to inspection by” substitute “, so far as reasonably practicable, be supplied on request to”;
- (b) for “immediately after” substitute “as soon as reasonably practicable after”.

(3) In paragraphs (2) and (2A), for “available for inspection” substitute “supplied”.

Amendment of regulation 13 of the principal Regulations

10.—(1) Regulation 13(10) (supplementary provision) of the principal Regulations is amended as follows.

(2) In paragraph (3)—

- (a) for “Paragraph (2) does not require or authorise” substitute “No provision of these Regulations requires or authorises”;
- (b) for “that paragraph” substitute “a provision of these Regulations”.

(3) For paragraph (4) substitute—

“(4) Where any document is required by these Regulations to be—

- (a) published on the website of a local authority,
- (b) supplied for the benefit of any newspaper, or
- (c) supplied to, or be open to inspection by, a member of the public,

the publication thereby of any defamatory matter contained in the document is privileged unless the publication is proved to be made with malice.”

(4) After paragraph (4), insert—

“(4A) Any document to which paragraph (4) applies is, for the purposes of paragraph 5 of Schedule 1 to the Defamation Act 1996 (c. 31), to be treated as a document required by law to be open to public inspection.”

(5) In paragraph (5)—

- (a) for “record”, in each place it occurs, substitute “statement”;
- (b) for “available for inspection by members of the public” substitute “published on the website of an authority”;

(9) Regulation 10 was temporarily modified, by regulation 23(7) of the 2020 Regulations, in relation to meetings held, and executive decisions taken, between 22 April 2020 and the end of 30 April 2021.

(10) Regulation 13 was temporarily modified by regulation 23(8) of the 2020 Regulations, in relation to meetings held, and executive decisions taken, between 22 April 2020 and the end of 30 April 2021.

- (c) for “made available for inspection by the public” substitute “remain accessible electronically by members of the public”.
- (6) For paragraph (6) substitute—
- “(6) Any background papers required by regulation 9 to be published on the website of an authority must remain accessible electronically by members of the public for a period of six years beginning with the date on which the decision, to which the background papers relate, was made.”
- (7) After paragraph (6) insert—
- “(6A) Where it is not reasonably practicable to publish on the website of an authority any background papers to which regulation 9 applies, those papers must be retained by the authority and be available for inspection by members of the public for a period of six years beginning with the date on which the decision, to which the background papers relate, was made.
- (6B) A local authority must put in place facilities for members of the public who would otherwise not be able to do so to access documents directed by any provision of these Regulations to be published on the website of the authority or to remain accessible electronically.
- (6C) A local authority must have regard to any guidance issued by the Welsh Ministers about the exercise of their functions under these Regulations.”

Omission of regulation 14 of the principal Regulations

- 11.** Omit regulation 14(11) (Part 2 offences) of the principal Regulations.

Transitional provision

12.—(1) A step specified in paragraph (2) taken before 1 May 2021, in relation to a meeting held on or after that date, is to be treated as having been taken in accordance with the principal Regulations as amended by these Regulations.

- (2) The specified steps are—
- (a) the giving of notice of the meeting in accordance with regulation 4(6) of the principal Regulations as modified by the Local Authorities (Coronavirus) (Meetings) (Wales) Regulations 2020(12);
- (b) the publication of agendas and connected reports for the meeting in accordance with regulation 5(1), (2), (3) and (4) of the principal Regulations as so modified.

18 March 2021

Julie James
Minister for Housing and Local Government,
one of the Welsh Ministers

(11) Regulation 14 was temporarily modified by regulation 23(5) of the 2020 Regulations so that it was to be read as if it were omitted.

(12) [S.I. 2020/442 \(W. 100\)](#).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Local Authorities (Executive Arrangements) (Decisions, Documents and Meetings) (Wales) Regulations 2001 (S.I. 2001/2290 (W. 178)) (“the principal Regulations”).

The principal Regulations apply to meetings of executives of county and county borough councils in Wales which are operating executive arrangements under Part 2 of the Local Government Act 2000.

These Regulations amend the principal Regulations to reflect the fact meetings of executives and their committees may be held partly or solely through remote means. They also require notices and agendas for executive meetings, reports connected with those meetings, written statements of executive decisions, reports considered when taking executive decisions and background papers to be published on an authority’s website, although background papers are not required to be published on the website of an authority if it would not be reasonably practicable to do so.

Amendments are made to the provisions which require certain matters to be recorded following the taking of executive decisions and to the provision made for local authority members who are not executive members to access certain documents.

The supplementary provisions of the principal Regulations relating to the publication and inspection of documents are amended, including to place a requirement on authorities to put in place facilities for members of the public who would otherwise not be able to do so, to access documents directed by any provision of the Regulations to be published on an authority’s website or to remain accessible electronically.

The offences under regulation 14 of the principal Regulations of obstructing rights of inspection or copying under Part 2 of those Regulations or of refusing to supply a copy of certain documents under regulation 13(2) of those Regulations are omitted.

Transitional provision is made in relation to certain provisions of the principal Regulations which were temporarily modified by the Local Authority (Coronavirus) (Meetings) (Wales) Regulations 2020 (S.I. 2020/442 (W. 100)).

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 Welsh Government, Cathays Park, Cardiff CF10 3NQ and on the Welsh Government’s website at www.gov.wales.