EXPLANATORY MEMORANDUM TO

THE LOCAL GOVERNMENT AND ELECTIONS (WALES) ACT 2021 (CORPORATE JOINT COMMITTEES) (CONSEQUENTIAL AMENDMENTS) ORDER 2023

2023 No. [XXXX]

1. Introduction

1.1 This explanatory memorandum has been prepared by the Wales Office and is laid before Parliament by Command of His Majesty.

2. Purpose of the instrument

2.1 This Order seeks to make technical changes to legislation to place Corporate Joint Committees in Wales on the same footing as Welsh local authorities.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Extent and Territorial Application

4.1 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is the same extent as the provision amended.

4.2 The territorial application of this instrument (that is, where the instrument produces a practical effect) is in Wales.

5. European Convention on Human Rights

5.1 The Secretary of State for Wales has made the following statement regarding Human Rights:

"In my view the provisions of the Local Government and Elections (Wales) Act 2021 (Corporate Joint Committees) (Consequential Amendments) Order 2023 are compatible with the Convention rights."

6. Legislative Context

6.1 This Order is made under section 150 of the Government of Wales Act 2006 which enables the making of consequential provision on legislation made by the Senedd Cymru/Welsh Parliament ("the Senedd") where those amendments are outside the Senedd's legislative competence. It makes amendments to legislation in consequence of the Local Government and Elections (Wales) Act 2021.

7. Policy background

What is being done and why?

7.1 The Local Government and Elections (Wales) Act 2021 provides for a framework for regional collaboration between local authorities in Wales.

7.2 Individual sets of Establishment Regulations were approved by the Senedd under Part 5 of the 2021 Act to create four Corporate Joint Committees (CJCs) from 1 April 2021 which are coterminous with Wales' city and growth deal areas.

7.3 A CJC is a corporate body which can employ staff, hold assets and budgets. They are largely subject to the same powers and duties as principal councils in the way they operate. A CJC is only able to exercise local government functions, which are either transferred from its constituent councils or exercised concurrently with them.

7.4 This Order seeks to make the following amendments to legislation to provide for CJCs:

- National Loans Act 1968 – add Corporate Joint Committees to the definition of Local Authority in Paragraph 1, Schedule 4:
- Local Government Act 1972 – add Corporate Joint Committees to the definition of local authorities in section 119;
- Income Tax Act 2007 – amend section 999, definition of Local Authority to include Corporate Joint Committees;
- Corporation Tax Act 2010 – amend section 1130, definition of Local Authority to include Corporate Joint Committees;
- The Redundancy Payments (Continuity of Employment in Local Government, etc.) (Modification) Order 1999 – add Corporate Joint Committees to the list of local government bodies in section 1 of Schedule 1; and
- The Local Government Pension Scheme Regulations 2013 – add the four established Corporate Joint Committees to the list of scheduled employers in Part 1 of Schedule 2 and set out in Part 2 of Schedule 3 which Local Government Pension Scheme administrating authorities will apply to existing individual CJCs.

7.5 Amending the definition of local authorities to add CJCs in the Income Tax Act 2007 will also include CJCs as local authorities for the purpose of the Taxation of Chargeable Gains Act 1992 which adopts the Income Tax definition.

Explanations

What did any law do before the changes to be made by this instrument?

7.6 Section 3 of the National Loans Act 1968 provides that His Majesty's Treasury may issue local loans as are required for making loans of the descriptions set out in Schedule 4 to the 1968 Act. 26.

7.7 Section 119(1) of the Local Government Act 1972 provides that, in the event of the death of an officer of a local authority monies owing to his estate from the local authority must be paid to personal representatives of the estate of the deceased.

7.8 Section 838 of the Income Tax Act 2007 provides that a local authority is not liable to income tax in respect of its income.

7.9 Section 984 of the Corporation Tax Act 2010 provides that a local authority is not liable to corporation tax.

7.10 The Redundancy Payments (Continuity of Employment in Local Government etc.) (Modifications) Order 1999 modifies certain provisions of the Employment Rights Act 1996 concerning redundancy payments for persons employed by certain local government employers or other employers in related sectors.

7.11 The Local Government Pension Scheme Regulations 2013 were made under section 7 of the Superannuation Act 1972. The 2013 Regulations set out who is eligible to be a member of the Local Government Pension Scheme, it also sets out provisions relating to benefits, membership, contributions and how the scheme is to be administered.

What will it now do?

7.12 The amendment to the National Loans Act 1968 extends HM Treasury's power to provide loans to CJCs out of the National Loans Fund in the same way as local authorities.

7.13 The amendment to the Local Government Act 1972 will mean a CJC is able to pay money owed to a deceased member of staff without requiring a grant of probate or letters of administration in the same way as a local authority.

7.14 The amendments to the Income Tax Act 2007 means a CJCs is not liable to tax in respect of its income in the same way as any local authority in the United Kingdom. Because section 288 of the Taxation of Chargeable Gains Act 1992 adopts of the definition of 'local authority' in the Income Tax Act 2010 this amendment also affords CJCs the same rights and obligations as their constituent councils in relation to the taxation of chargeable gains.

7.15 The amendment to the Corporation Tax Act 2010 means a CJC is not liable to corporation tax in the same way as any local authority in the United Kingdom.

7.16 The amendments to the Redundancy Payments (Continuity of Employment in Local Government, etc.) (Modification) Order 1999 will ensure the smooth transition and continuity of employment between CJCs and principal councils ensuring CJC employees have the same rights as principal council staff under that Order.

7.17 The amendments to the Local Government Pension Scheme Regulations 2013 add the four established Corporate Joint Committees to the list of scheduled employers in Part 1 of Schedule 2 and sets out in Part 2 of Schedule 3 which Local Government Pension Scheme administrating authorities will apply to existing individual CJCs to ensure their employees are automatically admitted to the pension scheme.

8. European Union Withdrawal and Future Relationship

8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act

9. Consolidation

9.1 This Order makes amendments to primary legislation. Consolidation is therefore not necessary.

10. Consultation outcome

10.1 The Welsh Government has undertaken a series of public consultations to put in place the legal framework which underpins how CJCs operate. This has including working closely with local authorities in Wales. This engagement identified the need to make the consequential amendments provided for by this Order.

11. Guidance

11.1 The Welsh Government has published Corporate Joint Committees Statutory Guidance[1]. This will be updated early in 2023 to take account of the final ancillary changes to devolved and non-devolved legislation to support CJCs having being made.

12. Impact

12.1 There is no, or no significant, impact on business, charities or voluntary bodies.

12.2 The impact on the public sector is CJCs will be better able to provide for collaborative working at a regional level between constituent local authorities.

12.3 A full Impact Assessment has not been prepared for this instrument because of their comparatively low impact. The Welsh Government however produced a detailed regulatory impact assessment[2] to accompany the Establishment Regulations which assessed the potential costs and benefits associated with establishing CJCs through Regulations.

13. Regulating small business

13.1 The legislation does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

14.1 The Welsh Government will continue to work closely with CJCs in Wales to support their ongoing implementation.

14.2 The instrument does not include a statutory review clause.

15. Contact

15.1 David Harries at the Wales Office Telephone: 07840 009179 or email: David.Harries@ukgovwales.gov.uk can be contacted with any queries regarding the instrument.

15.2 Geth Williams, Deputy Director for Union, at the Wales Office can confirm that this Explanatory Memorandum meets the required standard.

15.3 Rt Hon David T.C. Davies MP, Secretary of State at the Wales Office can confirm that this Explanatory Memorandum meets the required standard.

[1] https://gov.wales/sites/default/files/publications/2022-01/corporate-joint-committees.pdf
[2] https://gov.wales/sites/default/files/consultations/2020-10/regulatory-impact-assessment.pdf