

# SL(5)737 – Local Government (Coronavirus) (Postponement of Elections) (Miscellaneous Amendments) (Wales) Regulations 2021

## Background and Purpose

These Regulations amend the Local Government (Coronavirus) (Postponement of Elections) (Wales) Regulations 2020 (“the 2020 Regulations”) and the Local Government (Coronavirus) (Postponement of Elections) (Wales) (No. 2) Regulations 2020.

Under the 2020 Regulations, postponed by-elections for county and county borough councils or town and community councils that were due to take place between the period commencing on 16th March 2020 and ending on 31st January 2021 are required to be held between 1st February 2021 and 16th April 2021.

The amendments made by these Regulations further postpone those by-elections so that postponed by-elections for county and county borough councils or town and community councils that were due to take place between the period commencing on 16th March 2020 and ending on 28th February 2021 are now required to be held between 1st March 2021 and 6th May 2021.

## Procedure

Negative.

The Regulations were made by the Welsh Ministers before they were laid before the Senedd.

The Senedd can annul the Regulations within 40 days (excluding any days when the Senedd is: (i) dissolved, or (ii) in recess for more than four days) of the date they were laid before the Senedd.

## Technical Scrutiny

No points are identified for reporting under Standing Order 21.2 in respect of this instrument.

## Merits Scrutiny

The following three points are identified for reporting under Standing Order 21.3 in respect of this instrument.

### **1. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd**

We note the breach of the 21-day rule (i.e. the rule that 21 days should pass between the date a “made negative” instrument is laid before the Senedd and the date the instrument



comes into force), and the explanation for the breach provided by Rebecca Evans MS, Minister for Finance and Trefnydd, in a letter to the Llywydd dated 28 January 2021.

In particular, we note what the letter says regarding the previous postponement of local authority by-elections under the 2020 Regulations and the following explanation:

*"...recently, as you will be aware the Coronavirus pandemic has seen another surge and level 4 restrictions put in place. In order to protect public health at this time, it is considered necessary to further postpone these by-elections from a period between 1 March 2021 and 6 May 2021. As the postponed elections were originally due to take place from 1 February, it is necessary to bring forward this set of regulations urgently and therefore bring them in to force as soon as possible. The Local Government (Coronavirus) (Postponement of Elections) (Wales) Regulations 2020 provide that the postponement period expires on 31 January 2021. Not adhering to the 21 day convention allows these Regulations to come into force on 29th January 2021. In view of the circumstances the reduced period is thought necessary and justifiable in this case."*

## **2. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd**

We note there has been no formal consultation on these Regulations. In particular, we note the following paragraphs in the Explanatory Memorandum:

*"Due to the emergency nature of these Regulations the Welsh Government did not undertake a public consultation before the Regulations came into force. Returning Officers have been notified of the intention to make the Regulations to aid them in their preparations."*

## **3. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd**

We note there is no equality impact assessment for these Regulations and ask the Welsh Government to explain what arrangements it has made, in respect of these Regulations, to publish reports of equality impact assessments in accordance with regulation 8(1)(d) of the Equality Act 2010 (Statutory Duties) (Wales) Regulations 2011.

## **Welsh Government response**

A Welsh Government response is required in relation to the final reporting point only.

### **Legal Advisers**

**Legislation, Justice and Constitution Committee**

**2 February 2021**

