

Draft Regulations laid before Senedd Cymru under section 174(5)(b) of the Local Government and Elections (Wales) Act 2021, for approval by resolution of Senedd Cymru.

DRAFT WELSH STATUTORY
INSTRUMENTS

2021 No. (W.)

**LOCAL GOVERNMENT,
WALES**

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

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 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.

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Made

Coming into force

1st November 2021

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

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 1st November 2021.

(2) In these Regulations—

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

(1) 2021 asc1.

“authority” (“*awdurdod*”) means a principal council within the meaning of section 171(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.

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; and
- (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.

Requirement to recover costs etc

3. 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.

Name

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

Date