



# Local Government (Wales) Measure 2011

## 2011 nawm 4

### PART 2

#### FAMILY ABSENCE FOR MEMBERS OF LOCAL AUTHORITIES

#### **23 Right to family absence**

- (1) A member of a local authority who is entitled to a period of family absence may be absent from meetings of the authority during that period of family absence.
- (2) If the member is a member of the local authority's executive, the member may be absent from meetings of the executive during that period of family absence.
- (3) Subsections (1) and (2) are subject to regulations under this Part.
- (4) For the purposes of this Part, a member is entitled to a period of family absence if the member is entitled to a period of—
  - (a) maternity absence (see section 24),
  - (b) newborn absence (see section 25),
  - (c) adopter's absence (see section 26),
  - (d) new adoption absence (see section 27), or
  - (e) parental absence (see section 28).

#### **24 Maternity absence**

- (1) A member of a local authority is entitled to a period of absence ("maternity absence") if the member satisfies prescribed conditions as to maternity.
- (2) The period of maternity absence to which the member is entitled is to be calculated in accordance with regulations.
- (3) The regulations must not provide for a period of maternity absence to exceed 26 weeks.
- (4) Regulations must include provision for determining when maternity absence may be taken.

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- (5) Regulations may allow a member to choose, subject to prescribed restrictions, the date on which a period of maternity absence starts.
- (6) Regulations may prescribe circumstances in which a member of a local authority, or the local authority, may—
  - (a) bring a period of maternity absence to an end, or
  - (b) cancel a period of maternity absence.

## **25 Newborn absence**

- (1) This section applies to a member of a local authority who satisfies prescribed conditions—
  - (a) as to relationship with a newborn, or expected, child, and
  - (b) as to relationship with the child’s mother.
- (2) The member is entitled to a period of absence (“newborn absence”) for the purpose of—
  - (a) caring for the child, or
  - (b) supporting the mother.
- (3) Regulations must include provision for determining—
  - (a) the extent of a member’s entitlement to newborn absence in respect of a child;
  - (b) when newborn absence may be taken.
- (4) Regulations must not provide for a period of newborn absence in respect of a child to exceed two weeks.
- (5) Regulations must require newborn absence to be taken before the end of a prescribed period.
- (6) That period must be a period of at least 56 days beginning with the date of the child’s birth.
- (7) Regulations may prescribe circumstances in which a member of a local authority, or the local authority, may—
  - (a) bring a period of newborn absence to an end, or
  - (b) cancel a period of newborn absence.
- (8) Regulations may—
  - (a) (for the purpose of subsection (2)) prescribe things which are, or are not, to be taken as done for the purpose of caring for a child or supporting the child’s mother;
  - (b) allow a member to choose, subject to prescribed restrictions, the date on which a period of newborn absence starts;
  - (c) make provision excluding an entitlement to newborn absence in respect of a child where more than one child is born as a result of the same pregnancy;
  - (d) make provision about how newborn absence may be taken.
- (9) Where more than one child is born as a result of the same pregnancy, the reference in subsection (6) to the date of the child’s birth is to be read as a reference to the date of birth of the first child born as a result of the pregnancy.
- (10) In this section—

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“newborn child” (“*plentyn newydd-anedig*”) includes a child stillborn after 24 weeks of pregnancy;

“week” (“*wythnos*”) means any period of seven days.

## **26 Adopter’s absence**

- (1) A member of a local authority is entitled to a period of absence (“adopter’s absence”) if the member satisfies prescribed conditions as to adoption of a child.
- (2) Regulations must include provision for determining—
  - (a) the extent of a member’s entitlement to adopter’s absence in respect of a child;
  - (b) when adopter’s absence may be taken.
- (3) Regulations must not provide for a period of adopter’s absence in respect of a child to exceed two weeks.
- (4) Regulations may allow a member to choose, subject to prescribed restrictions, the date on which a period of adopter’s absence starts.
- (5) Regulations may prescribe circumstances in which a member of a local authority, or the local authority, may—
  - (a) bring a period of adopter’s absence to an end, or
  - (b) cancel a period of adopter’s absence.

## **27 New adoption absence**

- (1) This section applies to a member of a local authority who satisfies prescribed conditions—
  - (a) as to relationship with a child placed, or expected to be placed, for adoption under the law of any part of the United Kingdom, and
  - (b) as to relationship with a person with whom the child is, or is expected to be, so placed for adoption.
- (2) The member is entitled to a period of absence (“new adoption absence”) for the purpose of—
  - (a) caring for the child, or
  - (b) supporting the person by reference to whom the member satisfies the condition under subsection (1)(b).
- (3) Regulations must include provision for determining—
  - (a) the extent of a member’s entitlement to new adoption absence in respect of a child;
  - (b) when new adoption absence may be taken.
- (4) Regulations must not provide for a period of new adoption absence in respect of a child to exceed two weeks.
- (5) Regulations must require new adoption absence to be taken before the end of a prescribed period.
- (6) That period must be a period of at least 56 days beginning with the date of the child’s placement for adoption.

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- (7) Regulations may prescribe circumstances in which a member of a local authority, or the local authority, may—
- (a) bring a period of new adoption absence to an end, or
  - (b) cancel a period of new adoption absence.
- (8) Regulations may—
- (a) (for the purpose of subsection (2)) prescribe things which are, or are not, to be taken as done for the purpose of caring for a child or supporting a person with whom a child is placed for adoption;
  - (b) allow a member to choose, subject to prescribed restrictions, the date on which a period of new adoption absence starts;
  - (c) make provision excluding the right to be absent under this section in the case of a member who exercises a right to be absent on adopter’s absence;
  - (d) make provision excluding an entitlement to new adoption absence in respect of a child where more than one child is placed for adoption as part of the same arrangement;
  - (e) make provision about how new adoption absence may be taken.
- (9) Where more than one child is placed for adoption as part of the same arrangement, the reference in subsection (6) to the date of the child’s placement is to be read as a reference to the date of placement of the first child to be placed as part of the arrangement.
- (10) In this section, “week” means any period of seven days.
- (11) The Welsh Ministers may by regulations provide for this section to apply in relation to cases which involve adoption, but not the placement of a child for adoption under the law of any part of the United Kingdom.

## **28 Parental absence**

- (1) This section applies to a member of a local authority who satisfies prescribed conditions as to—
- (a) having responsibility for a child, or
  - (b) expecting to have responsibility for a child.
- (2) The member is entitled to a period of absence (“parental absence”) for the purpose of caring for the child.
- (3) Regulations must include provision for determining—
- (a) the extent of a member’s entitlement to parental absence in respect of a child;
  - (b) when parental absence may be taken.
- (4) Regulations must not provide for parental absence in respect of a child to exceed a period, or a total period, of three months.
- (5) Provision under subsection (3)(b) may (amongst other things) refer to—
- (a) a child’s age, or
  - (b) a prescribed period of time starting from a prescribed event.
- (6) Regulations may prescribe circumstances in which a member of a local authority, or the local authority, may—
- (a) bring a period of parental absence to an end, or

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- (b) cancel a period of parental absence.
- (7) Regulations may—
- (a) (for the purpose of subsection (2)) prescribe things which are, or are not, to be taken as done for the purpose of caring for a child;
  - (b) require parental absence to be taken as a single period of absence in all cases or in prescribed cases;
  - (c) require parental absence to be taken as a series of periods of absence in all cases or in prescribed cases;
  - (d) require all or prescribed parts of a period of parental absence to be taken at or by prescribed times;
  - (e) allow a member to choose, subject to prescribed restrictions, the date on which a period of parental absence starts;
  - (f) make provision about the postponement by a local authority of a period of parental absence which a member wishes to take;
  - (g) prescribe a minimum or maximum period of absence which may be taken as part of a period of parental absence;
  - (h) prescribe a maximum aggregate of periods of parental absence which may be taken during a prescribed period of time.

## **29 Regulations: supplemental**

Regulations under this Part may—

- (a) make provision about notices to be given, evidence to be produced, records to be kept and other procedures to be followed by a member of a local authority or a local authority;
- (b) make provision for the consequences of failure to give notices, to produce evidence, to keep records or to comply with other procedural requirements;
- (c) make provision for the consequences of failure to act in accordance with a notice given by virtue of paragraph (a);
- (d) make provision entitling a member of a local authority (or of the executive) to present a complaint about a decision by a local authority to bring a period of absence to an end or to postpone or cancel a period of absence;
- (e) make provision in connection with an entitlement conferred by virtue of paragraph (d) including, amongst other things, provision about—
  - (i) the grounds on which a complaint may be presented;
  - (ii) the person to whom a complaint may be presented;
  - (iii) procedural conditions to be satisfied;
  - (iv) the making, determination and effect of a complaint;
- (f) make provision about the extent to which a member of a local authority (or of the executive)—
  - (i) may act as a member of the authority (or the executive) during a period of absence;
  - (ii) is entitled to any benefits arising from membership of the authority (or the executive) during a period of absence;
  - (iii) is bound by any duty arising from membership of the authority (or the executive) during a period of absence.
- (g) apply, or make modifications of, an enactment.

### **30 Guidance**

When exercising its functions, a local authority must have regard to guidance given by the Welsh Ministers in relation to the rights of members of the authority under this Part.

### **31 Amendment of Local Government Act 1972**

- (1) Section 85 of the Local Government Act 1972 (vacation of office by failure to attend meetings) is amended as follows.
- (2) After subsection (3A) insert—
  - “(3B) Subsections (3C) and (3D) apply for the purpose of calculating the period of six consecutive months under subsection (1) or (2A).
  - (3C) Any period during which a member of a local authority in Wales is exercising a right to absence under Part 2 of the Local Government (Wales) Measure 2011 is to be disregarded.
  - (3D) The following two periods are to be treated as consecutive—
    - (a) the period during which a member of a local authority in Wales fails to attend meetings of the authority or, as the case may be, meetings of the executive that falls immediately before the period described in subsection (3C), and
    - (b) the period that falls immediately after the period described in subsection (3C).”.

### **32 Amendment of Local Government Act 2000**

- (1) Section 11 of the Local Government Act 2000 (local authority executives) is amended as follows.
- (2) After subsection (8) insert—
  - “(8A) For the purposes of subsection (8), no account is to be taken of a member appointed to the executive on a temporary basis to cover the absence of a member exercising a right to a family absence under Part 2 of the Local Government (Wales) Measure 2011.”.

### **33 Interpretation of Part 2**

In this Part—

“executive” (“*gweithrediaeth*”) means any of the following—

- (a) a leader and cabinet executive (Wales);
- (b) a mayor and cabinet executive;

“meeting of the authority” (“*cyfarfod o'r awrdurdod*”) means any of the following—

- (a) a meeting of the local authority;
- (b) a meeting of any committee or sub-committee of the authority;
- (c) a meeting of any joint-committee, joint board or other body by whom for the time being functions of the authority are being discharged;
- (d) a meeting of any body appointed to advise the authority on any matter relating to the discharge of the authority's functions;

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(e) a meeting of any body at which the authority is represented.

“meeting of the executive” (“*cyfarfod o'r weithrediaeth*”) means any of the following—

- (a) a meeting of the executive;
- (b) a meeting of any committee of the executive;
- (c) discharge by a member, acting alone, of any function which is the responsibility of the executive;

“member of a local authority” (“*aelod o awrdurdod lleol*”) includes an elected mayor (within the meaning of section 39(1) of the Local Government Act 2000) or elected executive member (within the meaning of section 39(4) of that Act) of the authority;

“regulations” (“*rheoliadau*”) means regulations made by the Welsh Ministers.