

Agenda – Constitutional and Legislative Affairs Committee

Meeting Venue:

Committee Room 3 – Senedd

Meeting date: 29 April 2019

Meeting time: 10.00

For further information contact:

Gareth Williams

Committee Clerk

0300 200 6362

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1 Introduction, apologies, substitutions and declarations of interest

2 Senedd and Elections (Wales) Bill: Evidence session 9

(10.00–11.00)

(Pages 1 – 33)

Amanda Bebb, Wales Deputy Chair, Association of Electoral Administrators

Peter Stanyon, Chief Executive, Association of Electoral Administrators

Rhys George, Electoral Services Manager, Association of Electoral Administrators

Professor Elan Closs Stephens, Electoral Commissioner for Wales

Bob Posner, Chief Executive, Electoral Commission

Rhydian Thomas, Head of Electoral Commission, Wales

CLA(5)–13–19 – Briefing 1

CLA(5)–13–19 – Paper 1 – Written evidence (Association of Electoral Administrators)

CLA(5)–13–19 – Paper 2 – Written evidence (Electoral Commission)

3 Senedd and Elections (Wales) Bill: Evidence session 10

(11.00–12.30)

(Pages 34 – 51)

Jeremy Miles AM, Counsel General

Chris Warner, Deputy Director, Constitution and Justice

Bethan Roberts, Lawyer

Lisa James, Deputy Director, Local Government Democracy Division



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Wales

CLA(5)–13–19 – Briefing 2

Break

(12.30–14.00)

4 Instruments that raise no reporting issues under Standing Order 21.2 or 21.3

(14.00)

(Pages 52 – 53)

CLA(5)–13–19 – Paper 3 – Statutory instruments with clear reports

Negative Resolution Instruments

4.1 SL(5)406 – The Rural Affairs (Miscellaneous Amendments) (Wales) Regulations 2019

5 Instruments that raise issues to be reported to the Assembly under Standing Order 21.2 or 21.3

(14.05)

Negative Resolution Instruments

5.1 SL(5)409 The Nitrate Pollution Prevention (Wales) (Amendment) Regulations 2019

(Pages 54 – 62)

CLA(5)–13–19 – Paper 4 – Report

CLA(5)–13–19 – Paper 5 – Regulations

CLA(5)–13–19 – Paper 6 – Explanatory Memorandum

6 Instruments that raise issues to be reported to the Assembly under Standing Order 21.2 or 21.3 – previously considered

(14.10)

6.1 SL(5)398 – The Animals and Animal Products (Examination for Residues and Maximum Residue Limits) (Wales) Regulations 2019

(Pages 63 – 65)

CLA(5)–13–19 – Paper 7 – Report

CLA(5)–13–19 – Paper 8 – Government response

7 Instruments that raise issues to be reported to the Assembly under Standing Order 21.7

(14.15)

7.1 C(5)032 – The Regulation and Inspection of Social Care (Wales) Act 2016 (Commencement No. 6, Savings and Transitional Provisions) Order 2019

(Pages 66 – 82)

CLA(5)–13–19 – Paper 9 – Report

CLA(5)–13–19 – Paper 10 – Order

8 Written statements under Standing Order 30C

(14.20)

8.1 WS–30C(5)128 – The Competitiveness of Enterprises and Small and Medium Enterprises (Revocation) (EU Exit) Regulations 2019

(Pages 83 – 86)

CLA(5)–13–19 – Paper 11 – Statement

CLA(5)–13–19 – Paper 12 – Commentary

8.2 WS–30C(5)129 – The Common Agricultural Policy and Market Measures (Miscellaneous Amendments) (EU Exit) Regulations 2019

(Pages 87 – 91)

CLA(5)–13–19 – Paper 13 – Statement

CLA(5)–13–19 – Paper 14 – Commentary

8.3 WS–30C(5)130 – The Greenhouse Gas Emissions Trading Scheme (Amendment) (EU Exit) (No. 2) Regulations 2019

(Pages 92 – 95)

CLA(5)–13–19 – Paper 15 – Statement

CLA(5)–13–19 – Paper 16 – Commentary

9 Paper(s) to note

(14.25)

9.1 Letter from Robin Walker MP, Parliamentary Under Secretary of State for Exiting the European Union: Regulations made under the European Union (Withdrawal) Act 2018

(Pages 96 – 97)

CLA(5)–13–19 – Paper 17 – Letter from Robin Walker MP, 1 April 2019

9.2 Letter from Llywydd: Senedd and Elections (Wales) Bill

(Pages 98 – 139)

CLA(5)–13–19 – Paper 18 – Letter from Llywydd, 2 April 2019

9.3 Letter from the Counsel General: Developments of National Significance (Wales) (Amendment) Regulations 2019

(Pages 140 – 141)

CLA(5)–13–19 – Paper 19 – Letter from the Counsel General, 4 April 2019

9.4 Letter from the Minister for Finance and Trefnydd: Amending subordinate legislation – timescales

(Pages 142 – 143)

CLA(5)–13–19 – Paper 20 – Letter from the Minister for Finance and Trefnydd, 4 April 2019

9.5 Letter from the Minister for Finance and Trefnydd: Written statements under Standing Order 30C

(Pages 144 – 145)

CLA(5)–13–19 – Paper 21 – Letter from the Minister for Finance and Trefnydd, 4 April 2019

9.6 Letter from the Counsel General: Drafting of regulations

(Pages 146 – 147)

CLA(5)–13–19 – Paper 22 – Letter from the Counsel General, 9 April 2019

9.7 Letter from the Minister for Energy, Environment & Rural Affairs: The Legislative Consent Memorandum in relation to the Rivers Authorities and Land Drainage Bill

(Pages 148 – 149)

CLA(5)–13–19 – Paper 23 – Letter from the Minister for Energy, Environment & Rural Affairs, 18 April 2019

9.8 Letter from Revd Gethin Rhys, Cytûn, to the First Minister: Arrangements for devolved legislation before and after Brexit

(Pages 150 – 151)

CLA(5)–13–19 – Paper 24 – Letter from Revd Gethin Rhys, Cytûn, to the First Minister, 18 April 2019

9.9 Letter from the Minister for International Relations and the Welsh Language: UK Trade Bill – Supplementary Legislative Consent Memorandum

(Pages 152 – 156)

CLA(5)–13–19 – Paper 25 – Letter from the Minister for International Relations and the Welsh Language, 25 April 2019

9.10 Letter from the Solicitor General to the Counsel General: Legislation (Wales) Bill

(Pages 157 – 158)

CLA(5)–13–19 – Paper 26 – Letter from the Solicitor General to the Counsel General, 25 April 2019

10 Senedd and Elections (Wales) Bill: Evidence session 11

(14.30–15.00)

(Pages 159 – 164)

Manon Antoniazzi, Chief Executive and Clerk of the Assembly

Nia Morgan, Director of Finance

CLA(5)–13–19 – Briefing 3

11 Motion under Standing Order 17.42 to resolve to exclude the public from the meeting for the following business:

12 Senedd and Elections (Wales) Bill: Consideration of evidence

(15.00)

13 Commencement orders

(15.15)

(Pages 165 – 167)

CLA(5)–13–19 – Paper 27 – C(5)031 The Public Health (Wales) Act 2017
(Commencement No. 4) Order 2019

Date of the next meeting – 7 May 2019

Document is Restricted

Response to the Senedd and Elections (Wales) Bill

Explanatory Memorandum: Incorporating the Regulatory Impact Assessment and Explanatory Notes - February 2019

1. Organisation: Association of Electoral Administrators (AEA). A joint response from the National AEA and the Wales Branch of the AEA.

2. Summary of Organisation: The AEA was founded in 1987 and is the professional body representing the interests of electoral administrators in the United Kingdom. It is a non-governmental and non-partisan body and has 1,917 members, the majority of whom are employed by local authorities to provide electoral registration and election services. There are eleven regional branches of the Association covering the United Kingdom, one of which is Wales.

3. Contact Details:

National AEA: Peter Stanyon, Chief Executive
Wales Branch of the AEA: Rhys George, Chair of Wales AEA branch

4. Comments:

We have noted that the consultation on the Senedd and Elections (Wales) Bill Explanatory Memorandum has no specific questions to respond to. As a result, we have linked our comments to themes and provided end notes as references throughout our response.

There are four specific areas outlined in the Bill that we have chosen not to comment on as they are not relevant to the objectives of the Association, namely:

- Renaming of the Welsh Assembly to Senedd and associated other costs, for example signage, and members costs etc.;
- Disqualifications from being an Assembly member;
- Extension of the deadline for the first meeting of the Assembly after an election; and
- Assembly Commission powers to charge for goods and services.

4.1 Funding

Local Authority Finance

The Association notes that throughout the document, reference is made to local authorities being expected to meet the costs of the proposed changes. As examples, the transitional costs quoted for local authorities being £1,582,500ⁱ with the website update costs being £20,000ⁱⁱ. We have highlighted other costs throughout our response.

The Association has significant concerns that local authorities are to be expected to meet the additional costs outlined in the Bill especially at a time when their budgets have been significantly reduced over recent years. We are concerned that funding may not be available to meet these additional costs.

Changes to the franchise are as a result of changes proposed by the Welsh Assembly and therefore, we believe the additional costs should be fully met by the Welsh Assembly by providing ring-fenced grant funding to each local authority.

By way of background, in Scotland all costs relating to changes to the franchise were fully funded with local authorities not being expected to bear the responsibility of the additional costs.

Costs relating to changing the attainment age

The figures quoted in Table 25ⁱⁱⁱ do not provide a breakdown of how the costs to introduce provisions to reduce the voting age for Assembly elections to 16 were calculated. It is assumed the costs are based on the additional costs to the Electoral Registration Officer (ERO) in registering 16 and 17-year-old electors including attainers. However, it is not just the costs of registering these electors that needs to be considered but others such as the issue and processing of absent vote applications for those eligible as requested.

Throughout the report, there is no mention of Canvass Reform, which is proposed to be introduced for the annual registration canvass taking place

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in 2020. The UK Government's funding for registration will be reduced in 2020 as a result of the savings arising from the introduction of Canvass Reform. However, if EROs in Wales cannot fully implement Canvass Reform and achieve the full savings because of the need to register 16 and 17-year olds, along with 14 and 15-year old attainers, the proposed savings will not be achieved in Wales. As a result, not only do the additional costs of registering 14 to 17-year olds need to be considered but also the financial impact of Canvass Reform not being implemented fully in Wales.

In addition, the Bill outlines that the cost of registering 16 and 17-year olds would increase annual registration costs for Wales by approximately £84,200^{iv}. There would also be significant additional costs in registering attainers i.e. 14 and 15-year olds, which do not appear to have been factored in to any calculations.

Cost assumptions

The Association also has significant concerns regarding the calculations provided in the Bill as the figures used relate to costs before the introduction of Individual Electoral Registration (IER). The Bill states that the costs used to calculate the average cost per voter as being taken from financial information surveys dated 2009-10 and 2010-11 plus inflation^v. However, these costs are significantly underestimated and out of date due to the introduction of IER from 10 June 2014 through provisions in the Electoral Registration and Administration Act 2013.

IER introduced a two-stage registration process, with the completion of the Household Enquiry Form (HEF) by each household followed by the completion of an Invitation to Register (ITR) by each eligible applicant, plus reminders and follow up (including personal canvassing) as required for both processes.

In addition, online registration, which was introduced at the same time as IER, makes registration easier and more accessible but has other implications such as increased volume of registrations, often immediately before election registration deadlines ahead of elections, and applications from existing electors, i.e. duplicates. The current true costs of registration therefore need to be identified. The UK Government's Cabinet Office should be able to assist in providing the average cost per elector under IER.

Engagement

The Bill also highlights that the forthcoming Local Government and Elections (Wales) Bill includes provisions to place a duty on local

authorities to promote awareness among relevant young people of the arrangements for electoral registration that apply to them and to assist them to register. The Welsh Government are exploring whether any additional funding could be made available for this purpose and it has been estimated that each local authority would deploy one half time officer for this purpose and allocate a modest working budget of £10,000^{vi}.

Subject to the support received from local authority education departments, it is likely that a full-time officer would be required as they will not only be required to register students but also undertake a programme of education with 13-year olds on the importance of registering, how to register and how to vote. This is in addition to working with other sections of the community, including students over the age of 18, nursing homes and, if Local Government Reform proposals are implemented, nationalities who have previously not been able to register. Consideration must also be made for those students who are 'home tutored' and outside the scope of formal education.

Engagement for the under 16-year olds is even more vital due to the proposal outlined in the Bill for the removal of the ERO requirement to carry out house to house enquiries in relation to under 16-year olds^{vii}, which could lead to further difficulties in registering young people.

Electoral Management Software

The Bill refers to the 22 local authorities using three different Electoral Management Systems (EMS) to maintain the electoral register. It should be remembered that changes to Returning Officer (RO) functionality will also be required, for example in order to produce poll card data and polling station registers.

The Bill states that the necessary one-off cost^{viii} of changes to the EMS would need to be funded by local authorities. We believe the Welsh Assembly should scope, commission, oversee, monitor and pay each EMS supplier directly for the software changes, much in the same way the UK Government did for IER.

In light of the onus being placed on local authorities throughout the Bill, the Association has concerns as to whether the Welsh Assembly has contacted the EMS suppliers to discuss the extent of the software changes required and timescales for development, testing and software release to ensure there is sufficient time to implement the changes especially as we are aware their workload already involves significant work to prepare for Canvass Reform over the same timeframe.

Election Costs

The Bill outlines that the additional costs for the 2021 Assembly elections is estimated at ^{ix}£153,900. However, it is imperative that these estimated costs consider the likely increase in postal votes, poll cards and other election costs as a result of 16 and 17-year olds being included in the process.

4.2 Votes for 16 and 17-year olds

Whilst the Bill outlines that the registration drive may be easier for this age group because local authorities have data on the potential electors^x, it is essential that the Bill makes statutory provision that relevant data is supplied to the relevant ERO on a regular basis and in a suitable format.

Upon the ERO receiving data of anyone who they believe should be registered, an ITR can be issued. However, legislation does not allow for the name of any potential electors to be included on registration communications to a property. At the start of the initial Welsh Assembly proposals, there was mention that the education lists could be used to register on block from the education records, including consideration of automatic registration in Wales – we would ask whether this has been given any further consideration? Also, as these registrations would not apply to UK Parliamentary elections, we remain concerned regarding the confusion for both voters and electoral administrators.

The Association notes that the Bill refers to the Welsh Government indicating its intention to make legislative changes such that 16 and 17-year olds can vote only in Welsh Assembly and local government elections. We welcome the Welsh Government considering the Assembly franchise by extending it to 16 and 17-year olds because divergences between the local government and Assembly franchises would create the potential for confusion, both amongst the electorate and those responsible for administering elections, which in turn could impact on voter engagement^{xi}. The Association supports this approach as it provides consistency for the citizen and the electoral community.

The Bill highlights the intention that information about the changes to the voting age will be provided in enough time to ensure that 16 and 17-year olds are informed of which elections they have the right to vote in^{xii}. It is imperative that this campaign is conducted to ensure that 16 and 17-year olds are fully aware.

4.3 Timing

The Bill highlights that all the provisions in the Bill relating to the franchise for Assembly elections will commence on Royal Assent of the Bill. However, the Bill specifies that they will have effect for the purposes of an election for membership of the Senedd at which the poll is held on or after 5 April 2021. Is there a reason for the date of 5 April 2021^{xiii} and not the date of the elections in May 2021 as is usually the case with other legislative changes relating to elections?

4.4 Canvass Reform

It is assumed that the Welsh Government will enact the Canvass Reform legislative changes proposed by the UK Government. It is also worth noting that the Welsh electoral administrators are keen that Canvass Reform changes are implemented in Wales at the same time as the rest of the UK during the canvass of 2020. However, throughout the Bill^{xiv} Canvass Reform is not mentioned, and neither are the costing calculations taking Canvass Reform into account when calculating the costs of registering the 16 and 17-year olds and attainers during the same canvass of 2020.

The proposal outlined in the Bill is to extend the franchise for the Assembly elections in May 2021^{xv}. 16 and 17-year olds including attainers (14 and 15-year olds) will generally have to be included on the revised register that is published on 1 December 2020 following the 2020 canvass^{xvi}. Canvass Reform will include a national data match and any households where the ERO believes all occupiers are still resident will follow a light touch canvass with households receiving a communication which does not require a response. At present all households are required to respond to a canvass communication. Under Canvass Reform legislation the ERO will have discretion on which route to send each property and all households could be directed to conduct a full canvass as normal whilst still complying with the new requirements of Canvass Reform. The light touch canvass approach may reduce the number of 16 and 17-year olds and attainers registering and Welsh EROs would need to be mindful of this. Additional funding may as a result be required as the UK Government's funding will be reduced.

The Bill refers to concerns being raised that one group who may not be captured as part of a local registration campaign would be young people from the Gypsy, Roma and Traveller communities^{xvii} which is supported. However, it is also worth noting that serious consideration needs to be given in relation to Canvass Reform by all EROs to avoid any group being adversely affected.

The Bill outlines that EROs have a duty to compile the electoral register and ensure that it is as up to date as possible. Currently, a HEF is issued annually^{xviii} to every property to collect information to ensure anyone living at the property who is eligible to be registered is on the register. There is a legal requirement to respond, and ITRs will be sent to anyone responding to the canvass who is not registered. However, the Association has significant concerns as there is no reference made in the Bill to the introduction of Canvass Reform which is being introduced for the canvass conducted in 2020. Households sent via the light touch canvass after the national data matching exercise will not receive a HEF as outlined in the Bill and will not have a legal requirement to respond.

4.5 Other Registration Issues

Publication of personal details

The Bill outlines the changes that will be introduced in preparation for the franchise changes at the 2020 annual canvass^{xix}. It is imperative that the provisions outlined in the Bill mirror the provisions in Scotland regarding attainers (14 and 15-year olds) and 16 and 17-year olds including in relation to supplying information from the register. Our understanding is that they do regarding 14 and 15-year olds being on the Local Government register as attainers, but their details are not published or supplied except in very strict circumstances. However, it is unclear from the Bill what the situation is in relation to the monthly updates and the polling station register. In Scotland attainers do not appear on the monthly updates. In relation to the polling station copy of the register for Local Government and Scottish Parliamentary Elections, there are no attainment ages shown and the only 15-year olds who appear are those who will be 16 on polling day.

The Bill makes provision preventing EROs from providing the date of birth of any person aged under 16 on pre-printed canvass forms. However, there is no provision made on other communications, for example canvass communications and the ITR^{xx}. We believe this provision should be consistent across all ERO and RO communications.

The Bill has removed the requirement on EROs to provide applicants with an explanation of the edited register where the applicant is under the age of 16, as no details of 14 or 15-year-olds will be included in the edited register^{xxi}. However, communications sent as part of Canvass Reform will need to include a note to this effect, as well as a note in relation to which elections 16 and 17-year olds can vote in. Consideration will also need to be given as to the content of all communications required in Wales in order to cover all the additional information required whilst still ensuring clarity for electors.

Consideration will also need to be given to the collation of RPF statistics (for the Office for National Statistics) in Wales in relation to 14 and 15-year olds and 16 and 17-year olds.

4.6 Electoral Commission

The Bill outlines that it may be appropriate for the Electoral Commission to be funded by the Assembly for its work on Welsh devolved elections and become accountable to the Assembly for such work. However, the Bill does not explain how this arrangement would work in practice to ensure the ongoing impartiality and independence of the role of the Electoral Commission. If the Electoral Commission were to report to the Welsh Assembly, the Bill does not explain how this arrangement would work in relation to funding arrangements towards their role in respect of UK Parliamentary elections and national referendums not related to the Welsh Assembly^{xxii}. This position should be clarified.

The Bill highlights that a separate campaign will be necessary to raise awareness of the increase in the franchise, much like the campaign in Scotland^{xxiii}. Consideration may also be required for a separate campaign in relation to Canvass Reform for Wales.

The Bill highlights that the Electoral Commission spent in the region of £120,000 in awareness raising to accommodate the changes to the franchise arising from the Scottish Elections (Reduction of Voting Age) Act 2015). Considering inflation this is now estimated to be £127,300^{xxiv}. In relation to Wales, the Electoral Commission costs will not only need to be for a registration campaign relating to the new franchise but also a separate election campaign specifically for Wales, replacing the usual joint campaign for both England and Wales. This will result in additional costs, which appear not to have been considered in the Bill.

Whilst the design of new registration forms has been considered in the Bill, the redesign of postal vote and proxy voting application forms will also be needed to make it clear the different voting franchise for each type of election.

In addition, revised Electoral Commission guidance for the various polls will need to be considered, for example polling station handbooks and candidate and agent guidance, which will need to be specifically written for Wales. Previously these materials would have covered local government elections for both England and Wales and these additional costs need to be considered.

4.7 Other Comments

Voting rights for prisoners and qualifying foreign nationals

It is noted that the Bill does not address the issue of voting rights for prisoners or qualifying foreign nationals as outlined in the draft Local Government and Elections (Wales) Bill (Part 1 – Elections). However, the AEA believes there needs to be a consistent approach in Wales for both Assembly and local government elections to avoid both voter and electoral administrator confusion.

Law Commission

The Bill enables the Welsh Ministers to make orders to ensure that elections in Wales are administered in a way that is compliant with the recommendations for electoral administration made by the Law Commission^{xxv}. The AEA supports the Law Commission recommendations.

Legislation concerns

Following on from our comments regarding the Law Commission recommendations, which are in themselves designed to simplify electoral matters, it should be recognised that the proposals outlined will actually introduce further complexity into already complex electoral legislation which has the potential to create both voter and administrator confusion and increase risk.

Timing

We ask that the Welsh Assembly ensure that any changes in legislation relating to elections are made well in advance of the polls in which the changes will take effect. In our 2016 report: "Pushed to the absolute limit: 2016 – the electoral year never to forget", we made the following recommendation:

"Except in cases of unforeseen emergencies and proportionate to the need, changes to election law should not be applicable to any elections within a six-month period from the date the legislation comes into effect."

In relation to any proposals to changes relating to electoral registration, we would ask that a minimum of 12 months is given prior to the new provisions coming into force.

We therefore ask for the details of the proposed timings for the legislation and EMS software development be shared with us.

Peter Stanyon
Chief Executive of the AEA

Rhys George
Chair of Wales AEA Branch

15 April 2019

ⁱ Page 96 – Paragraph 345 - The Bill is also expected to result in transitional costs for the following organisations:

- Local authorities: £1,582,500; ...

ⁱⁱ Page 120 – Table 14 - Option 3 (legislate to change the name of the Assembly) Total Costs

Website update – all local authorities £20,000

ⁱⁱⁱ Page 143 – Table 25 Option 2 – Introduce provisions to reduce the voting age for Assembly elections to 16 Total costs:

Costs to local authorities – Registering 16 and 17-year-old electors

^{iv} Page 146 – Paragraph 537 - According to the Office of National Statistics Population Estimates (2017) there were 69,029 16- and 17-year olds in Wales in mid-year 2017.¹⁴⁵ For the purpose of this RIA, it is assumed that there would be a similar number of 16- and 17-year olds in Wales when the provisions of this Bill take effect. Registration of this newly enfranchised group would therefore increase annual registration costs for Wales by approximately £84,200.¹⁴⁶ Over five years, this would be a total additional cost of £421,000.

^v Page 146 – Paragraph 536 - Registration costs are ongoing, year on year costs. The cost of electoral administration in Great Britain: Financial information surveys 2009–10 and 2010–11 indicates that registration spend per elector, split during canvass and outside of canvass for 2010–11 was £1.17 and £0.96 per voter respectively. This figure includes a wide range of costs such as the core registration team, design and printing, mail costs, canvassing and compilation of the register. More up to date figures are not available, therefore after accounting for inflation the average cost of £1.07 is uprated to £1.22.

^{vi} Page 147 – Paragraph 532 and 544

543. The forthcoming Local Government and Elections (Wales) Bill includes provisions to place a duty on local authorities to promote awareness among relevant young people of the arrangements for electoral registration that apply to them and to assist them to register.

544. It is understood that the Welsh Government is exploring whether any additional funding could be made available for this purpose. However, for the purposes of this RIA, it has been estimated that each local authority would deploy one half time officer for this purpose and allocate a modest working budget of £10,000 (see Table 26).

^{vii} Page 44 – Paragraph 159 – Further changes are introduced in preparation for the annual canvass that will take place in 2020 so that young people may be included in that process, including:

- removing a requirement for a registration officer to carry out house to house enquiries in relation to the registration of a person under the age of 16;

^{ix} Page 147 – Paragraph 539 - Each local authority contracts a software company to provide the software for the Electoral Register. This is referred to as the Electoral Management System (EMS). The 22 local authorities work with three software companies, all of which would need to introduce changes to their software necessary for registration officers to meet the new responsibilities introduced by this Bill. The updating of the EMS systems would incur a one-off cost to local authorities which would be accommodated by local authorities.

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ix Page 149 – Paragraph 551 - The total additional cost for the 2021 Assembly election is therefore estimated to be £153,900.

x Page 21 – paragraph 55 - The lowering of the voting age would require a drive for maximum rates of registration. This might be easier for this age group than for those a couple of years older because most of them are still at home and attending school. Every local authority will have a list of those who are home schooled and will be able to incorporate those who are attainders or 16- and 17-years old into the annual canvass considerations.

xi Page 234 – Paragraph 9.51 - It may also be noted that such persons will be able to vote in elections to the Welsh Youth Parliament, and that the Welsh Government has indicated its intention to make legislative changes such that such persons can vote in local government elections. Different persons are currently enfranchised to vote in UK general elections compared to those enfranchised to vote in local government and Assembly elections. Nevertheless, it would be administratively more convenient for the same people to be able to vote in local government and Assembly elections. Divergences between the local government and Assembly franchises create the potential for confusion, both amongst the electorate and those responsible for administering elections, which in turn could impact on voter engagement.

xii Page 251 – Paragraph 1047 - However, this risk is believed to be mitigated by the intention that information about the changes to the voting age will be provided in sufficient time to ensure that 16- and 17-year olds are informed of which elections they have the right to vote in.

xiii Page 47 – Paragraph 176, Page 54 - 207, 208 –
176. All of provisions in the Bill relating to the franchise for Assembly elections will commence on Royal Assent of the Bill. However, the Bill specifies that they will have effect for the purposes of an election for membership of the Senedd at which the poll is held on or after 5 April 2021.

207.... the Bill specifies that its provisions on disqualification will only have effect for the purposes of an Assembly election at which the poll is held on or after 5 April 2021 (i.e. the earliest date of the next ordinary Assembly general election and onwards).

208 ... All provisions on disqualification will commence on Royal Assent of the Bill but will have effect specifically for the purposes of an Assembly election at which the poll is held on or after 5 April 2021 (i.e. the earliest date of the next ordinary Assembly general election and onwards).

xiv Page 274 – Section 12 – Annual Canvass

xv Page 19 – paragraph 46 -Expert Panel concluded that extending the franchise to 16- and 17-year olds with effect from 2021

xvi Page 20 – paragraph 50 - Extending the franchise to 16- and 17-year olds necessitates other changes in relation to: the legislation around the electoral register, the annual canvass and the protection of young people's information.

xvii Page 21 – paragraph 56 - Concerns may be raised that one group who may not be captured as part of a local registration campaign would be young people from the Gypsy, Roma and Traveller communities.

xviii Page 42 – paragraph 147 - EROs have a duty to compile the electoral register and ensure that it is as up to date as possible. EROs will send an Invitation to Register (ITR) to any individual they become aware of who is not registered to vote. Currently, a **Household Enquiry Form is issued annually** to every property to collect information to ensure anyone living at the property who is eligible to be registered is on the register. **There is a legal requirement to respond**, and ITRs will be sent to anyone responding to the canvass who is not registered.

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^{xix} Page 42 – Paragraph 159 and 160 – 159. Further changes are introduced in preparation for the annual canvass that will take place in 2020 so that young people may be included in that process, including:

- removing a requirement for a registration officer to carry out house to house enquiries in relation to the registration of a person under the age of 16;*
- not printing the date of birth of a person under the age of 16; and*
- ensuring explanation is given as to how young people's information will be stored and used.*

160. The Bill also provides that the civil penalty which could be applied in the case of an elector repeatedly not responding to an invitation to register does not apply to a person under the age of 16.

^{xx} Page 275 – Paragraph 25 - Section 12(2)(b) prevents registration officers from providing the date of birth of any person aged under 16 on pre-printed canvass forms.

^{xxi} Page 276 – Paragraph 37 - It also removes the requirement on registration officers to provide applicants with an explanation of the edited register where the applicant is under the age of 16 and the registration officer has authorised the applicant to provide the information required by telephone or in person. This is because no details of 14 or 15-year-old persons will be included in the edited register.

^{xxii} Page 55 – Paragraph 213 - It may therefore be considered appropriate for the Electoral Commission, as the regulator of elections, to be funded by the Assembly for its work on Welsh devolved elections and become accountable to the Assembly for such work.

^{xxiii} Page 150 – Paragraph 556 - The Electoral Commission has responsibilities around promoting awareness of elections. It is anticipated that a separate campaign like the one developed in Scotland will be necessary to raise awareness of the increase in the franchise. These would be costs incurred in 2021.

^{xxiv} Page 150 – Paragraph 557 - The Electoral Commission indicated in their responses to the Expert Panel in 2017 that the Electoral Commission spent in the region of £120,000 in awareness raising to accommodate the changes to the franchise arising from the Scottish Elections (Reduction of Voting Age) Act 2015. Taking account of inflation, it is assumed that this cost would now be estimated to be £127,300.

^{xxv} Page 25 – paragraph 70 - Reflecting this majority view, the Bill enables the Welsh Ministers to make orders to ensure that elections in Wales are administered in a way that is compliant with the recommendations for electoral administration made by the Law Commission.

Cynulliad Cenedlaethol Cymru
Y Pwyllgor Materion Cyfansoddiadol a
Deddfwriaethol
Bil Senedd ac Etholiadau (Cymru)

National Assembly for Wales
Constitutional and Legislative Affairs
Committee
Senedd and Elections (Wales) Bill

CLA(5) SE12
Ymateb gan y Comisiwn Etholiadol

Evidence from Electoral Commission

This response sets out our views on three key areas in the Senedd and Elections (Wales) Bill which are relevant to the Commission's remit: the implications of extending the franchise to 16 and 17 year olds; disqualification and eligibility to stand in elections; and the financial and oversight arrangements for the Commission.

It builds on our previous responses to the [Assembly Commission's "Creating a Parliament for Wales"](#) consultation in April 2018, the Expert Panel's questions on Assembly electoral reform in [April](#) and [May](#) 2017 and the [Welsh Government's consultation on electoral reform in 2017](#).

We stand ready to continue to work with the Assembly as it delivers these reforms.

Key messages

- Legislation amending the franchise should be clear at least six months before Electoral Registration Officers (EROs) are due to begin scheduled canvass activities so that those newly eligible to vote can take the necessary steps to register to vote.
- Any changes to the law about the point at which a person disqualified from being a Member of the National Assembly for Wales or standing as a candidate for election to the Assembly should be clearly stated so potential candidates can find out easily if they might be disqualified.
- We welcome the proposals in the Bill to give Welsh Ministers the power to make provisions about Welsh elections to implement changes to electoral law recommended by the Law Commission for England and Wales. This has the potential to have a significant positive impact for all involved in the electoral process, as the UK's body of electoral law is currently large, complex and outdated.

Extending the right to vote to 16- and 17-year-olds

Legislation amending the franchise should be clear at least six months before Electoral Registration Officers (EROs) are due to begin scheduled canvass activities so that those newly eligible to vote can take the necessary steps to register to vote.

Changes to allow 16- and 17- year-olds to vote have already been effectively implemented in Scotland. The processes and arrangements that have been used there present important learning for Wales.

Significant changes to guidance, forms and electoral management software systems would be required to ensure they are able to effectively support the implementation of the franchise changes.

The Electoral Commission would expect to undertake specific education and public awareness activity targeting 16 and 17 year olds, informing them that they are eligible to vote and to provide information about how to register and vote.

1.1 The Electoral Commission does not take a view on what the minimum voting age should be for Assembly elections. The franchise is a significant constitutional decision, and it is right that the legislature should determine who is eligible to vote. Our response therefore focuses on the practical implications of any changes, and what would need to be done to ensure they are adequately resourced and can be implemented in the best interests of voters.

1.2 Legislation making any changes to the franchise should be clear six months before Electoral Registration Officers (EROs) are due to begin any scheduled canvass activities. This will mean that EROs, campaigners and the Commission have time to take the necessary steps to ensure that everyone who is newly eligible to vote can successfully register and participate in future elections.

1.3 In practice this would mean that the legislation amending the franchise should be clear by the beginning of 2020. This is because the annual household canvass will begin in the summer of 2020 to collect the information that would be needed to ensure that 16- and 17-year-olds are on the electoral register for the scheduled Assembly election in May 2021.

1.4 In Scotland, 16- and 17-year-olds were able to vote for the first time at the Scottish Independence Referendum in 2014 and have been able to vote in local government and Scottish Parliament elections since May 2016. The processes and arrangements that have been used present important learning for Wales on the practical implementation of the changes.

1.5 We are aware that Welsh Government is proposing to include provisions in the forthcoming Local Government and Elections (Wales) Bill to reduce the minimum voting age at local government elections to 16. The Assembly Commission should continue to work closely with the Welsh Government to ensure any reforms to the franchise for Assembly elections are managed consistently with those for local government elections in Wales.

Registration

1.6 The Bill makes provisions for lowering the voting age at future National Assembly for Wales elections and makes amendments to existing electoral law on the operation of the registration system. We have set out below what these changes will mean in practice for EROs and the Electoral Commission, and what will need to be done to deliver them.

1.7 At present, the minimum voting age in Wales is 18 years old. This means that 17-year-olds and some 16-year-olds are entitled to be included on the electoral register as attainers – if they will turn 18 during the lifetime of that register. Extending the right to vote to 16- and 17-year-olds means that 15-year-olds and some 14-year-olds would become entitled to be included on the register as attainers.

The annual canvass and sending Invitations to Register

1.8 The Bill provides new rules for the protection of information about persons aged under 16. This includes preventing EROs printing the date of birth of anyone aged under 16 on the pre-printed canvass form or undertaking house to house inquiries in relation to any person under the age of 16. We would welcome confirmation that the Assembly Commission has sought advice from the Information Commissioner's Office to ensure the practical arrangements proposed relating to lowering the voting age reflect appropriate data protection standards.

1.9 EROs in Wales will need to find alternative ways of communicating information about how to register to 14- and 15-year-olds. In Scotland, for example, EROs can send 14- and 15-year-olds an email, rather than making a personal visit, if they do not respond to the annual household canvass or any other canvassing during the year.

1.10 The Welsh Government has recently consulted jointly with the UK and Scottish Governments on proposals to reform the annual canvass process. If canvass reform proposals are implemented for Welsh electoral registers, the Welsh Government and Assembly Commission will need to ensure that they take account of the implications of these further changes for 14- and 15-year-old attainers. We understand the Scottish Government is also considering the practical implications of canvass reform for 14- and 15-year-old attainers in Scotland.

Special category electors: declaration of local connection

1.11 If the circumstances in which a person is permitted to make a declaration of local connection are amended in the way set out in the Bill, EROs would need to consider how they would engage with children who:

- are cared for or supervised by the authority
- are being kept in secure accommodation

- the local authority has responsibilities for under a legal order issued by a court.

1.12 In Scotland, local authorities have a duty to promote awareness of how to register as local government electors for children that are “looked after” by that council (who can be up to the age of 18) and to provide assistance to help such young people to register. To do this, EROs need to engage actively with other departments and staff in local authorities and other bodies with responsibilities of care. We would encourage a similar requirement for EROs in Wales.

Digital Service, data sharing agreements and Electoral Management Systems

1.13 If the voting age is lowered there will be implications for EROs who will need to verify the identity and entitlement to register of electors who are under 16 and may not yet have received their National Insurance number. The experience of reducing the voting age in Scotland suggests that data sharing agreements with educational establishments could assist EROs with the registration of under 16s and be used as a tool to encourage registration.

1.14 In addition, EROs will need to discuss with suppliers the changes that will be necessary to their Electoral Management Systems (EMS) to meet the requirements of the franchise changes. The Wales Electoral Coordination Board could play an important role in supporting this, but sufficient time would be needed to coordinate this work.

Forms and guidance for EROs

1.15 The Bill places a requirement on the Electoral Commission to develop registration forms that account for legislative changes relating to 16 and 17 year olds. The development of new registration forms will require sufficient time for user-testing, translation, design and production, as well as for obtaining Ministerial sign-off.

1.16 Changes will also be required to registration forms as a result of the proposed changes to the annual canvass process.

1.17 We would welcome the opportunity to discuss the process for designing the amended forms with Assembly Commission officials as soon as possible.

1.18 We will also update our guidance to reflect the franchise changes in order to ensure that EROs have the information they need to deliver registration activity and maintain accurate and complete electoral registers.

Public awareness to inform people about the franchise change

1.19 Before any election to the National Assembly for Wales, the Electoral Commission would expect to run a public awareness campaign encouraging the eligible electorate in Wales to register to vote.

1.20 If the minimum voting age is lowered, we would anticipate undertaking additional specific public awareness activities targeting 15-, 16- and 17-year-olds in

order to make them aware that they were now eligible to register to vote. This would be accompanied by information about how to vote for those who would reach voting age by the date of the poll.

1.21 We would expect our public awareness work to include:

- running specific advertising to target this group, alongside our mass media advertising for the wider electorate ahead of any relevant major poll;
- working in partnership with youth organisations who already have effective communication channels for reaching the target audience;
- providing low-cost resources to partners, including Electoral Registration Officers, to promote voter registration and information messages to their audiences;
- running PR and partnership activity in the run-up to any relevant major poll to make sure that these groups have the information they need to cast their vote;

1.22 We would want to build on our experience in Scotland which makes clear the importance of engaging young people while they are still in school to ensure that they are aware that they are now eligible to register to vote. We would want to work with educational partners and local authorities in Wales to identify opportunities for supporting ongoing political literacy in schools and encouraging young people to register when they attain the age to do so.

1.23 We also plan to produce education materials for use with 15- to 17-year-olds, with the aim of increasing understanding and engagement with the democratic process.

Public awareness work in Scotland

In Scotland we worked with a range of partners to undertake public awareness activities aimed at 15- to 17-year-olds. These included Education Scotland, School Leaders Scotland, the Association of Directors of Education Scotland along with a range of youth organisations such as Young Scot and the Scottish Youth Parliament.

Working with education partners in Scotland, we produced a political literacy briefing providing guidance and information sources to schools, colleges, universities and all other organisations wishing to develop political literacy amongst young people.

We also developed a 'ReadyToVote' campaign which ran ahead of both the Scottish Parliament election in 2016 and the Scottish council elections in 2017. The campaign encouraged schools across Scotland to run voter registration events with all eligible pupils and provided schools with a digital teaching resource to support them to do this. Over 80% of Scottish secondary schools signed up to this campaign.

Cost implications

1.24 The Commission is content with the indicative costs included within the regulatory impact assessment for this area of work in Wales. It reflects our assessment of the cost implications of reducing the minimum voting age for Assembly elections in [our response](#) to the [Expert Panel](#) in May 2017.

Disqualification - who is eligible to stand for election

- Any changes to the law about the point at which a person disqualified from being a Member of the National Assembly for Wales or standing as a candidate for election to the Assembly should be clearly stated so that potential candidates wanting to stand for election can find out easily if they might be disqualified.
- Any changes should be communicated six months before the deadline for nominations so any changes can be understood.

1.25 We welcome the approach proposed in this Bill to change the law about the point at which a person is disqualified from being a Member of the National Assembly for Wales or standing as a candidate for election to the Assembly. This reflects the approach that we recommended in our 2015 report on Standing for Election, that the law in England, Wales and Northern Ireland is changed to make a clear distinction between offices or employment which would prevent someone standing for election, and those which would prevent someone from holding office if elected.

1.26 It is important these changes are clearly stated in law so that potential candidates wanting to stand for election can find out easily if they might be disqualified. It is also important that they are communicated six months before the deadline for nominations so any changes can be understood.

1.27 We continue to recommend that all legislation should be in place at least six months before it is required to be implemented or complied with by campaigners, ROs or EROs. This will enable us to amend our guidance for EROs, ROs and candidates and agents, as well as amending the nomination forms which are prescribed in legislation, including the consent to nomination declaration. The consent to nomination form will also need to reflect the changes in the Disqualification Order.

1.28 The National Assembly for Wales (Disqualification Order) 2015 will need to be amended to reflect the proposed changes to disqualification ahead of the next Assembly elections. Ministers should consider the questions that we set out in our *Standing for Election* report to help establish whether particular post holders should be able to stand for election:

- Firstly, is there a real conflict of interest between the appointed post and the elected post? If so, the post holder would have to resign before taking up elected office.

- Secondly, does the post holder need to have resigned and served out notice by nomination or election, for example:
 - Does the post holder's role require political impartiality during the election campaign?
 - Does the post holder have access to privileged information that would advantage them over other candidates?
 - Could the post holder exert undue influence over electors by virtue of their position?
 - Is the post holder involved in the administration of the election?

Oversight arrangements for the Electoral Commission in relation to devolved elections and devolved referendums

- To protect the fundamental principle of our independence, the Commission must be funded by the relevant legislature rather than the government.
- We actively welcome scrutiny and accountability for how we spend public funds from the legislature providing them.

1.29 The Bill places a requirement on the National Assembly for Wales to consider the financial and oversight arrangements for the Electoral Commission's work in relation to devolved Welsh elections and devolved referendums. The Bill also requires the Electoral Commission to respond to any recommendations relevant to it by laying a report before the National Assembly for Wales.

1.30 Since June 2017, the Electoral Commission has been working with the Assembly Commission on the detail of how the Electoral Commission would be accountable to the Assembly and be funded. On 12 March we provided [evidence](#) to the Finance Committee inquiry as part of its scrutiny on the financial implications of the Senedd and Elections (Wales) Bill.

1.31 Since the establishment of the Electoral Commission, we have reported to the National Assembly for Wales in relation to policy scrutiny matters and have a long history of giving evidence and advice. We expect to continue with this arrangement of reporting to Assembly Committees on policy.

1.32 We actively welcome scrutiny and accountability for how we spend public funds from the legislature providing them.

1.33 Our view is that the body to which we account at the National Assembly should:

- Be independent of any Welsh Government department;
- Report directly to the Assembly;

- Be chaired by a non-party representative (a Presiding Officer or Deputy Presiding Officer).

1.34 Previous discussions with the Assembly Commission have indicated that there are some current arrangements in place that might be utilised for the Electoral Commission to report to the National Assembly for Wales. These include the current panel of Assembly Commissioners establishing a separate 'Llywydd's Committee' – a model similar to the Speaker's Committee on the Electoral Commission in the UK Parliament.

1.35 Functions of this body would include:

- General oversight of how the Electoral Commission exercises its functions derived from that legislature;
- Reviewing the Commission's annual estimate of resources required for delivery of functions carried out under its legislative responsibility;
- Requiring the Commission to provide an annual report to facilitate scrutiny of the Commission's activities;
- Receiving reports from the Wales Audit Office.

1.36 The existing business planning and accountability cycle for the Commission is set out in the Political Parties Elections and Referendums Act 2000 (PPERA). The Commission is required to submit a new Corporate Plan after each UK Parliamentary General Election for the following five years. This includes indicative budgets for all five years. We then submit an annual business plan and budget with the main estimate for each year with each year's budget. PERPA also establishes that the UK Comptroller & Auditor General is responsible for audit of the Commission's accounts and value for money.

1.37 The UK, English, Welsh and Scottish electoral cycles are all different. Also, much of the Commission's activity is delivered most efficiently across the Commission as a whole. It would therefore be difficult to produce geographically-specific corporate plans at different times. These could overlap and duplicate much material or appear to contradict each other as circumstances changed.

1.38 We therefore propose to continue with our existing business planning cycles. We already include some material on geographically-specific activity. However we will aim to be even clearer in future about what activity is planned and what the benefits to the voters are in each part of the UK.

1.39 Currently, PERPA appoints the (UK) Comptroller & Auditor-General as the Commission's Auditor. The current proposal is that the (C&AG) should continue as the Commission's auditor, reporting additionally to the devolved legislatures. We are discussing with HM Treasury the best way to achieve this, specifically if a new accounts direction is required.

1.40 We acknowledge that legislatures may also want to take a reserve power to send in auditors in response to concerns and feel that this could be achieved through a power to require the Commission to co-operate with any such audit.

1.41 When preparing our plans we would continue to consult as necessary with officials in the Assembly Commission, as well as in Westminster and with other legislatures and governments. We also expect to meet the required timetables to fit in with scrutiny in each part of the UK. This will, of course, make business planning a more complex process for the Commission but we welcome the opportunity to ensure priorities are better aligned across all parts of the UK and expect to accommodate the process within planned resources.

1.42 We do not anticipate any major difficulties in practice, but we can see that there is a case for officials in the various parts of the UK building relationships between the legislatures to ensure scrutiny is as joined-up as possible.

Other points included in the Terms of Reference

1.43 We welcome the proposals in the Bill to give Welsh Ministers the power to make provisions about Welsh elections to implement changes to electoral law recommended by the Law Commission for England and Wales.

1.44 The UK's body of electoral law is currently large, complex and outdated. The impact of this is felt by those who run elections and those who want to stand for election and campaign. Simplified and modernised electoral law underpins voter confidence in electoral administration and political finance, and is also a necessary building block for further reform of elections and electoral registration.

1.45 We continue to strongly support the Law Commissions' comprehensive 2016 recommendations to simplify, rationalise and consolidate electoral law. The Law Commissions' recommendations are widely supported by the overwhelming majority of electoral stakeholders, including Returning Officers and Electoral Registration Officers, political parties and campaigners, police forces and prosecutors.

1.46 For future Welsh elections, the Assembly Commission should continue to work closely with the Welsh Government to ensure any reforms to the Assembly's electoral arrangements are not made in isolation, but take also into account the ongoing work on local government elections reform. This will help move towards greater consistency between the law for future Senedd elections and local government elections in Wales.

1.47 We would welcome the opportunity to support and assist with work to implement the Law Commissions' recommendations for Welsh elections.

Agenda Item 3

By virtue of paragraph(s) vi of Standing Order 17.42

Document is Restricted

Agenda Item 4

Statutory Instruments with Clear Reports

29 April 2019

SL(5)406 – The Rural Affairs (Miscellaneous Amendments) (Wales) Regulations 2019

Procedure: Negative

These Regulations make amendments to the Common Agricultural Policy Non-IACS Support Schemes (Appeals) (Wales) Regulations 2004 (“the 2004 Regulations”) and the Trade in Animals and Related Products (Wales) Regulations 2011 (“the 2011 Regulations”) in exercise of powers in section 2(2) of the European Communities Act 1972 (c. 68).

The 2004 Regulations enable the Welsh Ministers to establish an appeals procedure if an appeal is made following an initial determination made under any of the Common Agricultural Policy (“CAP”) support schemes listed in the Schedule to those Regulations.

Regulation 2 updates the schemes for which an appeals procedure may be established by the Welsh Ministers so that they align with current EU Regulations. It also revokes the Schedule to the 2004 Regulations which lists individual schemes, many of which have now lapsed or have been updated in EU legislation.

Regulation 3 is a saving provision which provides that where the Welsh Ministers make or have made an initial determination about a scheme listed in the Schedule to the 2004 Regulations before these Regulations came into force, the appeals procedure established under the 2004 Regulations continues to apply.

The 2011 Regulations establish a system for trade in live animals and genetic material and for the importation of live animals, genetic material and products of animal origin.



Regulation 4 corrects an amendment made to regulation 28 of the 2011 Regulations by regulation 12(9) of the Rural Affairs, Environment, Fisheries and Food (Miscellaneous Amendments and Revocations) (Wales) Regulations 2019 (“the 2019 Regulations”).

The 2019 Regulations update references to various pieces of UK and European legislation within domestic legislation relating to agriculture, animal health, animal welfare, education, environmental protection, food, plant health, sea fisheries and water.

Parent Act: European Communities Act 1972

Date Made: 01 April 2019

Date Laid: 05 April 2019

Coming into force date: 29 April 2019



Agenda Item 5.1

SL(5)409 – The Nitrate Pollution Prevention (Wales) (Amendment) Regulations 2019

Background and Purpose

These Regulations amend the Nitrate Pollution Prevention (Wales) Regulations 2013 (S.I. 2013/2506 (W. 245)) (“the 2013 Regulations”) relating to monitoring of nitrate pollution and designation of nitrate vulnerable zones.

Regulation 5 amends regulation 7 of the 2013 Regulations to update the process by which the Welsh Ministers may designate areas as nitrate vulnerable zones. The current designation process is reliant on section 2(2) of the European Communities Act 1972 which will be repealed once the United Kingdom leaves the European Union.

Regulation 4 amends regulation 6 of the 2013 Regulations to introduce a definition for “new holding” in light of the new designation process.

Regulation 3 amends regulation 4 of the 2013 Regulation so as to provide transitional arrangements for new holdings.

Regulations 6 to 8 make further consequential provision including introducing reporting requirements in relation to new holdings.

Procedure

Negative

Technical Scrutiny

Two points are identified for reporting under Standing Order 21.2 in respect of this instrument.

1. Standing order 21.2(vi) – that its drafting appears to be defective or it fails to fulfil statutory requirements

Regulation 3(b) provides that certain regulations do not apply until *“after the year in which the Welsh Ministers revise or add to the designation of nitrate vulnerable zones under regulation 11(2) [of the 2013 Regulations] so as to include the new holding”*.

Regulation 11(2) of the 2013 Regulations requires the Welsh Ministers to monitor the nitrate concentration in freshwaters; it does not give them power to revise or add to the designation of nitrate vulnerable zones. The correct reference should be to regulation 11(3) of the 2013 Regulations which does give the Welsh Ministers power to revise or add to the designation of nitrate vulnerable zones.

2. Standing order 21.2(v) – that for any particular reason its form or meaning needs further explanation

We question whether it is necessary to insert regulations 36(3) and 37(4) into the 2013 Regulations.

Regulation 3(b) inserts a new regulation 4(2) into the 2013 Regulations. The effect of new regulation 4(2) is to make Parts 3-8 of the 2013 Regulations applicable *“In relation to a new holding”*.



Using regulation 12 of the 2013 Regulations as an example, *"in relation to a new holding...regulations 12 to 22...do not apply until the beginning of the second calendar year after the year in which the Welsh Ministers revise or add to the definition of nitrate vulnerable zones..."*

Regulation 12 provides that *"...the occupier of a holding must ensure that, in any year beginning 1 January, the total amount of nitrogen in livestock manure applied to the holding...does not exceed 170kg multiplied by the area of the holding in hectares."*

On our reading of new regulation 4(2), the reference to 'holding' in regulation 12 of the 2013 Regulations will, in future, include a 'new holding'.

We would be grateful therefore for clarification as to why it is necessary to insert regulations 36(3) and 37(4) into the 2013 Regulations, when the reference to 'holding' in regulations 36(1) and 37(1) should capture a 'new holding' by virtue of new regulation 4(2). In other words, the requirements that apply to new holdings under regulations 36(3) and 37(4) will, it seems, be captured in any case by virtue of new regulation 4(2) and regulations 36(1) and 37(1).

Merits Scrutiny

No points are identified for reporting under Standing Order 21.3 in respect of this instrument.

Implications arising from exiting the European Union

After the UK exits the European Union, this instrument will become part of retained EU law.

Government Response

We acknowledge that the references made in regulation 3(b) to "regulation 11(2)" of the Nitrate Pollution Prevention (Wales) Regulations 2013 are incorrect. The correct references should have been to "regulation 11(3)". This is a version control error, and ought to be corrected to avoid misleading readers. We propose to rectify this by means of a correction slip. The correction will replace the references provided in Regulation 3(b) from "regulation 11(2)" to, "regulation 11(3)".

The second reporting point relates to the necessity to insert regulations 36(3) and 37(4) into the 2013 Regulations. Whilst we agree that the reference to 'holding' in regulations 36(1) and 37(1) captures a 'new holding' by virtue of new regulation 4(2) it is our intention to remove any doubt and place a first time obligation to record the matters in the first instance for newly designated holding(s).

Legal Advisers

Constitutional and Legislative Affairs Committee

17 April 2019



W E L S H S T A T U T O R Y
I N S T R U M E N T S

2019 No. 863 (W. 155)

AGRICULTURE, WALES

WATER, WALES

**The Nitrate Pollution Prevention
(Wales) (Amendment) Regulations
2019**

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Nitrate Pollution Prevention (Wales) Regulations 2013 (S.I. 2013/2506 (W. 245)) (“the 2013 Regulations”) relating to monitoring of nitrate pollution and designation of nitrate vulnerable zones.

Regulation 5 amends regulation 7 of the 2013 Regulations to update the process by which the Welsh Ministers may designate areas as nitrate vulnerable zones. The current designation process is reliant on section 2(2) of the European Communities Act 1972 which will be repealed once the United Kingdom leaves the European Union.

Regulation 4 amends regulation 6 of the 2013 Regulations to introduce a definition for “new holding” in light of the new designation process.

Regulation 3 amends regulation 4 of the 2013 Regulation so as to provide transitional arrangements for new holdings.

Regulations 6 to 8 make further consequential provision including introducing reporting requirements in relation to new holdings.

The Welsh Ministers’ Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, no impact assessment has been produced for these Regulations as there is no change to policy, or impact on business or the voluntary sectors foreseen.

WELSH STATUTORY
INSTRUMENTS

2019 No. 863 (W. 155)

AGRICULTURE, WALES

WATER, WALES

**The Nitrate Pollution Prevention
(Wales) (Amendment) Regulations
2019**

Made 10 April 2019

*Laid before the National Assembly
for Wales* 12 April 2019

*Coming into force in accordance with
regulation 1*

The Welsh Ministers are designated⁽¹⁾ for the purposes of section 2(2) of the European Communities Act 1972⁽²⁾ in relation to matters relating to the protection of waters against pollution caused by nitrates from agricultural sources and make these Regulations in exercise of the powers conferred by that section.

Title and commencement

1. The title of these Regulations is the Nitrate Pollution Prevention (Wales) (Amendment) Regulations 2019 and they come into force 21 days after the date on which they are laid.

(1) See S.I. 2001/2555 for the designation conferred on the National Assembly for Wales. By virtue of sections 59 and 162 of, and paragraph 28 of Schedule 11 to, the Government of Wales Act 2006 (c. 32), that designation is now conferred on the Welsh Ministers.

(2) 1972 c. 68; section 2(2) was amended by section 27(1) (a) of the Legislative and Regulatory Reform Act 2006 (c. 51) and Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c. 7).

Amendment of the Nitrate Pollution Prevention (Wales) Regulations 2013

2. The Nitrate Pollution Prevention (Wales) Regulations 2013⁽¹⁾ are amended in accordance with regulations 3 to 8.

Amendment of regulation 4 (transitional measures for holdings not previously in a nitrate-vulnerable zone)

3. In regulation 4—

- (a) the existing paragraph is renumbered as paragraph (1) of that regulation;
- (b) after paragraph (1) (as renumbered) insert—

“(2) In relation to a new holding—

- (a) regulations 12 to 22, 23(3), 24, 25, 30 to 33 and 36 to 46 do not apply until the beginning of the second calendar year after the year in which the Welsh Ministers revise or add to the designation of nitrate vulnerable zones under regulation 11(2) so as to include the new holding;
 - (b) regulations 23(1) and (2), 26 to 29, 34 and 35 do not apply until 31 July in the third calendar year after the year in which the Welsh Ministers revise or add to the designation of nitrate vulnerable zones under regulation 11(2) so as to include the new holding.
- ”

Amendment of regulation 6 (interpretation)

4. In regulation 6, in the appropriate place, insert—

““new holding” (“*daliad newydd*”) means land and its associated buildings which become a holding as a result of the Welsh Ministers revising or adding to the designation of nitrate vulnerable zones following a review under regulation 11(3), and which were not a holding immediately before the date of that revision or addition;”

Amendment of regulation 7 (designation of nitrate vulnerable zones)

5. In regulation 7—

- (a) for paragraphs (2) and (3) substitute—

⁽¹⁾ S.I. 2013/2506 (W. 245), amended by S.I. 2015/2020 (W. 308), 2018/1216 (W. 249). There are other amending instruments but none is relevant.

“(2) An area is designated as a nitrate vulnerable zone for the purposes of these Regulations if, as an area of land that drains into polluted waters and contributes to the pollution of those waters, it is marked as such a zone on a relevant map.

(3) For the purposes of this regulation—

- (a) for the period beginning with 25 October 2013 and ending with the day on which the Welsh Ministers next revise or add to the designation of nitrate vulnerable zones under regulation 11(3), “map” means the map marked “Nitrate Vulnerable Zones Index Map 2013” and deposited at the offices of the Welsh Government at Cathays Park, Cardiff, CF10 3NQ;
- (b) following any subsequent review under regulation 11(3), “map” means a map which is deposited at the offices of the Welsh Government at Cathays Park, Cardiff, CF10 3NQ and which—
 - (i) is marked “This map identifies those areas of Wales designated by the Welsh Ministers as a Nitrate Vulnerable Zone for the purposes of the Nitrate Pollution Prevention (Wales) Regulations 2013”; and
 - (ii) specifies the period to which it relates.”;

- (b) in paragraph (4), for “at the latest every four years subsequently” substitute “before 1 January of every fourth year thereafter”.

Amendment of regulation 11 (review of nitrate vulnerable zones)

6. In regulation 11(2), for “at least every four years subsequently” substitute “before 1 January of every fourth year thereafter”.

Amendment of regulation 36 (recording the size of the holding)

7. In regulation 36, after paragraph (2), insert—

“(3) The occupier of a new holding must record the total size of the holding calculated in accordance with regulation 12(3).”

Amendment of regulation 37 (records relating to storage of manure during the storage period)

8. In regulation 37, after paragraph (3), insert—

“(4) The occupier of a new holding must calculate and record the matters listed in paragraph (1) (a) to (c).”

Lesley Griffiths

Minister for Environment, Energy and Rural Affairs,
one of the Welsh Ministers

10 April 2019

Explanatory Memorandum to The Nitrate Pollution Prevention (Wales) (Amendment) Regulations 2019

This Explanatory Memorandum is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of The Nitrate Pollution Prevention (Wales) (Amendment) Regulations 2019.

Lesley Griffiths
Minister for Environment, Energy and Rural Affairs
12 April 2019

PART 1

1. Description

These Regulations amend the Nitrate Pollution Prevention (Wales) Regulations 2013 (S.I. 2013/2506 (W.245)) (“the 2013 Regulations”) relating to monitoring of nitrate pollution and designation of nitrate vulnerable zones and ensure they will continue to be operable in Wales after the UK leaves the EU. The purpose of the instrument is to preserve and protect existing policy, it will not introduce any new policy.

2. Matters of special interest to the Constitutional and Legislative Affairs Committee

These Regulations are made under section 2(2) of the European Communities Act 1972 and as the instrument makes minor and technical changes the negative procedure is considered appropriate.

3. Legislative background

The Welsh Ministers are designated⁽¹⁾ for the purposes of section 2(2) of the European Communities Act 1972⁽²⁾ in relation to measures relating to water resources and make these Regulations in exercise of the powers conferred by that section.

The current designation process is reliant on section 2(2) of the European Communities Act 1972 which will be repealed once the UK leaves the EU.

4. Purpose and intended effect of the legislation

These Regulations amend the 2013 Regulations. The purpose of these regulations is to prevent nitrates from agricultural sources polluting ground and surface waters and promoting the use of good farming practices.

This instrument makes several minor and technical amendments to deficiencies in the existing legislation described above. It updates the process by which the Welsh Ministers may designate areas as nitrate vulnerable zones. It also introduces a new definition for “new holdings” in light of the new designation process along with providing transitional arrangements for new holdings and further consequential provision including introducing reporting requirements in relation to new holdings.

(1) See S.I. 2001/2555 for the designation conferred on the National Assembly for Wales. By virtue of sections 59 and 162 of, and paragraph 28 of Schedule 11 to, the Government of Wales Act 2006 (c. 32), that designation is now conferred on the Welsh Ministers.

(2) 1972 c. 68; section 2(2) was amended by section 27(1) (a) of the Legislative and Regulatory Reform Act 2006 (c. 51) and Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c. 7).

The instrument will ensure that the EU derived law in this area continues to operate effectively in Wales following exiting the EU. By making the proposed statutory instrument, the existing policy regime will be maintained, thereby providing businesses, environmental NGOs and the public with maximum certainty as the UK leaves the EU.

5. Consultation

No public consultation was undertaken. The purpose of the instrument is solely to enable the current legislative and policy framework to remain operable by the withdrawal of the United Kingdom from the European Union.

6. Regulatory Impact Assessment (RIA)

An RIA has not been conducted as the amendments are minor technical changes that are necessary as a result of the UK's withdrawal from the EU. A public consultation was not required because no policy changes are being made via this statutory instrument.

The statutory instrument has no impact on the statutory duties provided in sections 77 -79 GOWA 2006. In addition the statutory instrument has no impact on the statutory partners provided in sections 72-75 GOWA 2006.

As this instrument relates to maintaining existing legislation after EU Exit there is no, or no significant, impact on business, charities or voluntary bodies. There is no, or no significant, impact on the public sector.

SL(5)398 – The Animals and Animal Products (Examination for Residues and Maximum Residue Limits) (Wales) Regulations 2019

Background and Purpose

The Regulations provide a technical update, ensuring animal produce remains safe for consumers from exposure to residue of veterinary drugs, and to prohibit the use of certain illegal drugs. The Regulations also bring Welsh veterinary legislation up to date alongside that of comparative UK and EU legislation.

The Regulations include details of prohibited substances, sampling and analysis, and subsequent offences, penalties and enforcement.

Procedure

Negative.

Technical Scrutiny

One point is identified for reporting under Standing Order 21.2 in respect of this instrument.

Standing Order 21.2(vii) that there appears to be inconsistencies between the meaning of the Welsh and English texts

Regulation 2(1) sets out a number of interpretations for terms in these Regulations. The Welsh text incorrectly states “mae i “awdurdodiad marchnata” (“marketing authorisation”) yr un ystyr ag sydd i yn Erthygl 5.” It should read “mae i “awdurdodiad marchnata” yr un ystyr ag sydd i (“marketing authorisation yn Erthygl 5...”.

Merits Scrutiny

One point is identified for reporting under Standing Order 21.3 in respect of this instrument.

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 Assembly

The Regulations will come into force on 28 March 2019, and were laid on 14 March. As such, they breach the 21 day rule in section 11A(4) of the Statutory instruments Act 1946.

The Explanatory Memorandum states as follows, at paragraph 2:

“The SI is being laid under the ‘Negative Procedure’ with deviation from the standard 21 day laying period. Breaching the 21 day rule will allow the Regulations to come into force before the 29th March when the UK withdraws from the EU, and on which date the Animals and Animal Products (Examination for Residues and Maximum Residue Limits) (Wales) Regulations 2019 will also be subject to amendment by the Rural Affairs (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019 in order to ensure the effective operation of the Regulations following withdrawal of the UK from the EU. A breach of the 21 day rule is therefore thought necessary and justifiable in this case.”

We note the Government's explanation for the breach of the 21 day rule in this case. On balance, we consider that it was important to ensure that these Regulations came into force before the planned exit day of the UK from the European Union on 29th March 2019.

Implications arising from exiting the European Union

Parts of these Regulations are made in exercise of the powers contained in section 2(2) of the European Communities Act 1972, and will become part of retained EU law on exit day.

Government Response

A government response is required.

Committee Consideration

The Committee considered the instrument at its meeting on 1 April 2019 and reports to the Assembly in line with the reporting points above.



The contents of the Report are noted and the inconsistency between the Welsh and English texts will be remedied by a correction slip

Nodir cynnwys yr Adroddiad, a bydd yr anghysondeb rhwng y testun Cymraeg a'r testun Saesneg yn cael ei gywiro drwy slip cywiro.

Agenda Item 7.1

2(5)032 – The Regulation and Inspection of Social Care (Wales) Act 2016 (Commencement No. 6, Savings and Transitional Provisions) Order 2019

Background and Purpose

This is the sixth Commencement Order made by the Welsh Ministers under the Regulation and Inspection of Social Care (Wales) Act 2016 ("the Act"). Article 2 and the Schedule bring into force provisions of the Act relating to the regulation of certain social care service providers.

Section 6 of the Act is brought into force on 29 April 2019 to allow applications for registration to be made in respect of an adoption service, a fostering service, an adult placement service or an advocacy service. 29 April 2019 is the coming into force date for the provisions of Part 1 as they apply to persons providing an adoption service, a fostering service, an adult placement service or an advocacy service. Article 2 also commences relevant consequential amendments in Part 1 of Schedule 3 to the Act.

Articles 3 to 13 make savings and transitional provisions to deal with the periods within which a person registered under Part 2 of the Care Standards Act 2000 ("the 2000 Act") must apply to the Welsh Ministers to register and during which they will be exempt from the requirement to be registered under the Act and will continue to be regulated under Part 2 of the 2000 Act.

Procedure

This Commencement Order is made under sections 188(1) and (3) of the Act. In accordance with normal practice for commencement orders, section 188 does not require the order to be subject to the negative or affirmative procedure in the National Assembly. This is because the current law and that which will replace it will have been subject to the full scrutiny given to primary legislation. Commencement Orders are not required to be laid before the Assembly, but are always published on the

www.legislation.gov.uk website.

In this case, section 186(1) of the Act contained a broad power¹ to make transitional and saving provision (amongst other things) that would have been subject to the negative or affirmative procedure, depending on whether or not it amended primary legislation.

Scrutiny under Standing Order 21.7

The following point is identified for reporting under Standing Order 21.7 in respect of this Order.

The commencement provisions are set out in article 2 and the Schedule to this Order. Articles 3-12 contain detailed transitional and saving provisions. This Order is therefore drawn to the Committee's attention because it demonstrates the scale of such provisions that may be necessary when changing from one legislative framework to another. The Committee may then consider whether it is appropriate

¹ The Welsh Ministers may by regulations make such consequential, incidental, transitional, transitory or saving provision as they think appropriate for the purposes of or in connection with this Act.



for such provisions to be included in a statutory instrument that is not generally subject to Assembly scrutiny and whether such powers should be included in future Acts of the Assembly.

Implications arising from exiting the European Union

This Order has no implications arising from exiting the European Union.

Government Response

A government response is required.

Legal Advisers

Constitutional and Legislative Affairs Committee

April 2019



W E L S H S T A T U T O R Y
I N S T R U M E N T S

2019 No. 864 (W. 156) (C. 21)

SOCIAL CARE, WALES

**The Regulation and Inspection of
Social Care (Wales) Act 2016
(Commencement No. 6, Savings
and Transitional Provisions) Order
2019**

EXPLANATORY NOTE

(This note is not part of the Order)

This is the sixth Commencement Order made by the Welsh Ministers under the Regulation and Inspection of Social Care (Wales) Act 2016 (“the Act”).

Article 2 and the Schedule bring into force provisions of the Act relating to the regulation of certain social care service providers.

Section 6 of the Act is brought into force on 29 April 2019 to allow applications for registration to be made in respect of an adoption service, a fostering service, an adult placement service or an advocacy service. 29 April 2019 is the coming into force date for the provisions of Part 1 as they apply to persons providing an adoption service, a fostering service, an adult placement service or an advocacy service. Article 2 also commences relevant consequential amendments in Part 1 of Schedule 3 to the Act.

Articles 3 to 13 make savings and transitional provisions to deal with the periods within which a person registered under Part 2 of the Care Standards Act 2000 (“the 2000 Act”) must apply to the Welsh Ministers to register and during which they will be exempt from the requirement to be registered under the Act and will continue to be regulated under Part 2 of the 2000 Act.

Article 3 provides a definition of a “transition service” to describe a relevant agency which is included in an application for registration under the Act. A relevant agency is a voluntary adoption agency, an adoption support agency, an adult placement

scheme or a fostering agency which is carried on by a person registered under Part 2 of the 2000 Act immediately before the appointed day (29 April 2019). A “transition service” also includes a relevant agency whose provider is already registered under the Act as a care home service, a secure accommodation service, a residential family centre service or a domiciliary support service. In such a case, the provider which is already registered under the Act will need to apply to vary its registration in order to provide an adoption service, a fostering service, an adult placement service or an advocacy service.

Article 4 disapplies, for a transition period, section 5 of the Act. Section 5 makes it an offence to provide a regulated service without being registered under the Act. A person carrying on a relevant agency will not be liable under section 5 until the relevant date (31 August 2019) but, provided they have submitted an application to register, or to vary their registration, under the Act before the relevant date, the transition period is extended to the time when that application is determined.

Article 5 provides that where a relevant agency is subject to cancellation under the 2000 Act but the process is not determined on the date by which an application would normally have to be made to register under section 6 of the Act, then the date is put back to a date 6 weeks after the cancellation process is determined. The effect therefore is to extend the transition period. Similar provision is made in article 6 in relation to a relevant service which is subject to cancellation under the Act. A relevant service is a care home service, a secure accommodation service, a residential family centre service or a domiciliary support service, which is provided by a person who also provides a relevant agency.

Article 7 saves relevant provisions of Part 2 of the 2000 Act so that the provisions of Part 2, and regulations made under Part 2, continue to apply to those whose activity is governed by them during the transition period. The savings apply to providers, to the registration authority, to the First-tier Tribunal and to Magistrates’ Courts but not to managers. The registration of a manager registered under Part 2 of the 2000 Act ends therefore on 29 April 2019.

Article 8 allows the Welsh Ministers to postpone consideration of an application to register under the Act where the transition service is one which is subject to one of the specified enforcement measures under the 2000 Act, until after the outcome of the process which relates to the enforcement measure. Similar provision is made in article 9 in relation to a relevant service (where the provider of the relevant service also provides a transition service) which is subject to one of the specified enforcement measures under the Act.

Article 10 allows the Welsh Ministers to treat an outstanding application for registration under the 2000 Act as if it were an application to register under section 6 of the Act, or an application to vary registration under section 11(1)(a) of the Act, and to request any additional information to enable them to do so.

Article 11 allows the Welsh Ministers not to determine an application for variation or removal of conditions of registration made by a provider who, in the transition period, is still being regulated under the 2000 Act and instead consider it as part of the provider's application to register under the Act.

Article 12 provides that if a manager of an agency is subject to a notice of decision to cancel his or her registration and the manager has, before the expiry of the transition period, lodged an appeal to the First-Tier Tribunal, then the manager's registration will continue until the appeal is determined or abandoned.

Article 13 makes provision for persons who have been providing adoption services, fostering services, adult placement services or advocacy services in Wales prior to 29 April 2019 but have been unable to register under the 2000 Act either because their business is a branch of an English-registered agency but is based in Wales (in the case of a voluntary adoption agency); they are precluded from registration as unincorporated bodies (in the case of an unincorporated adoption support agency); they are not currently required to register (in the case of an advocacy service); or their business is located outside Wales (in the case of a fostering agency, an adoption support agency or an adult placement scheme). Where these providers make an application to register under section 6 of the Act by 31 August 2019 they will be able to continue to provide services and will not be liable to prosecution under section 5 of the Act.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

The following provisions of the Act have been brought into force by Commencement Order made before the date of this Order:

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Part 1		
Section 1	2 April 2018	2017/1326 (W. 299) (C. 121)
Section 2, (except for	2 April 2018	2017/1326 (W. 299) (C. 121)

paragraphs (d) to (g) of subsection (1), and paragraphs 1 to 3 and 8 of Schedule 1)		
Sections 3 to 5	2 April 2018	2017/1326 (W. 299) (C. 121)
Sections 7 to 31	2 April 2018	2017/1326 (W. 299) (C. 121)
Sections 32 to 55	2 April 2018	2017/1326 (W. 299) (C. 121)
Section 56(1) (partially)	4 September 2017	2017/846 (W. 206) (C. 71)
Section 56(2)	4 September 2017	2017/846 (W. 206) (C. 71)
Section 58	2 April 2018	2017/1326 (W. 299) (C. 121)
Section 64	2 April 2018	2017/1326 (W. 299) (C. 121)
Part 2 (sections 65 and 66)	3 April 2017	2017/309 (W. 80) (C. 29)
Part 3		
Section 67 (partially)	11 July 2016	2016/713 (W. 191) (C. 51)
Section 68 (partially)	11 July 2016	2016/713 (W. 191) (C. 51)
Section 73(1) and (2) (partially)	11 July 2016	2016/713 (W. 191) (C. 51)
Section 75 (partially)	11 July 2016	2016/713 (W. 191) (C. 51)
In so far as it is not already in force, Part 3 and Schedule 2	3 April 2017	2017/309 (W. 80) (C. 29)
Part 4 (sections 79 to 111)	3 April 2017	2017/309 (W. 80) (C. 29)
Part 5 (sections 112 to 116)	3 April 2017	2017/309 (W. 80) (C. 29)
Part 6 (sections 117 to 164)	3 April 2017	2017/309 (W. 80) (C. 29)
Part 7 (sections 165 to 173)	3 April 2017	2017/309 (W. 80) (C. 29)
Part 8 (sections 174 and 175)	3 April 2017	2017/309 (W. 80) (C. 29)
Part 9	3 April 2017	2017/309

(sections 176 to 182)		(W. 80) (C. 29)
Part 10 (sections 183 and 184)	3 April 2017	2017/309 (W. 80) (C. 29)
Part 11		
Section 185 and Schedule 3 in so far as they relate to Part 1 of Schedule 3	2 April 2018	2017/1326 (W. 299) (C. 121)
Section 185 and Schedule 3 in so far as they relate to Part 2 of Schedule 3	3 April 2017	2017/309 (W. 80) (C. 29)
Section 185 and Schedule 3 in so far as they relate to Part 3 of Schedule 3	6 April 2016	2016/467 (W. 149) (C. 28)

See also section 188(2) of the Act for provisions that came into force on 19 January 2016 (the day after the date of Royal Assent).

W E L S H S T A T U T O R Y
I N S T R U M E N T S

2019 No. 864 (W. 156) (C. 21)

SOCIAL CARE, WALES

**The Regulation and Inspection of
Social Care (Wales) Act 2016
(Commencement No. 6, Savings
and Transitional Provisions) Order
2019**

Made

10 April 2019

The Welsh Ministers, in exercise of the powers conferred by section 188(1) and (3) of the Regulation and Inspection of Social Care (Wales) Act 2016⁽¹⁾, make the following Order.

Title and interpretation

1.—(1) The title of this Order is the Regulation and Inspection of Social Care (Wales) Act 2016 (Commencement No. 6, Savings and Transitional Provisions) Order 2019.

(2) In this Order—

“the Act” (“*y Ddeddf*”) means the Regulation and Inspection of Social Care (Wales) Act 2016;

“the 2000 Act” (“*Deddf 2000*”) means the Care Standards Act 2000⁽²⁾;

“appointed day” (“*diwrnod penodedig*”) has the meaning given in article 2(4);

“CSA provider” (“*darparwr DSG*”) means a person who, immediately before the appointed day, is registered with the Welsh Ministers under Part 2 of the 2000 Act as a person who carries on a relevant agency;

“relevant agency” (“*asiantaeth berthnasol*”)—

(a) means an agency of one of the following descriptions—

(1) 2016 anaw 2.
(2) 2000 c. 14.

- (i) a voluntary adoption agency;
 - (ii) an adoption support agency;
 - (iii) a fostering agency, and
 - (b) includes, for the purposes of this Order, an adult placement scheme⁽¹⁾;
- “relevant service” (“*gwasanaeth perthnasol*”)—
- (a) means a service of one of the following descriptions in respect of which a person is registered under Chapter 2 of Part 1 of the Act—
 - (i) a care home service;
 - (ii) a secure accommodation service;
 - (iii) a residential family centre service; or
 - (iv) a domiciliary support service, and
 - (b) that person is also a CSA provider;
- “the Part 2 provisions” (“*darpariaethau Rhan 2*”) has the meaning given in article 7(4);
- “transition service” (“*gwasanaeth trosiannol*”) has the meaning given in article 3;
- “transition period” (“*cyfnod trosiannol*”) has the meaning given in article 4(2).

(3) In this Order the terms, “voluntary adoption agency”, “adoption support agency”, and “fostering agency” have the meanings given in section 4 of the 2000 Act and the term “adult placement scheme” has the meaning given in regulation 2 of the Adult Placement Schemes (Wales) Regulations 2004⁽²⁾.

Appointed days for commencement of provision relating to regulated services

2.—(1) 29 April 2019 is the appointed day for the coming into force of section 6 of the Act to the extent set out in paragraph (2).

(2) Section 6 of the Act is commenced to the extent that it applies to a person who wants to provide one of the services specified in paragraphs (d) to (g) of section 2(1) of the Act.

(3) 29 April 2019 is the appointed day for the coming into force of the following provisions of the Act—

- (a) paragraphs (1)(d) to (g) of section 2, and paragraphs 4 to 7 and 9 of Schedule 1;
- (b) section 56(1) (reports by local authorities and general duty of the Welsh Ministers) in so far

(1) The Adult Placement Schemes (Wales) Regulations 2004 (“the 2004 Regulations”) modify the 2000 Act so as to apply Part 2 of that Act to adult placement schemes and make provision in relation to such schemes.

(2) S.I. 2004/1756 (W. 188).

as it inserts section 144C (general duty of the Welsh Ministers) into the 2014 Act⁽¹⁾;

- (c) section 57 (reviews, investigations and inspections), and
- (d) section 185 and Part 1 of Schedule 3 (minor and consequential amendments) to the extent set out in the Schedule to this Order.

(4) 29 April 2019 is referred to in this Order as “the appointed day”.

Meaning of transition service

3.—(1) Subject to paragraph (2) a “transition service” is—

- (a) a relevant agency in respect of which a person is registered under Part 2 of the 2000 Act immediately before the appointed day and—
 - (i) in the case of a voluntary adoption agency or an adoption support agency, the area in which the agency provides adoption services is specified in an application made before the relevant date under section 6⁽²⁾ or 11(1)(a)(i)⁽³⁾ of the Act as a place in relation to which an adoption service is to be provided;
 - (ii) in the case of a fostering agency, the area in which the agency provides fostering services is specified in an application made before the relevant date under section 6 or 11(1)(a)(i) of the Act as a place in relation to which a fostering service is to be provided;
 - (iii) in the case of an adult placement scheme, the area in which the scheme provides services is specified in an application made before the relevant date under section 6 or 11(1)(a)(i) of the Act as a place in relation to which an adult placement service is to be provided.

(1) The phrase “2014 Act” is defined in section 189 of the Act as the Social Services and Well-being (Wales) Act 2014 (anaw 4).

(2) Section 6 of the Act requires a person who wants to provide a regulated service to make an application for registration to the Welsh Ministers.

(3) Section 11(1)(a)(i) of the Act requires a person who is already registered as a provider of a regulated service, within the meaning of the Act, to apply to the Welsh Ministers for the variation of that provider’s registration if the provider wants to provide a regulated service which the provider is not already registered to provide. In the case of this Order, such a person includes a provider of a care home service, secure accommodation service, a residential family centre service or a domiciliary support service.

Transitional disapplication of section 5 of the Act

4.—(1) Section 5 of the Act (requirement to register) does not apply to a CSA provider during the transition period.

(2) Subject to paragraph (3), the “transition period” for a CSA provider is the period beginning with the appointed day and ending on the earlier of—

- (a) the relevant date as specified in paragraph (4); or
- (b) the date on which an application to register or vary registration in respect of a transition service is finally determined.

(3) Where an agency in respect of which a CSA provider is registered becomes a transition service because it is specified in an application to register under section 6, or to vary under section 11(1)(a)(i), the transition period referred to in paragraph (2) is extended to the date when the application is finally determined.

(4) Subject to articles 5 and 6, the relevant date is 31 August 2019.

(5) Reference in this article to the time when an application under section 6 or 11(1)(a)(i) is finally determined includes—

- (a) the expiry of any time allowed for bringing an appeal under section 26(1) of the Act against a notice issued under section 19(4) of the Act;
- (b) the determination or abandonment of any appeal.

Postponement of relevant date for relevant agency subject to cancellation process

5.—(1) Where, on the relevant date specified in article 4(4), a relevant agency is subject to a cancellation process the relevant date is postponed until the date 6 weeks after the date when the cancellation process is finally determined.

(2) A relevant agency is subject to a cancellation process if a notice of proposal to cancel under section 17(4)(a) of the 2000 Act has been given to the CSA provider prior to the relevant date specified in article 4(4) and the process is not finally determined by that date.

(3) A cancellation process is finally determined when—

- (a) any appeal to the First-tier Tribunal against the cancellation is determined or abandoned;
- (b) a notice of decision under section 19(3) of the 2000 Act has been served and the 28 day period within which an appeal can be made to the First-tier Tribunal has expired; or

- (c) the CSA provider is notified that the notice of proposal has not been upheld or has been withdrawn.

Postponement of relevant date for relevant service subject to cancellation process

6.—(1) Where, on the relevant date specified in article 4(4), a relevant service is subject to a cancellation process the relevant date is postponed until the date 6 weeks after the date when the cancellation process is finally determined.

(2) A relevant service is subject to a cancellation process if, prior to the relevant date specified in article 4(4), an improvement notice under section 16(2) of the Act has been given to the provider of the relevant service with a view to cancelling the registration under section 15 and the process is not finally determined by that date.

(3) A cancellation process is finally determined when—

- (a) any appeal to the First-tier Tribunal against the cancellation is determined or abandoned;
- (b) a notice of decision under section 17(2), (3)(a) or (5) of the Act has been served and the 28 day period within which an appeal can be made to the First-tier Tribunal has expired; or
- (c) the provider of the relevant service is notified under section 17(1) or (4) of the Act.

Savings during transition period

7.—(1) During the transition period a CSA provider's registration under the 2000 Act will continue and, notwithstanding any consequential amendments to the 2000 Act made by Part 1 of Schedule 3 to the Act which would otherwise exclude their application, the Part 2 provisions will continue to apply to—

- (a) a CSA provider;
- (b) the Welsh Ministers;
- (c) the First-tier Tribunal;
- (d) a Magistrates' Court,

as if those consequential amendments had not been made.

(2) Section 16 of the Interpretation Act 1978⁽¹⁾ (general savings) applies in respect of the disapplication of the provisions of the 2000 Act to relevant establishments or agencies as it would if Part 2 of the 2000 Act were repealed.

(1) 1978 c. 30.

(3) Where a CSA provider's registration is subject to conditions immediately before the appointed day, those conditions will apply to the registration during the transition period.

(4) The Part 2 provisions are—

- (a) sections 14, 14A, 15, 17(4) to (6), 18, 19(3) to (6), 20A, 20B, 21, 23(1), 23(4), 24, 24A, 25(2), 26, 28, 29, 30, 30A, 31, 32, 36, and 37 of the 2000 Act;
- (b) such of the following regulations as apply to the agency in respect of which the CSA provider's registration is maintained—
 - (i) the Voluntary Adoption Agencies and the Adoption Agencies (Miscellaneous Amendments) Regulations 2003⁽¹⁾;
 - (ii) the Adoption Support Agencies (Wales) Regulations 2005⁽²⁾;
 - (iii) the Fostering Services (Wales) Regulations 2003⁽³⁾;
 - (iv) the Adult Placement Schemes (Wales) Regulations 2004⁽⁴⁾;
 - (v) the Care Standards Act 2000 (Notification) (Wales) Regulations 2011⁽⁵⁾;
- (c) such of the National Minimum Standards made pursuant to section 23(1) of the 2000 Act as apply to the agency in question.

Transitional modifications of the Act in relation to CSA providers for whom regulation continues under the 2000 Act

8.—(1) Where the Welsh Ministers take enforcement measures against a CSA provider in respect of a transition service under the 2000 Act during the transition period, the requirements of section 7(1) and (2) of the Act, as the case may be, in relation to the application are modified so that the Welsh Ministers are not required to grant or refuse the application in respect of the place which is the subject of the

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- (1) S.I. 2003/367 as amended by S.I. 2005/3341, S.I. 2007/603 and S.I. 2013/235.
 - (2) S.I. 2005/1514 (W. 118) as amended by S.I. 2006/3251 (W. 295) and S.I. 2013/235.
 - (3) S.I. 2003/237 (W. 35) as amended by S.I. 2004/1016 (W. 113), S.I. 2005/3302, S.I. 2006/3251 (W. 295), S.I. 2010/746 (W. 75), S.I. 2012/2404, S.I. 2016/216 (W. 85) and S.I. 2016/481.
 - (4) S.I. 2004/1756 as amended by S.I. 2005/3302, S.I. 2006/3251 (W. 295), S.I. 2006/878 (W. 83), S.I. 2010/2585 (W. 217), S.I. 2012/2404, S.I. 2014/107 and S.I. 2016/481. References to adult placement schemes, and the application of the provisions in the 2000 Act to those schemes, should be read in conjunction with the modifications contained in the 2004 Regulations.
 - (5) S.I. 2011/105 (W. 24).

enforcement measures until any process related to the enforcement measure is completed.

(2) For the purposes of paragraph (1) the completion of an enforcement measure includes—

- (a) the expiry of any time allowed for the bringing of an appeal under section 21 of the 2000 Act; or
- (b) the period until any such appeal has been determined or abandoned.

(3) In this article “enforcement measures” means—

- (a) issuing a notice of proposal under section 17(4)(a) of the 2000 Act or a notice of decision following a proposal under that section;
- (b) suspension under section 14A or issuing a notice for urgent suspension under section 20B of the 2000 Act;
- (c) an application for urgent cancellation under section 20A of the 2000 Act.

Transitional modifications of the Act in relation to providers of relevant services subject to enforcement measures

9.—(1) This article applies to the provider of a relevant service where the provider is also the provider of a transition service, having submitted an application under section 11(1)(a) of the Act before the relevant date in respect of a relevant agency.

(2) Where the Welsh Ministers take enforcement measures against the provider of a relevant service under the Act, the function of determining the application set out in section 12(1) of the Act is modified so that the Welsh Ministers may postpone determining the application until any process related to the enforcement measure is completed.

(3) For the purposes of paragraph (1) the completion of an enforcement measure includes—

- (a) the expiry of any time allowed for the bringing of an appeal under section 26 of the Act; or
- (b) the period until any such appeal has been determined or abandoned.

(4) In this article “enforcement measures” means—

- (a) issuing an improvement notice under section 16(2) of the Act or a notice of decision following a proposal under that section;
- (b) an application for urgent cancellation or variation under section 23 of the Act; or
- (c) issuing a decision notice under section 25 of the Act.

Provision for applications under the 2000 Act which are in the process of being determined on the appointed day

10. Where, on the appointed day, the Welsh Ministers have not completed the determination of an application for registration under section 12 of the 2000 Act as a provider of a relevant agency and the application was received prior to 29 April 2019, they may treat the application as if it was one made under section 6 or 11(1)(a) of the Act, as the case may be, and may require any further information which is required by section 6 or 11(1)(a), as the case may be, or by the Regulated Services (Registration) (Wales) Regulations 2017⁽¹⁾, to enable them to determine the application.

Transitional provision in relation to applications by CSA providers to vary or remove conditions of registration in the transition period

11.—(1) This paragraph applies where, during the transition period, a CSA provider makes an application under section 15(1)(a) of the 2000 Act to vary or remove a condition of registration for an agency which is a transition service.

(2) Where paragraph (1) applies, notwithstanding the requirements of section 15(4) (requirement to notify applicant on decision to grant application) and section 17(5) (requirement to notify applicant of decision to refuse an application) of the 2000 Act, the Welsh Ministers are not required to determine the application under section 15(1)(a) of the 2000 Act and may instead consider it as part of the CSA provider's application under section 6 of the Act or section 11(1)(a) as the case may be.

Provision about managers subject to notice of decision to cancel issued before the appointed day

12. Where the Welsh Ministers have issued a notice of decision to cancel the registration of a manager of an agency under section 19(3) of the 2000 Act and, before the appointed day, the manager has brought an appeal against the decision under section 21 (appeals to the Tribunal) of the 2000 Act, the registration of the manager will continue, for the purposes of the appeal, until the appeal is determined or abandoned.

Transitional disapplication of section 5 of the Act for existing providers of services

13.—(1) This article applies to a person who, immediately before the appointed day—

(1) S.I. 2017/1098 (W. 278).

- (a) provides a service in Wales of a sort which, after the appointed day, requires the person to be registered as the provider of an adoption service but who is not registered under Part 2 of the 2000 Act as a person carrying on an adoption society merely because the undertaking which provides or arranges the provision of the services is a branch of an adoption society, which is registered under Part 2 of the 2000 Act and is located in England;
- (b) provides a service in Wales of a sort which, after the appointed day, requires the person to be registered as the provider of an adoption service but who is not registered under Part 2 of the 2000 Act as a person carrying on an adoption support agency merely because the adoption support agency is an unincorporated body;
- (c) provides a service in Wales of a sort which, after the appointed day, requires the person to be registered as the provider of an advocacy service but who immediately before the appointed date was not required to be so registered;
- (d) provides a service in Wales of a sort which, after the appointed day, requires the person to be registered as the provider of an adoption service, a fostering service or an adult placement service but who is not registered under Part 2 of the 2000 Act as a person carrying on an adoption support agency, a fostering agency or an adult placement scheme merely because the person providing the service is not located in Wales.

(2) Where a person to whom paragraph (1) applies, makes an application to register as the provider of an adoption service, fostering service, advocacy service or adult placement service, as the case may be, under section 6 of the Act before 31 August 2019, section 5 of the Act does not apply to that person as regards the provision of the adoption service, fostering service, advocacy service or adult placement service in relation to the places specified in the application until the application is finally determined.

(3) Reference in paragraph (2) to an application being finally determined has the same meaning as in article 4(3) and (5).

Julie Morgan

Deputy Minister for Health and Social Services, under authority of the Minister for Health and Social Services, one of the Welsh Ministers

10 April 2019

SCHEDULE Article 2(3)(d)

The following provisions of Part 1 of Schedule 3 to the Act come into force in accordance with article 2(3)—

- (a) paragraph 4(c), (e) and (f),
- (b) paragraph 5,
- (c) paragraphs 12 to 15,
- (d) paragraphs 17 to 20,
- (e) paragraphs 21 to 23,
- (f) paragraph 24,
- (g) paragraph 28(b) and (c).

WRITTEN STATEMENT BY THE WELSH GOVERNMENT

TITLE **The Competitiveness of Enterprises and Small and Medium Enterprises (Revocation) (EU Exit) Regulations 2019**

DATE **8 April 2019**

BY **Rebecca Evans AM, Minister for Finance and Trefnydd**

The Competitiveness of Enterprises and Small and Medium Enterprises (Revocation) (EU Exit) Regulations 2019 (“2019 Regulations”)

The law which is being amended

European Directly Applicable Instruments

- Regulation (EU) 1287/2013 of the European Parliament and of the Council of 11 December 2013) establishing a Programme for the Competitiveness of Enterprises and small and medium-sized enterprises (COSME) (2014-2020) and repealing Decision No 1639/2006/EC.

Any impact the SI may have on the Assembly’s legislative competence and/or the Welsh Ministers’ executive competence

There is no effect on the National Assembly for Wales’ legislative competence or the Welsh Minister’s executive competence.

The purpose of the amendments

The 2019 Regulations revoke existing direct EU legislation which forms UK law relating to the Programme for the Competitiveness of Enterprises and small and medium-sized enterprises (COSME) (2014-2020).

In a ‘no deal’ scenario, the EU Regulation will cease to have effect in UK law and the UK Government intends not to introduce new legislation in order to deliver funds for the COSME programme post-exit.

In the event of a no-deal, the UK Government have stated it will guarantee EU funding for UK organisations which have successfully bid directly to the European Commission, where they can participate as third countries, so that they can continue competing for, and

securing, funding until the end of 2020. This includes UK COSME projects, where those projects remain viable after a No Deal exit.

For the Enterprise Europe Network (EEN) element of COSME activity in England, Wales and Northern Ireland, the UK Government have in place arrangement to deliver the guarantee through the existing lead delivery partner, UKRI.

There are existing legislative powers to deliver the underwrite from HM Treasury through Section 8 of the Industrial Development Act (1982) to deliver projects that do not fall under the Enterprise Europe Network (EEN) and for UK EEN projects supported by COSME, the Higher Education and Research Act (HERA) has sufficient powers for delivery.

The Regulations and accompanying Explanatory Memorandum, is available here:
<https://beta.parliament.uk/work-packages/75qQyf3H>

Why consent was given

Consent has been given for the UK Government to make these corrections in relation to, and on behalf of, Wales for reasons of efficiency, expediency and due to the technical nature of the amendments. The amendments have been considered fully; and there is no divergence in policy. These amendments are to ensure that the statute book remains functional following the UK's exit from the EU.

UK MINISTERS ACTING IN DEVOLVED AREAS	
128 - The Competitiveness of Enterprises and Small and Medium Enterprises (Revocation) (EU Exit) Regulations 2019 <i>Laid in the UK Parliament: 4 April 2019</i>	
Sifting	
Subject to sifting in UK Parliament?	Yes
Procedure:	Proposed Negative
Date of consideration by the House of Commons European Statutory Instruments Committee	24 April 2019
Date of consideration by the House of Lords Secondary Legislation Scrutiny Committee	8 April 2019
Date sifting period ends in UK Parliament	2 May 2019
Written statement under SO 30C:	Paper 11
SICM under SO 30A (because amends primary legislation)	Not required
Scrutiny procedure	
Outcome of sifting	Not known
Procedure	Negative or Affirmative
Date of consideration by the Joint Committee on Statutory Instruments	Not known
Date of consideration by the House of Commons Statutory Instruments Committee	Not known
Date of consideration by the House of Lords Secondary Legislation Scrutiny Committee	Not known
Commentary	
<p>These Regulations are proposed to be made by the UK Government pursuant to section 8(1) of the European Union (Withdrawal) Act 2018. The Regulations revoke existing direct EU legislation which forms UK law relating to the Programme for the Competitiveness of Enterprises and small and medium-sized enterprises (COSME) (2014-2020).</p> <p>In a 'no deal' scenario, the EU Regulation will cease to have effect in UK law and the UK Government intends not to introduce new legislation in order to deliver funds for the COSME programme post-exit.</p> <p>In the event of a no-deal, the UK Government have stated it will guarantee EU funding for UK organisations which have successfully bid directly to the European Commission, where they can participate as third countries, so that they can continue competing for, and securing, funding until the end of 2020. This includes UK COSME projects, where those projects remain viable after a No Deal exit.</p>	

Legal Advisers agree with the statement laid by the Welsh Government dated 8 April 2019 regarding the effect of these Regulations.

The above summary and the content of the Explanatory Memorandum to these Regulations confirm their effect.

Legal Advisers do not consider that any significant issues arise under paragraph 8 of the Memorandum on the European Union (Withdrawal) Bill and the Establishment of Common Frameworks in relation to these Regulations.

Legal Advisers have not identified any legal reason to seek a consent motion under Standing Order 30A.10 in relation to these Regulations.

**WRITTEN STATEMENT
BY
THE WELSH GOVERNMENT**

TITLE **The Common Agricultural Policy and Market Measures
(Miscellaneous Amendments) (EU Exit) Regulations 2019**

DATE **10 April 2019**

BY **Rebecca Evans AM, Minister for Finance and Trefnydd**

The Common Agricultural Policy and Market Measures (Miscellaneous Amendments) (EU Exit) Regulations 2019

The law which is being amended

The Common Agricultural Policy and Market Measures (Miscellaneous Amendments) (EU Exit) Regulations 2019 (“the 2019 Regulations”) amend the following domestic instruments:

- The Common Agricultural Policy (Direct Payments to Farmers) (Amendment) (EU Exit) Regulations 2019 (“the Direct Payments Regulations”);
- The Common Agricultural Policy (Financing, Management and Monitoring) (Miscellaneous Amendments) (EU Exit) Regulations 2019 (“the Financing Regulations”);
- The Common Organisation of the Markets in Agricultural Products Framework (Miscellaneous Amendments, etc.) (EU Exit) Regulations 2019 (“the Agricultural Products Regulations”);
- The Market Measures (Marketing Standards) (Amendment) (EU Exit) Regulations 2019 (“Marketing Standards”); and
- The Market Measures (Miscellaneous Provisions) (Amendment) (EU Exit) 2019 (“the Market Measures Regulations”).

While the Market Measures Regulations do make amendments to legislation applicable in Wales, the amendments made to the Market Measures Regulations by the 2019 Regulations relate to the Marketing of Fresh Horticultural Produce Regulations 2009 and the Milk and Milk Products (Pupils in Educational Establishments) (England and Northern Ireland) Regulations 2017, neither of which apply in relation to Wales. It is for this reason that the Market Measures Regulations are not referred to again elsewhere in this statement.

Any impact the SI may have on the Assembly's legislative competence and/or the Welsh Ministers' executive competence

The amendment to the Financing Regulations made by regulation 3(2)(b) of the 2019 Regulations has the effect of substituting the reference to "Member State" in Article 90(2) of Regulation (EU) 1306/2013 for a reference to the "relevant authority". The relevant authority for the purpose of Regulation (EU) 1306/2013 is the Welsh Ministers.

That amendment, in turn, therefore transfers an administrative function to the Welsh Ministers without encumbrance. The result of that transfer is to impose a duty on the Welsh Ministers to designate the competent authority responsible for carrying out checks in respect of obligations laid down in Section 2 of Chapter 1 of Title 2 of Part 2 of Regulation (EU) 1308/2013 in accordance with criteria laid down in Article 4 of Regulation (EC) 882/2004. It also similarly imposes a duty to ensure that any operator complying with those obligations is entitled to be covered by a system of checks.

The purpose of the amendments

The 2019 Regulations make amendments under section 8(1) of the European Union (Withdrawal) Act 2018 to address failures of retained EU law to operate effectively and other deficiencies (in particular under section 8(2)(b) and (g)) arising from the withdrawal of the UK from the European Union..

The amendments made to the Direct Payments Regulations take account of subsequent changes made to Regulation (EU) 1307/2013 by Regulation (EU) 1305/2013 and 1307/2013. The amendments to the Direct Payments Regulations result in operability changes to the retained EU law version of Regulation 1307/2013.

The amendments made to the Financing Regulations result in corrective, operability changes to the retained EU law version of Regulation (EU) 1306/2013.

The amendments made to the Agricultural Products Regulations also result in corrective, operability changes to the retained EU law version of Regulation (EU) 1308/2013.

The amendments made in the Marketing Standards Regulations take account of subsequent amendment made to Regulation (EU) 543/2011 by Regulation (EU) 543/2011, or are simply corrective in nature. The amendments to the Marketing Standards Regulations result in operability changes to the retained EU law version of Regulation (EU) 543/2011.

The 2019 Regulations and accompanying Explanatory Memorandum, setting out the effect of amendments is available here: <https://beta.parliament.uk/work-packages/DjwMqkoD>

Why consent was given

Consent has been given for the UK Government to make these corrections in relation to, and on behalf of, Wales for reasons of efficiency, expediency and due to the technical nature of the amendments. The amendments have been considered fully; and there is no divergence in policy. These amendments are to ensure that the statute book remains functional following the UK's exit from the EU.

UK MINISTERS ACTING IN DEVOLVED AREAS	
129 - The Common Agricultural Policy and Market Measures (Miscellaneous Amendments) (EU Exit) Regulations 2019 <i>Laid in the UK Parliament: 5 April 2019</i>	
Sifting	
Subject to sifting in UK Parliament?	No
Procedure:	Affirmative
Date of consideration by the House of Commons European Statutory Instruments Committee	N/A
Date of consideration by the House of Lords Secondary Legislation Scrutiny Committee	Not known
Date sifting period ends in UK Parliament	N/A
Written statement under SO 30C:	Paper 13
SICM under SO 30A (because amends primary legislation)	Not required
Scrutiny procedure	
Outcome of sifting	N/A
Procedure	Affirmative
Date of consideration by the Joint Committee on Statutory Instruments	Not known
Date of consideration by the House of Commons Statutory Instruments Committee	Not known
Date of consideration by the House of Lords Secondary Legislation Scrutiny Committee	Not known
Commentary	
<p>These Regulations are made by the UK Government pursuant to section 8(1) of the European Union (Withdrawal) Act 2018.</p> <p>Payments made under the Common Agricultural Policy fall into two strands: Pillar 1 (direct payments to farmers) and Pillar 2 (rural development funding). Policy responsibility in Wales lies with the Welsh Ministers. EU law permitted the Welsh Ministers to make transfers between the two pillars of up to 15% of the funds. Under the current law (EU Regulation No 1307/2013), the ability to do so expired at the end of August 2018. Amendments to this EU Regulation were made by EU Regulation 2019/288. The period is now extended to 31 December 2019.</p> <p>The Regulations listed in the Welsh Government's statement have already been made to give continuing effect to the Common Agricultural Policy (as retained EU law) after the UK's exit from the European Union.</p>	

However, since those Regulations were made, the changes to EU Regulation 1307/2013 described above have also taken effect.

Those changes now also need to be reflected in the UK. This instrument makes the necessary amendments to the relevant legislation. It also removes some minor errors in the existing law.

Legal Advisers agree with the statement laid by the Welsh Government dated 10 April 2019 regarding the effect of these Regulations.

The above summary and the content of the Explanatory Memorandum to these Regulations confirm their effect. Legal Advisers do not consider that any significant issues arise under paragraph 8 of the Memorandum on the European Union (Withdrawal) Bill and the Establishment of Common Frameworks in relation to these Regulations.



WRITTEN STATEMENT BY THE WELSH GOVERNMENT

TITLE **The Greenhouse Gas Emissions Trading Scheme (Amendment) (EU Exit) (No. 2) Regulations 2019**

DATE **11 April 2019**

BY **Rebecca Evans AM, Minister for Finance and Trefnydd**

The Greenhouse Gas Emissions Trading Scheme (Amendment) (EU Exit) (No. 2) Regulations 2019

The 2019 Regulations make amendments to the following:

Amendments to EU Directly Applicable Legislation

- Commissioning Implementing Regulation (EU) 2018/2067
- Commission Regulation (EU) No 601/2012

Revocation

- Commission Delegated Regulation (EU) 2019/331

Amendments to Domestic Legislation

- Greenhouse Gas Emissions Trading Scheme Regulations 2012
- The Greenhouse Gas Emissions Trading (Amendment) (EU Exit) Regulations 2019

Any impact the SI may have on the Assembly's legislative competence and/or the Welsh Ministers' executive competence

The SI is part of a package of measures to address the deficiencies within the EU Emissions Trading Scheme regime. This SI amends domestic legislation, and retained direct EU legislation, which largely falls within the legislative competence of the National Assembly for Wales and the Welsh Ministers' executive powers in relation to carbon trading.

The purpose of the amendments

These Regulations are made in exercise of the powers conferred by section 8 of the European Union (Withdrawal) Act 2018 in order to address failures of retained EU law to operate effectively and other deficiencies arising from the withdrawal of the United Kingdom from the European Union.

The Greenhouse Gas Emissions Trading Scheme (Amendment) (EU Exit) Regulations 2019 (the first EU ETS Exit Regulations) related to the continuation of the monitoring, reporting, accreditation and verification obligations of the EU Emissions Trading Scheme (EU ETS) in a no deal scenario and revoked directly applicable legislation relating to the cap and trade elements of the scheme. These Regulations address further deficiencies to the functioning of those obligations as a result of developments in EU which occurred at the end of 2018.

These regulations reflect the introduction of a new EU monitoring regulation (Commission Implementing Regulation (EU) 2018/2066) and verification regulation (Commission Implementing Regulation (EU) 2018/2067) at an EU level, and correct new deficiencies in the current EU monitoring regulation (Commission Regulation (EU) No 601/2012). They specifically introduce:

- An update to the definition of “the Verification Regulation” in regulation 3 of the Greenhouse Gas Emissions Trading Scheme Regulations 2012.
- Minor amendments to the first EU ETS Exit Regulations in consequence of amendments made to the existing monitoring by the new monitoring regulation.
- Amendments to the new verification regulation to ensure the operability of verification requirements after exit.
- An amendment to the new verification regulation to exclude provisions relating to free allocation as after exit, in a no deal scenario, the UK will no longer continue participating in the free allocation process associated with the EU ETS.
- Amendments to the current EU monitoring regulation, to address deficiencies introduced into that regulation by the new EU monitoring regulation.
- The revocation of the EU Regulation that relates to that post exit-day free allocation process (Commission Delegated Regulation (EU) 2019/331) as after exist day, in a no deal scenario the UK will no longer participate in the EU ETS and, therefore, free allocation relating to that scheme will no longer apply.

The SI and accompanying Explanatory Memorandums, setting out the effect of each amendment is available here: <https://beta.parliament.uk/work-packages/X2gK9S1i>

Why consent was given

Consent has been given for the UK Government to make these corrections in relation to, and on behalf of, Wales for reasons of efficiency and expediency. These amendments are to ensure that the statute book remains functional following the UK’s exit from the EU, by amending or revoking provisions that would otherwise be inoperable.

UK MINISTERS ACTING IN DEVOLVED AREAS

130 - The Greenhouse Gas Emissions Trading Scheme (Amendment) (EU Exit) (No. 2) Regulations 2019

Laid in the UK Parliament: 5 April 2019

Sifting

Subject to sifting in UK Parliament?	No
Procedure:	Proposed Negative
Date of consideration by the House of Commons European Statutory Instruments Committee	24 April 2019
Date of consideration by the House of Lords Secondary Legislation Scrutiny Committee	Not known
Date sifting period ends in UK Parliament	2 May 2019
Written statement under SO 30C:	Paper 15
SICM under SO 30A (because amends primary legislation)	Not required

Scrutiny procedure

Outcome of sifting	Not known
Procedure	Negative or Affirmative
Date of consideration by the Joint Committee on Statutory Instruments	Not known
Date of consideration by the House of Commons Statutory Instruments Committee	Not known
Date of consideration by the House of Lords Secondary Legislation Scrutiny Committee	Not known

Commentary

These Regulations are proposed to be made by the UK Government pursuant to section 8(1) of the European Union (Withdrawal) Act 2018.

In the event that the UK withdraws from the EU without a deal ('No Deal'), the UK would not have an agreement in place to continue participating in the EU Emissions Trading System (EU ETS), which would create inoperabilities in existing legislation. The Greenhouse Gas Emissions Trading Scheme (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/107) revoked certain provisions that will cease to apply on exit day and amended others to address those inoperabilities.

This instrument makes further amendments for the same purpose, following amendments to EU law governing the EU ETS (predominantly relating to the verification of emissions, and accreditation of verifiers). These amendments to EU law would result in further inoperabilities in the

event of a no-deal exit. The need for this further instrument was explained in the Explanatory Memorandum which accompanied S.I. 2019/107.

Following these amendments to EU law, the provisions made by S.I. 2019/107 still provide functioning monitoring and reporting regulations for UK operators, as the amendments to EU law were predominantly made to accreditation and verification requirements. This instrument accounts for those changes and will be in force before UK operators begin the accreditation and verification processes. No material impact of the inoperabilities introduced by the amendments to EU law will be felt by operators on exit day.

Legal Advisers agree with the statement laid by the Welsh Government dated 11 April 2019 regarding the effect of these Regulations.

The above summary and the content of the Explanatory Memorandum to these Regulations confirm their effect.

Legal Advisers do not consider that any significant issues arise under paragraph 8 of the Memorandum on the European Union (Withdrawal) Bill and the Establishment of Common Frameworks in relation to these Regulations.

Agenda Item 9.1



Department
for Exiting the
European Union

Robin Walker MP
Parliamentary Under Secretary of State for
Exiting the European Union
9 Downing Street
SW1A 2AG

correspondence@dexeu.gov.uk

Mick Antoniwi AM
Chair, Constitutional and Legislative Affairs Committee
National Assembly for Wales
Cardiff Bay
Cardiff
CF99 1NA

1 April 2019

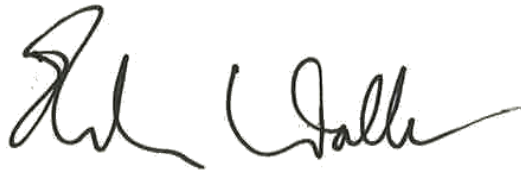
Dear Mr Antoniwi,

Thank you for your letter of 22 March asking for my views on a number of regulations to be made under the European Union (Withdrawal) Act 2018.

The approaches taken reflect the UK and Welsh Governments' agreement to the content of the regulations and are consistent with long-standing arrangements for how the two Governments work together on issues in which both have a legitimate interest, as set out in the Memorandum of Understanding and Supplementary Arrangements. I would like to reassure you that it is not the intention for such arrangements to affect the boundaries of devolution in any way, as these continue to be defined by the Government of Wales Act 2006.

As you note, the new reserved powers model of devolution for Wales establishes a clearer boundary between devolved and reserved matters. The devolution settlements have, however, evolved in the context of the UK's membership of the European Union. Detailed consideration has therefore been necessary to determine the extent to which areas of EU law intersect with devolved competence. There are a small number of areas which the UK Government believes are reserved but are subject to discussions with the devolved administrations. Given the need to ensure a functioning statute book in time for exit day it has been necessary for us to bring forward SIs to correct deficiencies in retained EU law in these areas whilst these discussions continue. These discussions are without prejudice to any future discussions to resolve disagreements around their reserved status.

I am copying this letter to the Secretary of State for Wales, the Minister for the Constitution and the Counsel General.

A handwritten signature in black ink, appearing to read 'Robin Walker', with a stylized, cursive script.

**ROBIN WALKER MP
PARLIAMENTARY UNDER SECRETARY OF STATE FOR
EXITING THE EUROPEAN UNION**

Constitutional and Legislative Affairs Committee
National Assembly for Wales

2 April 2019

Our ref: EJ/HG

Dear Mick

Senedd and Elections (Wales) Bill

During our evidence session on the above Bill on 11 March, I promised to provide the Committee with further information relating to some of the issues discussed during the session. I have highlighted relevant sections of the Bill's Explanatory Memorandum that may be of interest to the Committee in its consideration of these issues (annex 1). I hope the Committee will find this helpful in informing its scrutiny of the Bill.

I also promised to provide copies of correspondence with Welsh Ministers relating to the Bill. Please find that correspondence attached (annex 2).

Please let me know of any other further information the Committee wishes to receive on the Bill.

I look forward to discussing the Bill again with the Committee in due course.

Yours sincerely



Elin Jones AM

Llywydd

Croesewir gohebiaeth yn Gymraeg neu Saesneg.

We welcome correspondence in Welsh or English.

Annex 1 – further information

Name of the National Assembly for Wales

During our discussion on changing the Assembly's name the Committee asked whether changing the name to the monolingual 'Senedd' would "create a problem with regard to the duties on the Assembly to treat both languages on an equal basis?".

This question is addressed in sections 906-909 of the Explanatory Memorandum to the Bill, replicated below for ease of reference:

906. In accordance with the requirements of the *National Assembly for Wales (Official Languages Act) 2012*, the Assembly Commission operates an Official Languages Scheme. The current scheme was agreed by the Commission at the beginning of the Fifth Assembly in July 2017.¹ The scheme sets out how the Assembly Commission will provide services in both Welsh and English to reflect the equal status of both the Assembly's official languages. Section 13.2 of the scheme states:

"Our corporate identity is bilingual. However, some terms are known by a single name in both of the official languages, including the following:

- Llywydd;
- Senedd, Neuadd, Cwrt, Oriel, Siambr;
- Tŷ Hywel; Siambr Hywel; and
- Pierhead."

907. The term "Senedd" will provide a single, new name for the Assembly to be used in both the official languages in the same way as the names listed above.

908. This approach will be reflected in branding material associated with the name change and on public information such as signage, illustrating that the term "Senedd" reflects the institution's role as the Welsh parliament.

¹ National Assembly for Wales Commission, [The Official Languages Scheme for the Fifth Assembly](#), July 2017

909. It may be argued that the adoption of a Welsh term (i.e. Senedd) as a new name for the Assembly does not reflect the equal status of both the Assembly's official languages. However, the requirement to reflect the equal status of both languages does not require both languages to be treated in exactly the same way, as demonstrated by the list of Assembly-related names shown above. It is considered that the adoption of a Welsh term as a new name for the Assembly, for use in both of the Assembly's official languages, will help achieve greater parity of status for both languages over time, in terms of their use and profile. The Bill also provides that the Senedd may also be known as the Welsh Parliament, which provides further mitigation against this argument.

Elections

The Committee enquired "if it's right to be able to vote at 16, why shouldn't you be able to stand for election at 16?". In addition to the rationale provided during the evidence session, I draw the Committee's attention to the relevant part of the Explanatory Memorandum where consideration is given to lowering the minimum age of candidacy and the explanation for not pursuing this in the Bill (paragraphs 996 – 1000 of the Explanatory Memorandum):

996. Changes to the law on disqualification from being an Assembly Member will not directly affect children and young people. Instead, prospective Assembly Members will, as now, need to be 18 on the day they are nominated in order to stand for election.
997. An argument could theoretically therefore be advanced that this discriminates against children and young people on the basis of age, and that the age of candidacy should be lowered. Indeed, in Scotland, Liberal Democrat MSP Alex Cole-Hamilton tabled a motion, which received cross-party support, calling for the minimum age for candidates standing in Scottish parliamentary elections to be lowered to 16.²

² Scottish Parliament, Motion S5M-11890: Alex Cole-Hamilton, Edinburgh Western, Scottish Liberal Democrats, Date Lodged: 26/04/2018

998. However, this issue was not raised as a concern in the Assembly Commission's consultation, and research has indicated that no country in the world currently has a candidacy age lower than 18. Consideration would also need to be given to how such a proposal would interact with child protection laws (for example, limits on working hours).
999. It may also be noted that all 11- to 17-year-olds who are living³, or receiving education, in Wales are eligible to stand as a candidate in constituency elections to the Welsh Youth Parliament. There are also opportunities to stand as a candidate in school and youth councils.
1000. Consequently, the decision not to reduce the candidacy age of elections to the Assembly is not considered to infringe upon children's' rights to be free from discrimination.

³ Defined as permanently or ordinarily resident in Wales.

Annex 2 – correspondence on the Bill with Welsh and UK Ministers

Copies of the following letters are provided below:

- A. Letter to the Llywydd from the Welsh Government's First Minister re response to the Assembly Commission's consultation on changing the Assembly's name – 16 February 2017
- B. Letter from the Llywydd to the Welsh Government's Cabinet Secretary for Local Government and Public Services re Assembly reform and local government electoral reform: joint working and information sharing – 2 February 2018
- C. Letter to the Llywydd from the Welsh Government's Cabinet Secretary for Local Government and Public Services re collaboration and information sharing – 21 February 2018
- D. Letter from the Llywydd to the Welsh Government's Cabinet Secretary for Local Government and Public Services re Electoral Commission financing and accountability arrangements – 20 March 2018
- E. Letter to the Llywydd from the Welsh Government's First Minister re joint working arrangements between the Assembly Commission and Welsh Government – 30 August 2018
- F. Letter to the Llywydd from the Welsh Government's Cabinet Secretary for Local Government and Public Services re the financing and accountability arrangements of the Electoral Commission - 20 September 2018
- G. Letter from the Llywydd to the Welsh Government's Cabinet Secretary for Local Government and Public Services re Reducing the voting age to 16: implications for education curriculum – 12 October 2018
- H. Letter from the Llywydd to the Welsh Government's Cabinet Secretary for Education re Reducing the voting age to 16: implications for education curriculum – 12 October 2018
- I. Letter to the Llywydd from the Welsh Government's First Minister re changing the Assembly's name – 10 December 2018
- J. Joint letter to the Llywydd from the Welsh Government's Ministers for Education and for Housing and Local Government re preparatory work to change the franchises for Assembly and Local Government elections – 30 January 2019

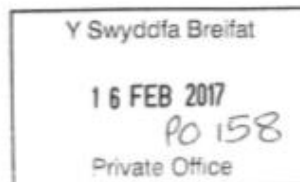
A.

Y Gwir Anrh/Rt Hon Carwyn Jones AC/AM
Prif Weinidog Cymru/First Minister of Wales



Llywodraeth Cymru
Welsh Government

Elin Jones AM
Presiding Officer
National Assembly for Wales
Cardiff Bay
Llwydd@assembly.wales



16 February 2017

Dear Elin

I am writing in response to the Assembly Commission's consultation on whether the National Assembly should change its name.

Since the early days of devolution, we have seen the Assembly steadily change and develop from an institution with limited powers into a mature parliamentary body with full law-making powers and new responsibilities for raising taxes. The Wales Act 2017 allows us to rename the institution to reflect its status as a national parliament, on a par with the other legislatures in the UK. I believe we should make use of this new power, and in my view the name Welsh Parliament/Senedd Cymru, with Members to be known as Member of the Welsh Parliament (MWP)/Aelod o Senedd Cymru (ASC), are the best options, both for constitutional consistency and to enhance public understanding of its role.

As I made clear when we met recently, I believe any renaming of the Assembly should be achieved by means of a standalone Bill, and should not be combined with any legislative reform to Assembly election arrangements.

Yours sincerely

CARWYN JONES


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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

B.

 **Elin Jones AC, Llywydd**
Cynulliad Cenedlaethol Cymru
Elin Jones AM, Presiding Officer
National Assembly for Wales

Alun Davies AM
Cabinet Secretary for Local Government and Public
Services
National Assembly for Wales
5th Floor
CF99 1NA

Our ref: EJ/HG

02 February 2018

Dear Alun,

Assembly reform and local government electoral reform: joint working and information sharing

As we agreed during our discussion on 17 January 2018, I am writing to you to propose an approach to information sharing and joint working in relation to the Assembly Commission's Assembly reform programme and the Welsh Government's local government electoral reform work. I am grateful to you for your willingness to work collaboratively in this respect, to ensure that our respective reform proposals are developed to form a coherent, workable and effective framework for elections in Wales.

To achieve this, we agreed that our officials should continue to work collaboratively to make good use of public resource and expertise, share relevant information and documentation throughout the process of developing our respective legislative proposals. This will be particularly important given uncertainty at this stage about the order in which the Bills will be introduced and the order which they will receive Royal Assent.

We will continue to maintain an open dialogue through regular meetings with your officials and recognise that even if there is any divergence of policy decisions, the overall framework needs to be joined up and coherent.

Proactive and transparent sharing of information will help to avoid duplication of work, not least for the stakeholders who will be affected by the proposals contained in both pieces of legislation. Such information or documents might include, for example:

- Policy or drafting instructions relating to relevant areas of policy;

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- Information relating to the impact assessments of the policy options considered, such as the potential costs, savings and benefits of policy proposals, or information about or to inform the completion of impact assessments, for example equalities, language and justice impact assessments;
- Other Bill and related policy documents prior to publication, for example consultation documents, consultation reports, oral or written statements, Explanatory Memoranda or Bills.

We agreed when we met that it would be helpful to set out clearly the basis on which information will be shared. In that regard, I suggest the following:

Information shared by the Welsh Government:

- Information and documents shared by the Welsh Government with the Assembly Commission will be restricted for use by Assembly Commission officials working directly on the Assembly reform programme. They may also be shared with the Llywydd, in her capacity as Member in charge of the Assembly Reform work, or with Daniel Greenberg, who has been retained by the Assembly Commission to carry out expert legal drafting work.
- Such information and documents will be used by officials to inform the development of the Assembly Commission's legislative proposals and accompanying documentation. For example, information provided may be included in documents produced by Assembly Commission officials for the purposes of advising the Member in charge. If such information is used within documents which may be published, where possible it will be referenced to its primary source, rather than to the Welsh Government.
- No information or documents shared with us will be used for any purpose other than the development and delivery of the Assembly reform programme.

Information shared by the Assembly Commission:

- We expect that documents or information shared by the Assembly Commission with the Welsh Government will be seen only by the Bill team and other lawyers working on local government electoral reform, used only for the purposes of informing the development of that work, and not made public in any way or disclosed to external stakeholders.

Information shared by either party:

- The sharing of any documents or information between the Welsh Government and Assembly Commission will be carried out in accordance with data protection legislation. For example, personal data and identifying information will be redacted, unless the owners of the information have given their consent for it to be shared.



Elin Jones AC, Llywydd
Cynulliad Cenedlaethol Cymru
Elin Jones AM, Presiding Officer
National Assembly for Wales

I hope that the approach to joint working, cooperation and information sharing set out above is acceptable to you. I look forward to hearing from you.

Should you wish to make reference to our commitment to collaborative working in your forthcoming statement on Local Government Reform, I believe that would be a positive signal to Members and stakeholders that we are developing proposals to produce a coherent joined up framework that works for voters in Wales.

Yours sincerely,

Elin Jones AM
Llywydd

Croesewir gohebiaeth yn Gymraeg neu Saesneg / We welcome correspondence in Welsh or English.

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C.

Alun Davies AC/AM
Ysgrifennydd y Cabinet dros Lywodraeth Leol a
Gwasanaethau Cyhoeddus
Cabinet Secretary for Local Government and Public
Services



Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref ARD/00114/18

Elin Jones AM/AC
Assembly Member for Ceredigion
Presiding Officer
National Assembly for Wales
Ty Hywel
Cardiff Bay
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Llywydd@assembly.wales

21st February 2018

Amry Elin,

Thank you for your letter of 2nd February concerning collaboration and the sharing of information in relation to our respective Assembly reform and local electoral reform programmes. I share your view that there is much to be gained from joint working both to keep each other informed of developments and to avoid unnecessary duplication.

I am happy for my officials to continue to liaise closely with yours during this period when we are both seeking to refine proposals for possible inclusion within Bills for introduction to the Assembly in the near future. The joint meetings which have been underway for some time should continue. In light of the common issues arising in our respective reform programmes and the close timetables, I am also prepared to agree to the general principle of sharing of relevant policy and legal instructions, draft impact assessments and other information as you suggest, subject to consideration of any specific issues raised by legal services about the information. Information will be disclosed on a strictly confidential basis for sharing between officials, legal advisers and legislative drafters only, in addition to ourselves. In light of the perceived benefits, I would be grateful if your officials could also share their relevant information with our officials, on comparable terms.

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Correspondence.Alun.Davies@gov.wales

Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

As you are aware, there is a potential difficulty presented by the linkage between the Assembly franchise and the local government register of electors. As any change to the Assembly franchise would require approval by a two-thirds majority of Assembly Members, it is essential that timing and wording of the two proposed Bills is coordinated to ensure that such a majority should only apply to an Assembly Reform Bill.


I think it would be beneficial for us to hold further meetings during forthcoming months to ensure that we are kept well-informed of progress on both sides.

Handwritten signature of Alun Davies in blue ink.

Alun Davies AC/AM

Ysgrifennydd y Cabinet dros Lywodraeth Leol a Gwasanaethau Cyhoeddus
Cabinet Secretary for Local Government and Public Services

D.

 **Elin Jones AC, Llywydd**
Cynulliad Cenedlaethol Cymru
Elin Jones AM, Presiding Officer
National Assembly for Wales

Alun Davies AM
Cabinet Secretary for Local Government and Public Services
National Assembly for Wales
Cardiff Bay
CF99 1NA

Our ref: PO/EJ/HG

20 March 2018

Dear Alun,

Thank you for our constructive meeting to discuss our respective electoral reform intentions. I would like to invite you to consider a matter which has been raised with me by the Electoral Commission as a result of the devolution of new powers in the Wales Act 2017.

The Wales Act 2017 enables the Assembly to legislate to change the arrangements for the accountability and financing of the Electoral Commission in Wales. The Electoral Commission has met with me to discuss how to take forward what it views as an important corollary of the devolution of powers relating to electoral arrangements in Wales. The Commission has invited me to consider how best to approach this matter.

Please find attached the original proposal which the Electoral Commission shared with me last year. There are of course considerations as to how funding would be transferred should this proposal be implemented. The Speaker's Committee currently funds the Electoral Commission. The Electoral Commission has offered to provide financial estimates of the sums which will be sought from the Assembly in accordance with the proposal. We expect to receive these estimates in early March.

In principle, I see merit in reflecting these changes in the governance arrangements for the Electoral Commission and making it accountable to the Assembly. I have considered whether it would be appropriate for the Assembly Commission to consider these matters as part of the Assembly Reform Bill. Given that changing the accountability and funding of the EC from the Speaker's

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Committee to the Assembly is a significant change which goes beyond the remit of the Assembly Commission and also the timescale for introduction of the Assembly Reform Bill, I believe there are more appropriate avenues to take forward these legislative proposals.

Given the importance of ensuring that the financing and accountability arrangements for the Electoral Commission are robust and appropriate, and the potential complexities involved, I will be making the Assembly's Constitutional and Legislative Affairs Committee aware of these proposals and will share with them the further information to be received from the Electoral Commission. I have also suggested to the Electoral Commission that they share their proposal and financial estimates with the Welsh Government.

If you are minded to pursue these proposals, then the Assembly's view of how future arrangements should work would be required in order to inform the development of legislative proposals.

We have agreed to meet regularly over the next few months to discuss electoral reform. I would be more than happy to discuss the Electoral Commission's proposal with you during our next meeting.

Yours sincerely,



Elin Jones AM
Llywydd

Croesewir gohebiaeth yn Gymraeg neu Saesneg / We welcome correspondence in Welsh or English

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Annex – The Electoral Commission’s proposal on funding and accountability



Accountability to the National Assembly for Wales

The Wales Act 2017 provides the National Assembly for Wales with the responsibility for local government elections and a Welsh general election. It also accepted the principle that, as a result of these changes, there would be a single UK-wide Electoral Commission which would report to more than one legislature.

The Act does not include any specific details as to how the Commission would account to the National Assembly for Wales or how we would be funded.

This paper is intended to provide advice as to how the Electoral Commission could be accountable to the National Assembly for Wales following commencement of the Wales Act 2017, which is expected to be in the spring of 2018.

We have, since the establishment of the Commission, reported to the National Assembly for Wales in relation to policy scrutiny matters and have a long history of giving evidence to those legislatures and advice. It is not currently suggested that the way we do this would change significantly.

We have committed to providing options to the National Assembly for Wales on how we should account and submit financial funding estimates in the future. We have therefore sought to develop principles to underpin our discussions in relation to the establishment of financial accountability structures to the legislatures and to inform the submission of financial estimates to them and the consequential impact on the submission of plans and estimates to the Speaker’s Committee of the Westminster Parliament.

Wherever practicable we should be funded by the relevant legislature rather than government and we actively welcome scrutiny and accountability for how we spend public funds to the legislature which provided them.

It is proposed that the body to which we account to at the National Assembly for Wales should have the following characteristics and functions:

- Be independent of any Welsh Government department;
- Report directly to the Assembly;
- Be chaired by a non-party representative (a Presiding Officer or Deputy Presiding Officer).



Elin Jones AC, Llywydd

Cynulliad Cenedlaethol Cymru

Elin Jones AM, Presiding Officer

National Assembly for Wales

Y Comisiwn Etholiadol The Electoral Commission

Functions to include:

- General oversight of how the Electoral Commission exercises its functions derived from that legislature;
- Review of the Commission's annual estimate of resources required for delivery of functions carried out under its legislative responsibility;
- Require the Commission to provide an annual report to facilitate scrutiny of the Commission's activities;
- Receive reports from the Wales Audit Office.

Previous discussions have indicated that there are some current arrangements in place that might be utilised for the Electoral Commission to report to the National Assembly for Wales in the future. These include:

- A committee of the National Assembly for Wales
- The current panel of Assembly Commissioners

Another option would be for the National Assembly for Wales to consider establishing a 'Presiding Officer's Committee' – a model similar to the Speaker's Committee on the Electoral Commission in the UK Parliament.

Resource planning in the Commission

In July and August resource planning options will be modelled and reviewed to establish a preferred methodology for preparing estimates each year for approval by the UK Parliament, the Scottish Parliament and the National Assembly for Wales.

The type of issues that will be considered when constructing and reviewing options and models include:

- To seek funding from the legislatures for only marginal costs (i.e. 'additional costs only' (e.g. public awareness, election specific research, any new staff hired just for that poll) as we have in the past;
- To seek to include 'core' costs (e.g. all Wales office staff, a percentage of staff time outside Wales working on matters derived from legislative competencies held by the National Assembly for Wales, facilities at least in part in Wales or across the UK, ongoing work in non-election years and work relating to by-elections etc.);

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Elin Jones AC, Llywydd

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Elin Jones AM, Presiding Officer

National Assembly for Wales

Y Comisiwn Etholiadol **The Electoral Commission**

- The Commission recognises that staff in Wales also work on matters which derive their legislative basis from the UK Parliament and that staff based across the UK contribute to Wales specific work;
- Is this calculation possible/desirable to provide an exact estimate for all costs derived from National Assembly for Wales legislative responsibilities or do we need to develop a formula whereby we calculate an annual 'Wales activity estimate' which can be agreed by the National Assembly for Wales? Such a formula be accepted by HM Treasury (the Speaker's Committee is required to seek advice from HM Treasury before agreeing the Electoral Commission's Estimate) and the Wales Audit Office (as advisers to the National Assembly for Wales)?
- The funding assumptions (e.g. marginal or full cost funding; costing of all, or some, activity by country) and the basis for annual calculations (i.e. cost allocation methodologies, use of 'high-level' formula or 'exact cost' calculations) will inform how plans and budgets are presented and would have a consequential impact on the funding of the Commission in the future should there be any move away from the model of a single UK-wide Electoral Commission.

The Commission will make a recommendation relating to proposed financial modelling, potentially including a preferred model in Wales, in or around September 2017 and we will put these proposals to the Assembly Commission at that time.

The Electoral Commission
June 2017

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E.

Y Gwir Anrh/Rt Hon Carwyn Jones AC/AM
Prif Weinidog Cymru/First Minister of Wales



Llywodraeth Cymru
Welsh Government

Elin Jones AC/AM
Presiding Officer
National Assembly for Wales
Cardiff Bay
CF99 1NA

Y Swyddfa Breifat

30 AUG 2018

PO 524

Private Office

30 August 2018

Dear Elin

Further to our recent discussions on extending the franchise to include 16 and 17 year olds for the National Assembly for Wales elections in 2021, I am pleased to attach for your agreement the Memorandum of Understanding which will govern how this work will be taken forward.

I am content with the arrangements it sets out and hope that you are also content. I believe delivering this change and providing young people with a voice in our democracy will show that Wales is leading the way on democratic reform.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Carwyn Jones'. The signature is fluid and cursive, with the first name 'Carwyn' being more prominent than the surname 'Jones'.

CARWYN JONES

Memorandum of Understanding

National Assembly for Wales Elections 2021

Provision of Welsh Government staff resource and Assembly Commission resources for the delivery of the extension of the National Assembly for Wales franchise to include 16 and 17 year olds to form part of an Assembly Commission Bill

1. Introduction

1.1 This Memorandum of Understanding (MoU) sets out the scope, principles, governance, working arrangements and delivery tasks in relation to the Welsh Government and Assembly Commission's agreement for the Welsh Government to deliver primary and secondary legislation to give effect to agreed changes in relation to extending the franchise for the National Assembly for Wales for the 2021 elections to include 16 and 17 year olds.

1.2 This MoU does not preclude either formal or informal discussion on other matters of mutual interest in relation to electoral or Assembly reform.

2. Scope

2.1 The Welsh Government will deliver the primary legislation required to give effect to the agreed franchise changes in relation to 16 and 17 year olds. The primary legislation will be taken forward as part of a Commission Bill, of which the Commission has agreed that the Llywydd will be Member in Charge.

2.2 To facilitate this the Welsh Government will deliver policy and legal instructions, draft provisions to be included in the Bill, extracts for the explanatory memorandum and explanatory notes, regulatory impact assessment, justice impact assessment, equality impact assessment, Welsh Language Impact assessment and children's rights assessment relevant extracts, briefing material for the lead member in respect of the franchise change and any necessary amendments and updates on any of these documents as the Bill proceeds through the National Assembly for Wales.

2.3 Welsh Government officials will not be required to attend Committee or other proceedings with the Member in Charge for the Assembly Commission Bill. Translation of all documents provided will be the responsibility of the Assembly Commission, but the Office of the Legislative Counsel will ensure that the English and Welsh texts of the franchise provisions are legally equivalent. It will be the Welsh Government's responsibility to ensure that documents are received within agreed timescales to ensure that there is sufficient time for translation to be completed.

2.4 Secondary legislation will be taken forward by Welsh Government where Ministers have been delegated the power.

3. Principles

3.1 All policy decisions in relation to the franchise for the National Assembly for Wales elections required to be made in relation to primary legislation will be made by the Llywydd.

3.2 In making these policy decisions the Llywydd may seek advice from Welsh Government officials and may meet with officials in this context. These meetings will include Assembly Commission officials.

3.3 Welsh Government officials will not make this advice or contents of discussions available to Welsh Ministers without the prior agreement of the Llywydd.

3.4 Welsh Government officials will not make the content of advice given to Welsh Ministers on franchise matters available to the Llywydd without the prior agreement of Welsh Ministers.

3.5 Welsh Government officials will not make Assembly Commission advice, documents or content available to Welsh Ministers without the prior agreement of the Llywydd.

3.6 All of the delivery tasks will be subject to Welsh Government's internal quality assurance processes in respect of the production of legislation. This relates to processes set out in the Welsh Government's Legislation Handbook as well as Legal Services and OLC's internal checking processes. However, the aim is to work on a 'no surprises' basis and all drafts will be routinely discussed and considered as part of the fortnightly liaison meeting between Assembly Commission and Welsh Government officials (see below).

3.7 Political sign off of the franchise changes will rest with the Llywydd.

3.8 Welsh Government officials will keep Assembly Commission officials informed of progress and any risks or issues which may impact on the delivery of the franchise changes to be included in the Assembly Commission Bill and the related secondary legislation. This will include, subject to the agreement of Welsh Ministers, any inter-related risks or issues in respect of proposed changes to the local government franchise.

3.9 Assembly Commission officials will keep Welsh Government officials informed of any relevant progress issues or wider risks or issues in relation to the Commission's Bill as a whole which may impact upon its delivery or implementation.

3.10 Assembly Commission and Welsh Government officials will work together to ensure stakeholders in the electoral community and those impacted by the change in the franchise are well informed of and engaged with the change.

3.11 Assembly Commission officials and Welsh Government officials will exchange in confidence legislative timetables relating to both primary and secondary legislation

in respect of any changes to be made to the National Assembly and local government franchises so that relevant handling issues can be considered collectively.

4. Governance

4.1 There will be both political and official governance arrangements to oversee the delivery of the primary and secondary legislation.

Political – the First Minister and the Cabinet Secretary for Local Government and Public Services will have regular meetings (both individually and collectively) with the Llywydd as Member in Charge to consider progress and handling issues. This may form part of the agenda of any regular meetings already scheduled. The aim will be to ensure there is transparency and 'no surprises' in relation to matters in respect of extending the franchise for both the National Assembly for Wales and local government to include 16 and 17 year olds and other policy issues relating to the Bill, recognising that the overall framework for elections needs to be joined up and coherent.

The Llywydd and officials will be responsible for briefing the Assembly Commission ("the Commission") and securing the decisions required from the Commission on the Bill, reflecting the delegation of responsibilities between the Llywydd as Member in Charge and the Commission.

Key Commission decision points are:

- 24 September 2018: Commission meeting to make final decision on scope and timing of the Bill.
- October 2018 (date tbc): Assembly debate on a motion to endorse the Commission's decision to introduce the Bill.

Commission meetings will also take place on the dates listed below. As a minimum, it is anticipated that the Llywydd will provide verbal updates to Commissioners on progress at these meetings.

- 5 November 2018
- 10 December 2018
- 28 January 2019
- 4 March 2019
- 1 April 2019
- 13 May 2019 (subject to Business Committee decisions on legislative timetable, this meeting may provide an opportunity for Commissioners to consider Stage 1 committee recommendations).
- 10 June 2019
- 15 July 2019

- 23 September 2019
- 4 November 2019
- 9 December 2019

Officials – Assembly Commission and Welsh Government officials will meet fortnightly to discuss progress, risks and issues in respect of the franchise changes. This may form part of the agenda of any regular meetings already scheduled.

The Assembly Commission Bill SRO, the Welsh Government Bill Lead Official and the Welsh Government Lead Official for the franchise changes will meet as needed but no less frequently than quarterly to consider risks and issues in relation to the delivery of the Bill.

Welsh Government Officials will attend for relevant items on the Assembly Reform Project board when requested to provide information and updates on the delivery of the franchise changes.

5. Working Arrangements

5.1 Constitutional Affairs and Inter Governmental Relations Division (CAIGR) will be the overall Welsh Government lead for the Bill. Local Government Democracy Division (LGD) will lead on the delivery of the franchise changes for the Assembly Commission.

5.2 The first point of contact for the Commission on Bill queries and the Government's position on all its included matters will be CAIGR; this will include formal contact on the Government's position on any changes to the Assembly franchise. Discussions between CAIGR and Assembly Commission officials will be the mechanism for exploring any policy disagreements. Where necessary these may be referred to the political governance arrangements set out above.

5.3 CAIGR will be the Welsh Government contact also for the Government's position in respect of any motions the Llywydd may table to seek motions of support from the Assembly to bring forward the Commission Bill, the Stage 1 general principles motion, any amendments the Llywydd intends to bring forward, and the Stage 4 motion, and also in respect of the Government's role in moving the financial resolution for the Bill (the Llywydd will table it).

5.4 The first point of contact for queries relating to the delivery of the franchise changes will be the Head of Diversity, Democracy and Remuneration Team in the Local Government Democracy Division. This includes all queries including those requiring legal input.

5.5 This will be critical to monitoring overall workloads and priorities so that work can be delivered to the standards in the required timeframe.

5.6 The first point of contact for queries relating to the Assembly Commission support for delivery of the franchise changes will be the Bill Manager in Strategic Transformation, Assembly Business Directorate.

5.7 The first point of contact for queries relating to other elements of the Assembly Commission Bill will be the Head of Strategic Transformation.

5.8 However, where matters relate to on-going development or queries on matters relating to issues discussed at the regular liaison meetings relevant officials will liaise with their opposite numbers directly, including legal teams.

5.9 The approach will be collaborative and follow the principles set out in the Civil service statement on collaborative working attached at Annex A. To facilitate this Welsh Government and the Assembly Commission will exchange a list of relevant officials.

6. Delivery Tasks for the Franchise Change up to introduction

6.1 In the period leading up to introduction of the Bill Welsh Government will deliver (in English only):

- First draft of policy and legal issues paper by end w/c 23 July
- Final draft of policy and legal issues paper including headline costs/savings, impact assessments and implementation plans by September 5th, in order to inform the Commission's decisions on 24 September
- Draft Bill provisions by September 14th
- Regulatory Impact Assessment (RIA) extract by September 28th
- Equalities Impact Assessment extract by September 28th
- Official Languages Impact Assessment by September 28th
- Children's Rights Impact Assessment extract by September 28th
- Justice System Impact Identification and Justice Impact Assessment extract by September 28th
- Any other relevant assessments identified as work progresses by September 28th
- Explanatory Memorandum extract by September 28th
- Explanatory Notes Extract by September 28th
- Statement of Policy Intent extract by September 28th
- Table of Derivations extract by September 28th
- Schedule of Amendments as required by SO 26.6C extract by September 28th
- Equivalence check of the Welsh text – allow 1 week after the translation of the text for this.

6.2 All of the above relate to the agreed extension to the National Assembly franchise only.

6.3 The Assembly Commission will be responsible for translation of these outputs and ensuring their coherence with the Commission Bill as a whole, but the Bill provisions on the franchise translated by the Commission will be checked for legal equivalence by the Office of the Legislative Counsel. Assembly Commission and Welsh Government will also agree the approach for each Impact Assessment to ensure overall coherence.

6.4 Amendments to the Bill in relation to the franchise will be provided in English. The Welsh text of the amendments will be translated by the Assembly Commission and legal equivalence checked by OLC.

6.5 The Commission will be responsible for ensuring that the PO determination on proper form for Bills is complied with. The Welsh Government will provide ODT and PDF files of the English text drafted in Legislative Workbench. Welsh Government will share earlier drafts to enable Assembly Commission officials to inform them of any issues which require addressing regarding compliance ahead of the agreed delivery date.

6.6 Should any Minister of the Crown consents be required the approach to taking these forward will be agreed through the political governance arrangements set out above, so that wider considerations in relation to any Welsh Government Bills or other matters in the Assembly Commission Bill can be taken in to account.

6.7 Welsh Government will provide appropriate content related to franchise to inform the production of a paper on the proposed Bill's policy implications, risks and benefits, drafting approach (including subordinate legislation) and initial estimate of costs to the Commission by 5th September. This will support Assembly Commission discussions scheduled for 24th September. Assembly Commission officials will agree the format of this paper with Welsh Government ahead of the 5th September.

Delivery Schedule: Mid-October 2018 all final documents

7. Introduction of the Bill

7.1 Welsh Government officials will provide briefing materials and lines to take for the Plenary session to introduce the Bill. Welsh Government officials will also be available to brief the Member in Charge, with Assembly Commission officials, as part of the preparations for introduction.

8. Post Introduction of the Bill

All legislative stages dates are provisional and subject to Business Committee decision

Stage 1

8.1 For Stage 1 Welsh Government officials will provide briefing and contributions to enable the Member in Charge to attend committee and other proceedings (Welsh

Government officials will not attend Committee or other proceedings in support but will be available to brief the lead member, with Assembly Commission officials, in advance of committee or other proceedings). However, Welsh Government officials will provide private technical briefings to committees if required. Briefing and support in developing a response to Committee will be provided if required.

Delivery Schedule: During stage 1 and contribution to response to Committee report by 20 May

Stage 2

8.2 For Stage 2 Welsh Government officials will lead on the production of any technical amendments or alternative amendments required, including accompanying briefing materials. Technical amendments will be agreed between OLC and Assembly Commission lawyers; any amendments with a policy basis would be put to the Llywydd for agreement. Welsh Government officials will not attend Committee or other proceedings in support of the lead member but will be available to brief the lead member with Assembly Commission officials in advance of committee or other proceedings, including briefings on non Government amendments.

8.3 Amendments to the Bill will be provided in English. The Welsh text will be produced by the Assembly Commission and legal equivalence checked by OLC. The Commission will be responsible for putting the amendments into the Legislative Workbench software and ensuring that the PO determination on proper form for amendments is complied with. OLC and Assembly Commission lawyers will also proof read the franchise provisions post Stage 2.

8.4 The Assembly Commission Bill Team will be responsible for coordinating the progress of Stage 2 including the tracking of any required Commission amendments which might arise as a result of technical or other changes arising out of Committee. They will also be responsible for dealing with matters relating to grouping. Welsh Government officials will not provide advice to the Llywydd in relation to any Government amendments which might be laid at this stage. CAIGR will facilitate any discussion in relation to mutually beneficial amendments or other Government amendments.

Delivery Schedule: During Stage 2 w/c 24 June to 15 July 2019

Stages 3 and 4

8.5 Welsh Government officials will lead on the production of any technical amendments or alternative amendments required, including accompanying briefing materials for both stages. Technical amendments will be agreed between OLC

and Assembly Commission lawyers; policy amendments will be agreed by the Llywydd. Welsh Government officials will not attend Committee or other proceedings in support of the lead member but will be available to brief (and input into the provision of briefing materials for) the lead member with Assembly Commission officials in advance of committee and other proceedings, including in relation to non Government amendments. Welsh Government officials will provide updated contributions to supporting materials such as the RIA if required.

8.6 Amendments to the Bill will be provided in English. The Welsh text will be produced by the Assembly Commission and legal equivalence checked by OLC. The Commission will be responsible for putting the amendments into the Legislative Workbench software and ensuring that the PO determination on proper form for amendments is complied with.

8.7 The Assembly Commission Bill Team will be responsible for coordinating the progress of Stage 3 including the tracking of any required Commission amendments which might arise as a result of technical or changes arising out of Committee. They will also be responsible for dealing with matters relating to grouping. Welsh Government officials will not provide advice, in relation to any Government amendments which might be laid at this stage. CAIGR will facilitate any discussion in relation to mutually beneficial amendments or other Government amendments.

Delivery Schedule: During stage 3 w/c 7 October 2019 with any updated documents required delivered by w/c 17 September 2019

Report Stage if needed

8.8 Welsh Government officials will provide amendments and accompanying briefing as required. Welsh Government officials will not attend proceedings in support of the Member in Charge but will be available to brief (and input into the provision of briefing materials for) the Llywydd with Assembly Commission officials in advance these proceedings, including in relation to non Government amendments.

Post Royal Assent

8.9 Welsh Government officials will provide the final version of the explanatory notes in relation to the franchise, taking account of input from Assembly Commission officials as appropriate.

9. Secondary Legislation

9.1 It will be for the Welsh Government to deliver any secondary legislation required.

9.2 The Llywydd will be consulted on the approach and strategy for subordinate legislation and the approach will be agreed as part of the development of the primary legislation. As soon as the approach is developed Welsh Ministers will write to the Llywydd with the Statement of Policy Intent for all delegated powers in

the Bill and an outline timetable for delivery of the subordinate legislation needed to give effect to the franchise changes in relation to 16 and 17 year olds.

10. During the passage of the Bill, after Royal Assent and making of the secondary legislation stakeholder Engagement

10.1 Assembly Commission and Welsh Government officials will work together to create an education and awareness raising campaign to encourage 16 and 17 year olds to vote. This may include advertising, written material and face to face promotion in schools and other institutions. Assembly Commission and Welsh Government officials will also work together with the electoral community and the Electoral Commission to ensure the practical implementation of the changes is effective.

11. Translation

11.1 Any documents provided to the Assembly Commission in relation to any of the above delivery tasks will be provided in English. Translation where required will be provided by the Assembly Commission (with the exception of materials relating to the secondary legislation, including the Statement of Policy Intent, which will be the responsibility of the Welsh Government and stakeholder engagement where a shared approach will be adopted) .

12. Provision of Commission policy and legal staff

12.1 Delivery of the franchise changes is a significant undertaking for Welsh Government in terms of staff resourcing and the Llywydd will therefore ensure that Assembly Commission policy and legal officials can be called upon to enable delivery.

12.2 In terms of the provision of policy resources, the tasks and the deadlines for which they need to be delivered will be agreed with the Head of Strategic Transformation.

12.3 For these tasks Assembly Commission staff will be responsible to the lead Welsh Government officials working on the franchise changes. Welsh Government will undertake to ensure that where it is agreed Assembly Commission will provide staff to support delivery there will be an opportunity for an exchange of experience and an opportunity for learning.

12.4 In terms of policy support the likely level of support is anticipated to be equivalent to one member of staff (HEO) over the period of this MoU. The provision of this support can be flexible and may be provided by different individuals depending on the nature and timing of the tasks to be undertaken. The tasks would be mainly in respect of support to deliver specific briefing and contributions to the various policy documents as well as contribution to overall quality control processes such as checking and editing.

12.5 The Assembly Commission will provide legal support equivalent to two full time members of staff up to December 2019 and one member of staff during the remainder of the period covered by this MoU. Lawyers will be seconded to Welsh Government to enable resources to be released to support the delivery of the franchise changes.

13. Dispute Resolution

13.1 As set out above the intention is to work collaboratively and on a 'no surprises' basis. It is hoped that this will result in mutual agreement throughout the duration of this MoU.

13.2 The first stage of the process will be discussion at fortnightly Welsh Government and Assembly Commission meetings.

13.3 The second stage will be discussion between the Deputy Director Local Government Democracy and the Head of Strategic Transformation for any non legal opinion based disputes. Legal opinion based disputes will be discussed by the Deputy Director Local Government Legal Team and OLC and the Head of Assembly Commission Legal services.

13.4 The third stage will be discussions between the Permanent Secretary and the Chief Executive and Clerk of the Assembly.

13.5 Respective political advisors may be engaged in the discussion at any stage in the dispute resolution process if it is deemed to be relevant by the parties concerned.

14. Duration

14.1 This MoU covers the period from the date of signature by Welsh Government and the Llywydd to 31 December 2020.

15. Cessation

15.1 Both parties to this MoU may withdraw from the arrangement following a period of reasonable notice, but no less than four weeks.

16. Information Sharing

16.1 All documents produced by the Welsh Government relating to the development of the franchise changes for the Assembly Bill will be categorised 'Official: Sensitive' and will be shared with the Commission on a confidential basis through secure file transfer. Officials in Welsh Government not within the immediate team working on the franchise changes will not have access to these documents as they will be saved in a caveated file to preclude unauthorised access.

16.2 All information and documents shared by the Welsh Government with the Assembly Commission will be saved in a file with access restricted to those working directly on the Bill and as referred to above. They may also be shared with the Assembly Commission's external legal drafter to ensure coherence with the overall Bill.

16.3 All information and documents relating to the Bill shared by the Assembly Commission with the Welsh Government will be marked "ASSEMBLY RESTRICTED" and will be for use only by the immediate team working on franchise changes, unless with the prior agreement of the Head of Strategic Transformation and as referred to above. They will not be made public in any way or disclosed to external stakeholders.

16.4 Responsibility for dealing with Freedom of Information requests in respect of these documents will be the responsibility of the recipient of the request. Assembly Commission officials and Welsh Government officials will provide any necessary assistance to each other in dealing with such requests. The Assembly Commission will provide Welsh Government with access to all documents which will support the development of the delivery tasks for the franchise change. There will be no requirements for personal information to be exchanged, for example, specific consultation respondents as part of this access.

Guiding principles for collaborative working on government legislation

In developing policy and legislation, all officials must serve Ministers as one team. For this reason all officials should follow these guiding principles for collaborative working on legislation in accordance with the values of integrity, honesty, objectivity and impartiality set out in the Civil Service Code.

All officials will continue to discharge their individual responsibilities while also engaging with and supporting colleagues to deliver theirs. In doing so they should bring the full range of their skills and abilities to bear to the range of tasks in producing effective policy and legislation. This requires:

- a) An understanding of individual and collective roles and responsibilities, including what to expect from particular professionals and specialists;
- b) Mutual respect;
- c) Striking a balance between timely and in-depth communication;
- d) A shared understanding of individual and collective priorities and pressures;
- e) An understanding of the big picture, and how each individual's contribution fits into this. The big picture includes the political and constitutional context; the fit with other parts of the current and prospective legislative framework; and approaches to implementation of legislation.

All officials will seek to establish and build relationships based on trust, with each other and with Ministers. Officials will, in particular, ensure their communication with Ministers, and with each other, is timely, clear, effective and honest, particularly in respect of the following matters:

- a. Potential slippage in the timetable of a Bill – recognising its potential knock-on effect on others involved in the production of the Bill, the effects of delaying the delivery of the policy, and any potential impact on the wider legislative programme;
- b. Dealing with risks, complex and sensitive issues, and problems – this requires both confidence and humility when discussing;
- c. Resolving disputes – this requires a willingness to be pragmatic, openminded and to reflect on the comments of colleagues.

Officials should also work collaboratively with special advisers as part of their approach to developing policy and progressing legislation. Special advisers play a key role in supporting effective communication between officials and Ministers and in supporting Ministers in working with politicians and other stakeholders to ensure the delivery of legislative proposals.

All officials will work to support a learning culture. This includes:

- a) Taking responsibility for their own development – identifying their learning needs and actively pursuing opportunities to meet those needs;
- b) Supporting the development of others and the organisation, including by freely sharing their own learning and experience.

Definitions

Franchise change – extension of the National Assembly franchise within agreed parameters determined by the Llywydd to be the addition of 16 and 17 year olds (this includes all aspects of the policy such as registering attainers).

Delivery of primary legislation – Preparation of policy and legal instructions in relation to the franchise change, preparation of supporting documentation to be included in the Bill documentation (including those required by NAW Standing Orders or other legislative requirements),

Delivery of secondary legislation – preparation of policy instructions and provision of relevant secondary legislation to give effect to the agreed franchise change, including supporting documentation required by NAW Standing Orders or other legislative requirements

Assembly Commission Bill team – Commission staff responsible for the management and delivery of the whole of the Commission's Bill

Local Government Bill team – Welsh Government staff responsible for the management and delivery of the Welsh Government's Local Government Bill

Welsh Government's Assembly Commission Bill Team – Welsh Government staff in CAIGR responsible for the Government's response to the Assembly Commission's Bill

Bill communication and stakeholder engagement – actions need to promote the changes to the franchise with those affected by them and the general public. Working with stakeholders to ensure they are aware of the changes and can facilitate their implementation, in particular the electoral community (Returning officers, registration officers, elections teams, the Electoral Commission).

F.

Alun Davies AC/AM
Ysgrifennydd y Cabinet dros Lywodraeth Leol a
Gwasanaethau Cyhoeddus
Cabinet Secretary for Local Government and Public
Services



Llywodraeth Cymru
Welsh Government

Eich cyf/Your ref
Ein cyf/Our ref ARD/0373/18

Elin Jones AC/AM
Llywydd/Presiding Officer
National Assembly for Wales
Cardiff Bay
CF99 1NA

Y Swyddfa Breifat

20 SEP 2018
PO 529
Private Office

20 September 2018

Dear Elin,

I am writing in further response to your letter of 20th March this year. I appreciate that time has passed since then but we have, of course, discussed the issues raised concerning the governance and funding of the Electoral Commission on a number of occasions since.

Having now had time to consider the matter fully, I agree with you that legislation will be required to govern the relationship between the Electoral Commission and the Assembly. The Commission will continue to provide a service in relation to Welsh elections as they have always done but in the absence of specific provision to report to the National Assembly for Wales, they would be doing so under the regime established with the Speaker's Committee in the UK Parliament, despite electoral functions on Assembly and local elections having now been devolved.

As for the vehicle which should be employed to bring this about, I am not convinced that inclusion in the proposed Local Government Bill is the best option. It is not a local government matter and, given your proposals to introduce possibly two Assembly Bills, one of these would seem the most appropriate legislative option. Given the scope of the upcoming Assembly Reform Bill, I propose that the provisions are included within this Bill. I am fully aware that Commission resources are tight, as are ours, and as such I propose that my officials work closely with your officials and support this work by providing draft provisions for inclusion in your first Bill as Stage 2 amendments. In return, I would ask that your officials take a lead on discussing the financial agreement with the Speakers Committee and provide the supporting material required for the Bill's passage through the Assembly.

Bae Caerdydd • Cardiff Bay
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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

I understand that our officials are working effectively together on the extension of the Assembly franchise to 16 and 17 year olds and I would hope that this arrangement could extend to the necessary provisions around the accountability of the Electoral Commission.


Yours sincerely,

A handwritten signature in black ink, appearing to be 'Alun', with a horizontal line underneath.

Alun Davies AC/AM

Ysgrifennydd y Cabinet dros Lywodraeth Leol a Gwasanaethau Cyhoeddus
Cabinet Secretary for Local Government and Public Services

G.

 **Elin Jones AC, Llywydd**
Cynulliad Cenedlaethol Cymru
Elin Jones AM, Presiding Officer
National Assembly for Wales

Alun Davies AM
Cabinet Secretary for Local Government and Public Services
Welsh Government
Ty Hywel
Cardiff Bay
CF99 1NA

Your ref:
Our ref: EJ/TJ

12 October 2018

Dear Alun

Reducing the voting age to 16: implications for education curriculum

I would like to invite you and Kirsty Williams AM, Cabinet Secretary for Education, to meet jointly to discuss the potential implications for the education curriculum of reducing the voting age to 16.

As you are aware, our respective officials are developing legislation that will reduce the voting age in Assembly elections and Local Government elections to 16. The Commission intends to introduce the Bill in January 2019, subject to the agreement of the Assembly and therefore it will be first to come under the scrutiny of the Assembly.

The Assembly Commission's legislation will deliver a key recommendation of the Expert Panel on Assembly Electoral Reform, in its report 'A Parliament that works for Wales'. However, you will recall that the Expert Panel also recommended that:

"To ensure that young people are encouraged and supported to exercise their right to vote, any reduction in the minimum voting age should be accompanied by appropriate, effective and non-partisan political and citizenship education. This must ensure that young people hear political views from across the spectrum, and are equipped to make up their own minds about how to exercise their democratic right."

Croesewir gohebiaeth yn Gymraeg neu Saesneg / We welcome correspondence in Welsh or English

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The provision of citizenship or political education was also a theme in our findings from the public consultation which we undertook earlier this year. On behalf of the Assembly Commission, I would therefore be very grateful for the opportunity to speak with you and the Cabinet Secretary about how we ensure that a change in voting age is accompanied by the young people affected having appropriate opportunities for learning about political and citizenship education.

Should you be willing to undertake such a meeting, my officials will collaborate with your own and those of the Cabinet Secretary to arrange a suitable date in November.


I look forward to your response. I am copying this letter to Kirsty Williams AM, Cabinet Secretary for Education.

Yours sincerely



Elin Jones AM
Llywydd

H.

 **Elin Jones AC, Llywydd**
Cynulliad Cenedlaethol Cymru
Elin Jones AM, Presiding Officer
National Assembly for Wales

Kirsty Williams AM
Cabinet Secretary for Education
Welsh Government
Ty Hywel
Cardiff Bay
CF99 1NA

Your ref:
Our ref: EJ/TJ

12 October 2018

Dear Kirsty

Reducing the voting age to 16: implications for education curriculum

I would like to invite you and Alun Davies AM, Cabinet Secretary for Public Services and Local Government, to meet jointly to discuss the potential implications for the education curriculum of reducing the voting age to 16.

As you are aware, the Assembly Commission intends to introduce legislation that will reduce the voting age in Assembly elections to 16. The Welsh Government intends to similarly reduce the voting age in Local Government elections to 16.

The Assembly Commission's legislation will deliver a key recommendation of the Expert Panel on Assembly Electoral Reform, in its report 'A Parliament that works for Wales'. However, you will recall that the Expert Panel also recommended that:

"To ensure that young people are encouraged and supported to exercise their right to vote, any reduction in the minimum voting age should be accompanied by appropriate, effective and non-partisan political and citizenship education. This must ensure that young people hear political views from across the spectrum, and are equipped to make up their own minds about how to exercise their democratic right."

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Elin Jones AC, Llywydd

Cynulliad Cenedlaethol Cymru

Elin Jones AM, Presiding Officer

National Assembly for Wales

The provision of citizenship or political education was also a theme in our findings from the public consultation which we undertook earlier this year. On behalf of the Assembly Commission, I would therefore be very grateful for the opportunity to speak with you about ensuring that a change in voting age is accompanied by the young people affected having appropriate opportunities for learning about political and citizenship education.

Should you be willing to undertake such a meeting, my officials will collaborate with your own and those of the Cabinet Secretary to arrange a suitable date in November.

I look forward to your response. I am copying this letter to Alun Davies AM, Cabinet Secretary for Public Services and Local Government.

Yours sincerely

Elin Jones AM
Llywydd

I.

Y Gwir Anrh/Rt Hon Carwyn Jones AC/AM
Prif Weinidog Cymru/First Minister of Wales



Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref: MA - L FM 0852 18

Elin Jones AM/AC, Llywydd
National Assembly for Wales
Cardiff Bay
CF99 1NA

Y Swyddfa Breifat

10 DEC 2018

PO 571
Private Office

Llywydd@assembly.wales

10 December 2018

Dear Elin

I am writing in relation to the draft Senedd and Elections (Wales) Bill, a version of which your officials have recently shared with us. I know that my officials have provided a number of detailed comments on the Bill's provision, which I hope your officials found helpful, and I want to set out my general position on the main elements of the Bill.

In respect of the Assembly's change of name, I note that you have settled on 'Senedd (Welsh Parliament)'. As a general point I remain committed to using the opportunity of changing our parliament's name to broaden and deepen understanding amongst the electorate and other stakeholders of the devolved institutions. However, your current proposed approach would result in section 1(1) of the Government of Wales Act 2006 providing that "There is to be an Assembly for Wales to be known as the Senedd (Welsh Parliament)"; that formulation will, it seems to me, serve only to add to the confusion that already exists about the names of our institutions.

We think it would be better if section 1(1) to GOWA reads as follows in the future:

"There is to be a parliament for Wales to be known as the Senedd."

For the sake of argument, this redraft accepts the decision to use "Senedd" alone as the name in both English and Welsh, but we are giving further thought to this.

I understand that your legal advisers do not think it is possible to change the words "an Assembly" to "a parliament" in the opening of section 1(1), because of the limitations of the exception in paragraph 7(2)(a)(i) of Schedule 7B to GOWA 2006. Our position is that an Assembly Act could replace the words "an Assembly" with "a parliament" in section 1(1) of GOWA despite the limitations of the exception in paragraph 7(2)(a) of Schedule 7B to GOWA 2006. The exception in paragraph 7(4) allowing modification of GOWA as a consequence or as an incident of the name change seems specifically designed for this kind of purpose. The exception in paragraph 7(4) does not mean that an Assembly Act could make any change of substance to section 1(1), such as abolishing itself, as this would

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We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

not be a sensible consequence or incident of changing the Assembly's name – that would be a substantive effect of a different order that would need to be dealt with in the exceptions in paragraph 7(2) if it were to be allowed.

Also, we are not convinced by the argument put to us that the name change makes a substantive change to the status of the Assembly which goes beyond the changes authorised by paragraphs 7(2)(a)(i) and 7(4) of Schedule 7B. The UK Parliament has already legislated to create a body that has the parliamentary functions in Wales of making laws and holding to account the executive charged with administering those laws. Parliament chose to call it the National Assembly of Wales when it was created and this is the reason why the word "Assembly" appears in the first words of section 1(1), rather than for any reason of substance. The Assembly has been given the power to change the name, but not the power to abolish itself, and this is the reason for the division of form and function between paragraphs 7(2)(a)(i) and 7(4) of Schedule 7B.

Our understanding is that the suggested use of "Welsh Parliament" is not intended to give the Senedd an alternative name, rather it is only provided to aid understanding for those unfamiliar with the Welsh language. We are concerned that the way you have drafted the provision may have the effect of authorising the use of "Welsh Parliament" for all purposes, which is not your intention.

I also assume that you have assured yourself that the use of 'Senedd' satisfies the Assembly's legal obligations in respect of the official status of both languages and the obligation to treat both languages equally.

Overall, I know that my officials have raised with yours a number of concerns about the drafting of Part 2 of the Bill, but the draft Bill has not as yet been changed to address these concerns. The question of whether and how the Welsh Government might seek to address this matter once the Bill is introduced will be for my successor, but unless appropriate amendments are made ahead of introduction, my advice is likely to be that our drafting concerns are such that the Welsh Government should seek to amend the Bill to rectify the relevant sections.

In respect of the franchise changes, the Welsh Government supports the extension of the Assembly franchise to 16 and 17 year olds, and as you know we intend to extend the local government franchise in the same way. However, our Local Government Bill is likely to also extend the franchise to foreign nationals (subject to all other eligibility criteria being met), but I understand that you do not currently intend to extend the Assembly franchise in the same way. We may return to this matter when we consider what amendments the Welsh Government may seek to make to the Bill, once introduced.

My officials have provided detailed comments in respect of the disqualification provisions. My priority for these provisions is to ensure that the law in this area is as clear as possible for all citizens as well as those directly affected, although I recognise that there are inherent complexities. Once we see the final text of the Bill for introduction, we will consider whether we believe amendments are necessary to the disqualification provisions.

As my officials have communicated to yours, the Government believes the power included in Part 5 of the Bill for the Welsh Ministers to implement Law Commission recommendations is both unnecessary and potentially unhelpful; again we may return to these matters once the Bill has been introduced.

I understand that it is intended that a further clause is to be added to the Bill which will enable further consideration of the financing and accountability of the Electoral

Commission's activities in relation to devolved Welsh elections at Stage 2. We are supportive of this.

I also wanted to touch upon your plans for the introduction of a second Assembly reform Bill before the end of this Assembly. The proposed changes to the size of the Assembly and its electoral system are currently the subject of consultation within the political parties, and once it becomes clearer where consensus for change exists, it will be for the next First Minister and Cabinet to agree the Welsh Government's position on how any further legislative proposals might be taken forward. However, in my view the arrangements by which the Senedd and Elections (Wales) Bill has been produced have created significant resource and governance challenges and should not be repeated given the likely scale, subject matter and complexity of a second Bill. You may wish, therefore, to consider what alternative approaches we might take as and when the potential content of any second Bill becomes clearer.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Carwyn Jones', written in a cursive style.

CARWYN JONES

J.

Julie James AC/AM
Y Gweinidog Tai a Llywodraeth Leol
Minister for Housing and Local Government

Kirsty Williams AC/AM
Y Gweinidog Addysg
Minister for Education



Llywodraeth Cymru
Welsh Government

Y Swyddfa Breifat

30 JAN 2019

PO 595

Private Office

30 January 2019

Dear Llywydd,

As you know, our officials have been collaborating to develop the evidence base and a range of resources in support of extending the franchise for both the Assembly and local government elections.

Discussion to date has identified three broad elements to this work as follows:

Conduct research

A two-stage programme of research is required to develop an evidence base for extending the voting franchise. The first stage will include a review of existing international evidence on the methods for promoting effective citizen engagement in local democratic processes. The second will include primary research with proposed newly enfranchised groups of voters as well as those already entitled to vote, but who are politically disengaged. This work will seek to establish how best to inform these groups of their rights and promote democratic participation.

Develop a communication plan

We envisage a four-stage plan, phased as follows:

- (i) support the introduction of the Bills into the Assembly;
- (ii) inform newly enfranchised groups of their right to vote and the process for electoral registration;

- (iii) support and encourage young people's understanding and engagement with democracy in Wales;
- (iv) encourage young people to turn out to vote in the Assembly Elections in 2021 and Local Government elections in 2022.

Produce educational material for delivery in schools and elsewhere

This will involve letting a contract to develop teaching and learning resources for schools and further education colleges, to include a professional learning offer component in support of teachers.


Our officials understand that the Assembly's excellent Educational team will be available to help support the communication work. You are aware that Welsh Government will also be extending the franchise to foreign nationals for local government elections. These represents a larger part of the electorate and we will be highlighting to your officials, the need for careful handling of the messaging in the communication and education campaigns, in order that the present planned divergence in the franchise for Welsh elections, does not result in confusion for the electorate.

We estimate the cost of this work at around £895,000 - £945,000 over three years, commencing in 2019/20 and would be grateful if you take the matter of a financial contribution from the Commission under consideration.

Finally, we anticipate the need to establish a Welsh Government External Board of advisors to help with this work, supported by our respective officials and would welcome any suggestions you may have for its membership.



Julie James AC/AM
Y Gweinidog Tai a Llywodraeth Leol
Minister for Housing and Local Government



Kirsty Williams AC/AM
Y Gweinidog Addysg
Minister for Education

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We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.



Llywodraeth Cymru
Welsh Government

Mick Antoniw AM
Chair, Constitutional and Legislative Affairs Committee
National Assembly for Wales.

4 April 2019

Dear Mick,

Thank you for your letter dated 21 March 2019 regarding **The Developments of National Significance (Wales) (Amendment) 2019**, which the Committee discussed at its meeting on 18 March 2019.

The Government's response to the Committee's report began by stating:

"As stated in the Committee's report, regulation 2(13)(b) inserts a new paragraph 8A into Schedule 1 of the Developments of National Significance (Wales) Regulations 2016. The wording used in the new paragraph 8A mirrors that used in Schedule 1, where "fel a ganlyn" has been used in the Welsh text to convey "as if" in the English text, where appropriate.

Similarly, regulation 2(14)(b) inserts a new paragraph (8) into Schedule 8 of the 2016 Regulations. The wording used in the new paragraph (8) mirrors that used in Schedule 8, where "fel a ganlyn" has been used in the Welsh text to convey "as if" in the English text, where appropriate."

This was intended to explain that the amendments in question, which include the phrase "fel a ganlyn", were so worded for consistency with the wording and style of the original Regulations being amended (i.e. The Developments of National Significance (Wales) Regulations 2016). When amending text it is our custom to reflect the phraseology and style of the original text. Doing otherwise would create inconsistency within the original text. Our aim at all times is to ensure that the text is clear and accessible to the user, and one of the means to that end is to reflect the vocabulary and phraseology of the text being amended in the amending text.

We accept that "fel petai" (or "fel pe bai") is the usual or literal translation of the phrase "as if" and indeed, you will see that we normally use "fel pe bai" to convey "as if" in our legislation.

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

In response to the Committee's concern we have started to examine how we draft modifications in the Welsh-language text (i.e. when amendments are presented as text which is to be read in a certain way ("as if") in certain circumstances). We shall be amending our style guidance in this respect to ensure that our legislation continues to use clear and simple language.

It remains our opinion that, notwithstanding the Committee's point that "fel a ganlyn" is not a literal translation of "as if", the use of the phrase "fel a ganlyn" to convey "as if" was justifiable in this particular instance, in order to ensure consistency with the 2016 Regulations. I can assure you that we will bear the Committee's comments in mind and continue to strive to use clear and simple language in legislation, to ensure it is accessible to all.

Yours sincerely

A handwritten signature in black ink, appearing to be 'J. Miles', with a stylized, cursive flourish.

Jeremy Miles AM

Y Cwnsler Cyffredinol a Gweinidog Brexit
Counsel General and Brexit Minister



Llywodraeth Cymru
Welsh Government

Eich cyf/Your ref
Ein cyf/Our ref

Mick Antoniw
Chair, Constitutional and Legislative Affairs Committee,
National Assembly for Wales
Cardiff Bay,
CARDIFF
CF99 1NA

04 April 2019

Dear Mick,

Thank you for your letter regarding the Welsh Government's approach to amending statutory instruments (SIs) where technical issues have been identified. When this occurs there are options open to the Welsh Government, including

- making an amending SI to specifically address the issue,
- making the necessary amendments the next time the principal SI is amended, or
- using another SI in a related area as the vehicle to make the amendments.

The choice between these options is influenced by a number of factors, including the legal significance of the issue, the urgency with which it needs to be addressed, its priority in relation to other planned legislation, and the availability of an appropriate legislative vehicle by which to make the amendments. For example, some SIs are updated on a regular basis, thus affording a ready-made opportunity for non-urgent amendments, whilst others may not be due for review for some years, in which case another approach would be appropriate to ensure the statute book is corrected.

Your letter highlighted two SIs you had considered recently where the Government responses to your reports differed. These illustrate very well the different situations and choices. You note an SI amending the Sea Fishing (Penalty Notices) (Wales) Order 2019 would be made **"as soon as possible."** Here, the issue was such that if not addressed the SI would be *ultra vires* when it came into force. An amending SI had to be made to correct this position immediately. In the case of the Exotic Diseases in Animals (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019, however, our response to one Committee reporting point indicated an amendment will be made **"at the next available opportunity."** The issue there was that the SI revoked a provision which had already been revoked. This matter, whilst needing to be addressed for accuracy, is not of the same order as the issue in the Sea Fishing SI. As a consequence the Welsh Government has acknowledged the amendments required

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and will identify the next available appropriate legislative vehicle in which they can be incorporated.

I hope this helps illustrate the factors which are taken into account in these matters.

Yours sincerely,

A handwritten signature in black ink that reads "Rebecca Evans." The signature is written in a cursive, flowing style.

Rebecca Evans AC/AM

Y Gweinidog Cyllid a'r Trefnydd
Minister for Finance and Trefnydd

Agenda Item 9.5

Rebecca Evans AM
Y Gweinidog Cyllid a'r Trefnydd
Minister for Finance and Trefnydd



Llywodraeth Cymru
Welsh Government

Eich cyf/Your ref
Ein cyf/Our ref

Mick Antoniw AM
Chair
Constitutional and Legislative Affairs Committee
National Assembly for Wales
SeneddCLA@assembly.wales

04 April 2019

Dear Mick,

Thank you for your letter regarding the written statements under Standing Order 30C and the impact on the National Assembly's legislative competence.

As you are already aware and as has been confirmed in the First Minister's letter to you of 11 March, Welsh Government officials are in contact with the Wales Office and there has been an exchange of Ministerial correspondence about a section 109 Order. The Governments are looking at how concurrent functions created by Brexit-related legislation exercisable by both Welsh Ministers and UK Ministers can be repealed by the Assembly without the need for UK Ministers' consent. Both Governments agree that the current restrictions requiring such consent should be looked at to ensure post-Brexit arrangements work as smoothly as possible, with a view to including changes in a forthcoming Order in Council made under section 109. The Welsh Government will keep the Assembly, including the Constitutional and Legislative Affairs Committee, informed about the progress of these discussions.

I can assure you that 'would' and 'could' have functionally the same meaning in the context in which they appear in the SO30C written statements. Clearly, any expansion or reduction of the Assembly's legislative competence would not have practical effect until the point where the Assembly sought to legislate. Therefore this section of the SO30C statements is drafted in a hypothetical context whereby the Assembly is indeed seeking to legislate in regards to these functions. When drafting written statements, some officials have taken the theoretical position of the Assembly considering this hypothetical legislation in the very near future, which **would** require the consent of (or consultation with, as the case may be) the Secretary of State (as the "appropriate Minister"¹). Other officials have factored the ongoing work with the Wales Office into account when expressing the impact on the Assembly's

¹ "appropriate Minister" is defined in paragraph 8(5) of Schedule 7B

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ability to legislate, when the consent of (or consultation with, as the case may be) the Secretary of State **could** be required *if* this hypothetical bill were to be laid for consideration before this ongoing piece of work was concluded.

In this context, the use of the word “could” in the example set out in your letter does not reflect a lack of clarity as to whether the functions transferred to the Secretary of State are Minister of the Crown functions falling within paragraph 11(2) of Schedule 7B. It is simply indicating that whether a future Assembly Bill seeking to remove or modify these functions will trigger a requirement to consult the Secretary of State depends on the outcome of the discussions with the Wales Office.

I trust this will provide the clarity which you have requested.

Yours sincerely,

A handwritten signature in black ink that reads "Rebecca Evans." The signature is written in a cursive, flowing style.

Rebecca Evans AC/AM

Y Gweinidog Cyllid a'r Trefnydd

Minister for Finance and Trefnydd



Llywodraeth Cymru
Welsh Government

Mick Antoniwm AM
Chair of Constitutional and Legislative Affairs Committee

09 April 2019

Dear Mick,

I am writing in response to your letters of 14 March and 21 March 2019, concerning the Environmental Damage (Prevention and Remediation) (Wales) (EU Exit) Regulations; the Electricity (Offshore Generating Stations) (Variation of Consents) (Wales) Regulations 2019 and; the Electricity (Offshore Generating Stations) (Applications for Consent) (Wales) Regulations 2019.

The Committee raised two main points in relation to these Regulations. Firstly, that the difference in the use of the word 'national' across different statutory instruments is confusing and unhelpful to the reader. Secondly, that an interpretation of the word 'national' to mean the United Kingdom does not adequately or thoughtfully respect devolution.

I acknowledge these points and would like to give the Committee assurance that the Welsh Government will be taking steps to ensure clarity and consistency of practice going forward. Subordinate legislation made by the Welsh Ministers will sometimes have to use the word 'national' to mean the United Kingdom, for example to be consistent with existing legislation, but it is important that the meaning of the word is clear in every case where it is used.

The Office of the Legislative Counsel are currently revising the Welsh Government's Legislative Drafting Guidelines, with a view to issuing a new edition later this year. This will take account of the Legislation (Wales) Bill if it is passed by the Assembly and of experience since the last edition of the guidance. The revised guidance will cover points that have been raised by the Committee and others, including the issues that can arise with the word 'national'. In the meantime, the matters raised by the Committee will be communicated to officials in order to raise awareness and to ensure clarity going forward.

Yours sincerely,

Jeremy Miles AM

Y Cwnsler Cyffredinol a Gweinidog Brexit
Counsel General and Brexit Minister

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Llywodraeth Cymru
Welsh Government

Mick Antoniw AM
Chair, Constitutional and Legislative Affairs Committee
National Assembly for Wales

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18th April 2019

Dear Mick,

On 15 March 2019, I laid before the Assembly a Legislative Consent Memorandum in relation to the Rivers Authorities and Land Drainage Bill (the Bill), which has now been referred for three weeks of Committee scrutiny. Having reconsidered the Bill, I am writing to advise you of my intention to submit a revised Legislative Consent Memorandum on this matter. The original Memorandum sought consent for Clause 2 and Clause 4 of the Bill, but the revised version will now also seek consent for both Clause 3 and Clause 5. The details regarding the purpose of these provisions is set out in the Memorandum and I set out the reasoning for the revised Memorandum below.

The UK Government publishes guidance on aspects of devolution for its own UK officials in the form of Devolution Guidance Notes (DGN). Following the Wales Act 2017, the Wales Office reviewed these notes to take account of the reserved powers model and revised them accordingly. To ensure consistency, Welsh Government officials have also revised their approach for assessing whether provision in UK Bills require the consent of the National Assembly for Wales. It is this new approach which has resulted in the need to revise the Memorandum. The new approach is being written into our reciprocal guidance which we intend to share with the Committee once it is finalised.

Under the previous approach, when assessing which provisions in a UK Bill would be within the Assembly's legislative competence and therefore require the Assembly's consent, we would previously have disregarded provisions which would require Minister of the Crown consent, were they to be included in an Assembly Bill. However, the new DGN instructs UK Government officials to seek consent for such provisions.

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As a result of the new DGN, we now consider Clauses 3 and 5 to be within legislative competence and will therefore require Assembly consent. I will therefore submit a revised Legislative Consent Memorandum outlining these provisions to be considered by the Assembly.

I have copied this letter to the Climate Change, Environment and Rural Affairs Committee, who considered the original Memorandum.

Regards,

A handwritten signature in cursive script, reading 'Lesley Griffiths'.

Lesley Griffiths AC/AM

Gweinidog yr Amgylchedd, Ynni a Materion Gwledig
Minister for Environment, Energy and Rural Affairs

Rt Hon. Mark Drakeford AM
First Minister of Wales

PS.FirstMinister@gov.wales

18 April 2019.

Dear Dr Drakeford,

Arrangements for devolved legislation before and after Brexit

I am writing at the request of Cytûn's Wales & Europe Working Party, which met recently, regarding concerns which we have about the legislative arrangements resulting from the departure of the UK from the European Union. The Working Party includes representation (in person or electronically) of all the Christian denominations which are members of Cytûn and of a number of other Christian organisations active in the field. Our member denominations have between them some 150,000 adult members in every community in Wales, and meaningful contact with many more adults, children and young people across the country.

We welcome the decision of the Minister for the Environment, Energy and Rural Affairs to engage in public consultation regarding some of the regulations under the European Union (Withdrawal) Act 2018 which she has laid before the Assembly. Although the consultation period allowed has been brief, we believe that this is good practice – and something which has not been seen in Westminster.

On the other hand, we have read the recent report by the Assembly's Constitutional and Legislative Affairs Committee about "the scrutiny of regulations under the European Union (Withdrawal) Act 2018" (February 2019), and have also been monitoring the progress of the Agriculture Bill and the Fisheries Bill, laid before the Westminster Parliament, which give significant powers to Welsh Ministers with no sunset clause. In the light of this we cannot but agree with the Committee's comment, "While we accept that the Welsh Government is under time and resource pressure, we believe that it has not got the balance right between permitting the UK Ministers to act on behalf of the Welsh Ministers and making its own legislation" (para 19). We would note:

1. That this mode of operating is contrary to the aspirations expressed by Welsh Government during the lengthy discussions regarding the EU Withdrawal Act 2018 that it wished to retain the Assembly's legislative competence in every devolved field during the process of transferring EU legislation to the UK. In particular, when your predecessor, Carwyn Jones AM, met with our Working Party in June 2017, he, like us, was very keen that future arrangements should fully respect the result of the 2011 referendum and the words on the ballot paper that the Assembly would in future legislate in devolved areas "without needing the UK Parliament's agreement".
2. It is inevitable that legislation relating to devolved matters will receive little scrutiny in Westminster, as this is not within the usual remit of MPs, while the Assembly is unable to scrutinise such legislation. As a result, the two governments can agree with one another to legislate with no scrutiny by either parliament, which is contrary to the parliamentary tradition of the UK as a whole, as well as contrary to the devolution settlement.
3. We appreciate the time pressure on the Government, especially when a departure with no agreement on 29 March 2019 seemed likely, but as it has turned out Westminster has failed to complete passage of either the Agriculture Bill or the Fisheries Bill. We believe that the provisions



contained in the schedules pertaining to Wales could have been laid as Welsh Bills, been scrutinised and possibly passed by the Assembly during the period which they have spent in Westminster.

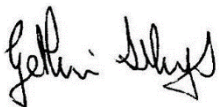
4. Primary and secondary legislation from Westminster is available in English only, while the Assembly legislates bilingually. This use of Westminster to legislate in devolved areas means that there are now substantial gaps in the legislation available in Welsh.
5. Taken together, it appears that these decisions have meant a substantial transfer of power from the legislature to the Government, at a crucial time in our history.

We are even more concerned at the decision to recommend that the Assembly give Legislative Consent (which it has) to two UK bills relating to departure from the EU on the basis of inter-governmental understandings regarding the operation of this legislation following exit from the EU. This has been achieved by "non-legislative commitments in the UK Parliament" (Supplementary LCM to the Trade Bill, Feb 2019, para 8) in the case of the Trade Bill and through a memorandum of understanding in the case of the Healthcare (International Arrangements) Bill. Both mean that arrangements regarding these important matters will be discussed by the two governments, but not necessarily by either parliament. It must be anticipated that the arrangements in these two bills, if they pass, will be in force for many years, thus removing the Assembly's right to scrutinise in a timely fashion provisions that would otherwise have required subordinate legislation in the Assembly in order to be enacted. We believe that this means that there will be a permanent transfer of power from the Assembly to the Government, not only the temporary transfer seen in the case of the statutory instruments under the European Union Withdrawal Act 2018.

We believe that consideration should be given to statutory arrangements, agreed by both parliaments, for the interaction of the two governments, to take the place of the ad hoc JMC arrangements. We believe that the recommendations of part 2 of the Silk Commission report would be a good starting point for such arrangements, although the changes introduced by the Wales Act 2017 and by departure from the European Union might mean that some aspects would require refreshed consideration.

We would be very grateful if you could provide us with an explanation of the Welsh Government's policy in this regard, and especially whether you foresee that any of these arrangements regarding subordinate legislation, primary legislation, memoranda of understanding or non-legislative commitments will establish precedents for proceeding in other devolved areas in future.

Yours faithfully,



Gethin Rhys (Revd)
on behalf of Cytûn's Wales and Europe Working Party

Cc: Mick Antoniw AM, Chair, Constitutional and Legislative Affairs Committee
David Melding AM Elin Jones AM (Llywydd)
Jeremy Miles AM (Counsel General and Brexit Minister)
David T C Davies MP (Chair of the House of Commons Welsh Affairs Committee)
Lady Taylor of Bolton (Chair, House of Lords Constitution Committee) Lord Lisvane
Wales Civil Society Forum on Brexit Brexit Civil Society Alliance (UK).



Llywodraeth Cymru
Welsh Government

Our ref: EM/0263/19

Mr Mick Antoniw AM
Chair of Constitutional and Legislative Affairs Committee
National Assembly for Wales
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25 April 2019

Dear Mick,

UK Trade Bill – Supplementary Legislative Consent Memorandum CLAC Report

I would like to thank you, and all the members of the Constitutional and Legislative Affairs Committee, for taking the time to consider the Legislative Consent Memorandum for the UK Trade Bill for a second time.

I have now had time to consider your report. I responded to a number of your concerns during the debate on the Legislative Consent Memorandum, however there are a few points I'd like to follow up on.

You said that you would welcome a commitment to either publish a document setting out the commitments from the UK Government in full or for us to secure an amendment to the existing Intergovernmental Agreement. Attached to this document is a list of the despatch box commitments that have been secured. These are in addition to Ministerial Correspondence laying out the commitments I have previously described with regards to the Trade Remedies Authority.

You have also recommended that Standing Order 30C should be amended to apply to the Trade Bill, once enacted. Whilst I understand the rationale for this, in the light of the experience of the correcting SIs programme I think it would be helpful to consider a review SO30C more generally. I have asked my officials to give further consideration to this.

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I would also like to use this opportunity to make you aware of some further developments around the UK Trade Bill. I'm sure you'll be aware that the Trade Bill has now undergone its final reading in the House of Lords. Several amendments have been made to the Bill, a number of which I would like to draw your particular attention to. These are the amendments I believe are within the Assembly's competence and are identified in the Annex.

Amendments 1, 4, 5 and 15 do not alter anything legally but simply make clear what was implied in the clauses as originally drafted, or move provisions from one place to another. For this reason, I believe that the Assembly's consent to the original clauses covers these changes.

Amendments 2, 3, 11 and 13 either limit or remove powers which were identified in the original Legislative Consent Memorandum and do not make relevant provision for the first time. As a result I do not consider that these amendments require a supplementary LCM.

One of the effects of amendment 14 is to widen devolved powers under the Bill and as a result I do not think this change is covered by the Assembly's original consent. Ordinarily I would lay an LCM for an amendment of this kind but realistically I do not see that there would be time for the LCM procedures to be complied with. For this reason I do not intend to do so.

Amendment 16 adds a new clause into the Bill so that Parts 1 to 3 can only come into force if the House of Commons approves a withdrawal agreement and framework for future relationship under s. 13 of the Withdrawal Act, or approves withdrawal without an agreement and framework. This is an opposition amendment and therefore the UK Government may seek to overturn it when it returns to the House of Commons. I will continue to keep members up to date on this amendment.

Finally, during the debate I confirmed that I would be happy to issue a written statement on the role of the Trade Remedies Authority. I will be issuing this statement shortly.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'M. E. Morgan'.

Eluned Morgan AC/AM

Gweinidog y Gymraeg a Chysylltiadau Rhyngwladol
Minister for International Relations and the Welsh Language



Llywodraeth Cymru
Welsh Government

Annex 1 – House of Lords amendments at Report considered to be within competence

No.	Explanation	Comments
1	Changes the clause 1 powers so that they can be used to modify retained direct principal EU legislation, rather than retained direct EU legislation.	This change does not alter anything legally, it just makes clear what was implied in the original drafting.
2	Requires clause 1 regulations to adhere to the standards requirement (see amendment 3).	See below.
3	Requires clause 1 regulations containing provision in various areas to be consistent with statutory protections in those areas, e.g. animal welfare.	Narrows the scope of the clause 1 power so that only provision that adheres to this new condition can be made.
4	Changes the clause 2 powers so that they can be used to modify retained direct principal EU legislation, rather than retained direct EU legislation.	This change does not alter anything legally, it just makes clear what was implied in the original drafting.
5	Makes express that clause 2 powers can only be used to make provision for civil penalties.	This change does not alter anything legally, it just makes clear what the position would have been under the original drafting.
11	Removes clause 6 (UK participation in the European medicines regulatory network).	Removes a power which was set out in the original memoranda. Not making relevant provision for the first time.

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	Adds a substitute clause.	
13	Removes authority for regulations under clauses 1 and 2 to be made before exit day if they modify certain kinds of retained EU law, as long as they come into force after exit day.	Removes a power which was set out in the original memoranda. Not making relevant provision for the first time.
14	This changes the definition of 'subordinate legislation' used in the Bill so that it includes subordinate legislation made under an Assembly Act or Measure.	<p>The principal effect is to dis-apply some of the restrictions on Welsh Ministers' powers if they have a power under an Assembly Act or Measure to do the same thing free from those restrictions (broadly speaking).</p> <p>On balance it seems likely that the Assembly has competence to require Welsh Ministers to consult UKG before making regulations, but not to require UKG consent as a prerequisite to making regulations or to require joint exercise of the powers with UKG. This is on the basis that consent and joint exercise are likely to involve imposing a function on UK Ministers, whereas consultation feels less likely to involve that. Given this, the amendment is arguably within competence to the extent that it dis-applies the requirement to consult UKG before making Trade Bill regulations if the same thing could be done by Welsh Ministers in regulations under an Assembly Act or Measure.</p> <p>This widens Welsh Ministers' powers under the Bill and so is not covered by the previous memoranda.</p>
15	Moves the definition of domestic law from the Schedule dealing with devolved powers to the main interpretation section of the Bill.	This change does not alter anything legally.
16	Adds a new clause so that Parts 1 to 3 can only come into force if the HoC approves a withdrawal agreement and framework for future relationship under s. 13 of the Withdrawal Act, or approves withdrawal without an agreement and framework.	Not a UK Government amendment. Monitor during ping pong.



Attorney General's Office

Jeremy Miles AC/AM
Counsel General
Cardiff Bay
Cardiff
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Agenda Item 9.10
Robert Buckland QC MP
Solicitor General

Attorney General's Office
5-8 The Sanctuary
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25 April 2019

Dear Jeremy,

Legislation (Wales) Bill

In December the Secretary of State wrote to the First Minister to flag that the UK Government has concerns regarding an aspect of the Legislation (Wales) Bill. Since that letter was sent, further work has been carried out to understand the implications of the Bill and assess its legislative competence.

It is the view of the UK Government that the application of the Bill to subordinate legislation made by Welsh Ministers under Acts of Parliament is outwith the competence of the Assembly. Furthermore, including such legislation within the scope of the Bill has the potential to cause confusion and legal uncertainty as to how that legislation should be interpreted. This would frustrate a key aim of the Welsh Government in promoting the Bill, which is to simplify the understanding and interpretation of laws that apply in Wales.

In view of these concerns I would ask that the Welsh Government amend the Bill to remove from its scope subordinate legislation made by Welsh Ministers under Acts of Parliament. This would be consistent with the approach taken by the Scottish Parliament when it passed the Interpretation and Legislative Reform (Scotland) Act 2010 and would avoid the unwelcome implications for legal certainty that may otherwise arise.

I have set out below the specific concerns that the UK Government has in relation to competence. I would ask that you reflect on these and recommend to your Ministerial colleagues that a simple amendment be made to the Bill. I am of course happy to discuss these concerns with you at any point.

Concerns of the UK Government

Our concerns with the approach of the Bill go to its legislative competence in three respects. First, Section 3 applies the rules in Part 2 of the Bill to all legislation within its scope. This includes, under subsection (1)(c), subordinate legislation made by Welsh Ministers where the enabling power is contained in primary legislation made by the UK Parliament.

Officials from the Welsh Government have set out the position that because the interpretation of legislation is not a reserved matter under GoWA 2006, it follows that the Assembly has competence to legislate with regard to the interpretation of all legislation that applies as regards Wales. I do not share this view. It is my view, and the position of the UK Government, that the interpretation of legislation does not form a distinct subject matter for the purposes of GoWA 2006. The interpretation of legislation is not

properly divisible from the legislation being interpreted and therefore whether the interpretation of a particular piece of legislation is devolved or reserved will depend on the subject matter of that legislation.

As you are aware, the competence of the Welsh Ministers is wider than the legislative competence of the Assembly in that powers, including powers to make subordinate legislation, are conferred on the Welsh Ministers in relation to some matters that are reserved. As drafted the Bill would affect the interpretation of such legislation despite it being outwith the competence of the Assembly to legislate with regard to the underlying subject matter. Therefore it can be said that the Bill relates to those relevant reserved matters and is outside the legislative competence of the Assembly.

So far as section 3(1)(c) of the Bill applies to subordinate instruments which form part of the law on reserved matters, the Bill is an impermissible modification of the law on reserved matters contrary to paragraph 1(1) of Schedule 7B and outside of legislative competence by reason of section 108A(2)(d) of GOWA. This again is because the interpretation of legislation on reserved matters is indivisible from the legislation on reserved matters itself. As such, the interpretation of subordinate legislation made under an Act of Parliament, the subject matter of which is a reserved matter, also forms part of the law on reserved matters within the meaning of paragraph 1(1) of Schedule 7B.

Finally, the UK Government is of the view that section 3(2)(b) of the Bill modifies section 107(5) GOWA, contrary to paragraph 7(1) of Schedule 7B, and so is outside legislative competence by reason of section 108A(2)(d) GOWA. Imposing rules of interpretation places a limit on the full scope of Parliament's law-making powers in respect of Wales. All Welsh subordinate instruments made under an Act of Parliament (as opposed to under an Act of the Assembly) will, without more, be subjected to different rules of interpretation to those of their parent Act, thereby qualifying the power of Parliament to make laws for Wales and for those laws to mean what Parliament intended that they ought to mean.

The drafting and interpretation of provision made under a power, and how it will fit with the wider legal landscape, is something that is considered carefully by those who draft legislation when deciding how to frame an enabling power in a Bill; particularly where the substantive provision in a Bill is to be fleshed out by regulations. It would, for example, be both inconvenient and a source of legal uncertainty if the effect of the law on a person can only be determined by reading both the primary and the secondary legislation but different interpretation legislation applies to each and it is not entirely clear as to which applies.

Considering the above concerns, I would request that subordinate legislation that is made under an Act of the Parliament of the United Kingdom be excluded from the scope of this Bill.

I am copying this letter to the Chair of the Constitutional and Legislative Affairs Committee, as I understand that the Committee will be giving further consideration to the Bill in the near future.

A handwritten signature in black ink that reads "Robert Buckland". The script is cursive and fluid, with the first letters of each word being capitalized and prominent.

**ROBERT BUCKLAND QC MP
SOLICITOR GENERAL**

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Agenda Item 13

WELSH STATUTORY INSTRUMENTS

2019 No. 829 (W. 152)

PUBLIC HEALTH, WALES

**The Public Health (Wales) Act 2017
(Commencement No. 4) Order 2019**

EXPLANATORY NOTE

(This note is not part of the Order)

This Order made by the Welsh Ministers brings into force specified provisions of the Public Health (Wales) Act 2017 (“the Act”).

Article 2 brings provisions of the Act relating to pharmaceutical services into force on 1 April 2019.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

The following provisions of the Act have been brought into force by Commencement Order made before the date of this Order:

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Section 2	4 October 2017	2017/949 (W. 237)
Section 3	4 October 2017	2017/949 (W. 237)
Section 94	1 February 2018	2018/1 (W. 1)
Part 5	1 February 2018	2018/1 (W. 1)
Part 8	31 May 2018	2018/605 (W. 116)
Section 119	4 October 2017	2017/949 (W. 237)
Schedule 4	31 May 2018	2018/605 (W. 116)

See also section 126(1) of the Act for the provisions that came into force on 3 July 2017 (the date of Royal Assent).

W E L S H S T A T U T O R Y
I N S T R U M E N T S

2019 No. 829 (W. 152)

PUBLIC HEALTH, WALES

**The Public Health (Wales) Act 2017
(Commencement No. 4) Order 2019**

Made

25 March 2019

The Welsh Ministers in exercise of the powers conferred by section 126(2) of the Public Health (Wales) Act 2017(1), make the following Order:

Title and interpretation

1.—(1) The title of this Order is the Public Health (Wales) Act 2017 (Commencement No. 4) Order 2019.

(2) In this Order, “the Act” means the Public Health (Wales) Act 2017.

Provisions coming into force on 1 April 2019

2. The appointed day for Part 7 (pharmaceutical services) of the Act coming into force is 1 April 2019.

Vaughan Gething

Minister for Health and Social Services, one of the
Welsh Ministers

25 March 2019

(1) 2017 anaw 2.