

Constitutional and Legislative Affairs Committee

Meeting Venue:
Committee Room 2 – Senedd

Meeting date:
20 January 2014

Meeting time:
13:30

Cynulliad
Cenedlaethol
Cymru

National
Assembly for
Wales



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Agenda

1 Introduction, apologies, substitutions and declarations of interest

2 Evidence in relation to the Housing (Wales) Bill

Carl Sargeant AM, Minister for Housing and Regeneration
Ceri Breeze, Deputy Director, Housing Policy, Welsh Government;
Neil Buffin, Legal Services, Welsh Government

<http://www.senedd.assemblywales.org/mglIssueHistoryHome.aspx?Ild=8220>

3 Instruments that raise no reporting issues under Standing Order 21.2 or 21.3 (Pages 1 - 3)

CLA(4)-02-14-Paper 1- Statutory Instruments with clear reports

Negative Resolution Instruments

CLA342 – The Education (Information About Individual Pupils) (Wales) (Amendment) Regulations 2013

Negative procedure; Date Made:10 December 2013; Date Laid: 12 December 2013;
Coming into Force Date:13 January 2014

CLA343 – The Housing Renewal Grants (Amendment) (Wales) (No. 2)

Regulations 2013

Negative procedure; Date Made:10 December 2013; Date Laid: 12 December 2013;
Coming into Force Date:29 January 2014

CLA344 – The Welsh Language Tribunal (Appointment) Regulations 2013

Negative procedure; Date Made:10 December 2013; Date Laid: 12 December 2013;
Coming into Force Date:7 January 2014

CLA345 – The Education (Student Support) (Wales) Regulations 2013

Negative procedure; Date Made:12 December 2013; Date Laid: 16 December 2013;
Coming into Force Date:10 January 2014

CLA346 – The Feed (Hygiene and Enforcement) and the Animal Feed (Wales) (Amendment) Regulations 2013

Negative procedure; Date Made:18 December 2013; Date Laid: 19 December 2013;
Coming into Force Date:12 January 2014

Affirmative Resolution Instruments

CLA347 – The Prevention of Social Housing Fraud (Detection of Fraud) (Wales) Regulations 2014

Affirmative procedure; Date Made:Not Stated; Date Laid: Not Stated
Coming into Force Date:28 March 2014

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

Negative Resolution Instruments

CLA348 – The Single Common Market Organisation (Consequential Amendments) (Wales) Regulations 2013 (Pages 4 - 27)

Negative procedure; Date Made:27 December 2013; Date Laid: 31 December 2013;
Coming into Force Date:1 January 2014

CLA(4)-02-14 – Paper 2 – Regulations

CLA(4)-02-14 – Paper 3 – Explanatory Memorandum

CLA(4)-02-14 – Paper 4 – Report

CLA(4)-02-14 – Paper 5 – Letter from Minister

5 Papers to note (Pages 28 - 31)

CLA(4)-02-14 - Paper 6 - Letter from Secretary of State for Wales in relation to the Committee's Inquiry into powers granted to Welsh Ministers in UK Laws: Review of Outcomes

CLA(4)-02-14 - Paper 6A - Letter from Secretary of State for Wales to the First Minister

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

(ix) any matter relating to the internal business of the Committee, or of Assembly, is to be discussed.

Letter from Minister in relation to Council Tax Regulations (Pages 32 - 35)

CLA(4)-2-14 - Paper 7 - Letter from Minister in relation to Council Tax Regulations

Consideration of White Paper on the Environment Bill (Pages 36 - 41)

CLA(4)-02-14 - Paper 8 - Background Paper

Agenda Item 3

Constitutional and Legislative Affairs Committee

CLA(4)-01-14: Paper 1

BACKGROUND INFORMATION ON STATUTORY INSTRUMENTS WITH CLEAR REPORTS

CLA342 - The Education (Information About Individual Pupils) (Wales) (Amendment) Regulations 2013

Procedure: Negative

These Regulations amend The Education (Information About Individual Pupils) (Wales) Regulations 2007 to ensure that fixed term exclusion data and the reasons for exclusions is reported during the Pupil-Level Annual School Census.

CLA343 - The Housing Renewal Grants (Amendment) (Wales) (No.2) Regulations 2013

Procedure: Negative

These Regulations amend in relation to Wales, the Housing Renewal Grants Regulations 1996 ('the 1996 Regulations) which sets out the means test for determining the amount of grant which may be paid by local housing authorities under Part 1 of the Housing Grants, Construction and Regeneration Act 1996.

These Regulations makes consequential amendments to the 1996 Regulations to deal with the impact of armed forces independence payment on means testing for receipt of disabled facilities grant.

CLA344 - The Welsh Language Tribunal (Appointment) Regulations 2013

Procedure: Negative

The Welsh Language (Wales) Measure 2011 ("the Measure") establishes a Welsh Language Tribunal ("the Tribunal"). The Tribunal will comprise of a President, legally qualified members and lay members. Section 120 of the Measure provides that the Welsh Ministers appoint the members of the Tribunal.

Paragraph 9(1) of Schedule 11 to the Measure enables the Welsh Ministers to make provision, by way of regulations, about the appointment of members of the Tribunal (referred to in the Measure as “appointment regulations”).

These Regulations place duties on the Welsh Ministers in making appointments to the Tribunal.

CLA345 – The Education (Student Support) (Wales) Regulations 2013

Procedure: Negative

These Regulations provide for financial support for students who are ordinarily resident in Wales taking designated higher education courses in respect of academic years beginning on or after 1 September 2014. They consolidate with some changes, the Education (Student Support) (Wales) Regulations 2012 (‘the 2012 Regulations’). The 2012 Regulations are revoked subject to Regulation 3 of these Regulations and continue to apply to the provision of support to students in relation to an academic year which begins on or after 1 September 2013 but before 1 September 2014.

CLA346 – The Feed (Hygiene and Enforcement) and the Animal Feed (Wales) (Amendment) Regulations 2013

Procedure: Negative

These Regulations provide for the execution and enforcement of Commission Regulation (EU) No. 225/2012 amending Annex II to Regulation (EC) No. 1831/2003 of the European Parliament and of the Council as regards the approval of establishments placing on the market, for feed use, products derived from vegetable oils and blended fats and as regards the specific requirements for production, storage, transport and dioxin testing of oils, fats and products derived thereof (OJ No. L77, 16.3.2012, p.1) .

CLA347 – The Prevention of Social Housing Fraud (Detection of Fraud) (Wales) Regulations 2014¹

Procedure: Affirmative

These Regulations make provision for powers to require information for the purpose of investigating housing fraud. Authorised officers can require businesses such as banks and utilities companies to provide information, for the purpose of investigating housing fraud.

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

2013 No. (W.)

AGRICULTURE

**The Single Common Market
Organisation (Consequential
Amendments) (Wales) Regulations
2013**

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which apply in relation to Wales, amend a number of Regulations consequential upon the Regulation (EU) 2013 of the European Parliament and of the Council adopted on 16 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 (“Regulation (EU) 2013”). Regulation (EU) 2013 repeals (subject to transitional and final provisions set out in Article 230) the earlier Single Common Market Organisation - Council Regulation (EC) No 1234/2007 of 22 October 2007 (“Council Regulation 2007”) establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products. The transitional provisions set out in Article 230 provide for certain Articles in Council Regulation 2007 to continue to apply until corresponding marketing rules made under Regulation (EU) 2013 (“corresponding marketing rules”) come into force.

The following Regulations are amended—

- (a) The Beef and Pig Carcase Classification (Wales) Regulations 2011 are amended to replace references to Council Regulation 2007 with Regulation (EU) 2013 (regulation 2).
- (b) The Beef and Veal Labelling (Wales) Regulations 2011 are amended to replace references to Council Regulation 2007 with Regulation (EU) 2013 (regulation 3).
- (c) The Drinking Milk (Wales) Regulations 2010 make provision for the enforcement of Article 114 (2) of Council Regulation 2007 (marketing standards for milk and milk

products). Article 230(1)(c) provides that Article 114 is to continue to apply until the corresponding marketing rules come into force. The 2010 Regulations are amended to replace the reference in regulation 3 (sale or delivery of milk and use of sales description) to Annex XIII to Council Regulation 2007 with Part IV of Annex VII (milk for human consumption) to Regulation (EU) 2013 (regulation 4).

- (d) The Eggs and Chicks (Wales) Regulations 2010 make provision for the enforcement of EU marketing standards relating to eggs for hatching, poultry chicks and eggs in shell for consumption. Article 230(1)(c) provides that Article 116 of, and certain parts of Annex XIV to, Council Regulation 2007 are to continue to apply until the corresponding marketing rules come into force. Save to the extent that Council Regulation 2007 applies, Regulation (EU) 2013 applies and the 2010 Regulations are amended to refer to the relevant provisions in Regulation (EU) 2013 (regulation 5).
- (e) The Marketing of Fresh Horticultural Produce (Wales) Regulations 2009 are amended to replace references to Council Regulation 2007 with Regulation (EU) 2013 (regulation 6).
- (f) The School Milk (Wales) Regulations 2008 are amended to replace references to Council Regulation 2007 with Regulation (EU) 2013 (regulation 7).
- (g) The Poultrymeat (Wales) Regulations 2011 make provision for the enforcement of marketing standards relating to poultrymeat. Article 116 of, and certain parts of Annex XIV to, Council Regulation 2007 are to continue to apply until the corresponding marketing rules come into force. Save to the extent that Council Regulation 2007 applies, Regulation (EU) 2013 applies and the 2011 Regulations are amended to refer to the relevant provisions in Regulation (EU) 2013 (regulation 8).
- (h) The Spreadable Fats (Marketing Standards) and the Milk and Milk Products (Protection of Designations) (Wales) Regulations 2008 create offences of failing to comply with provisions in Council Regulation 2007 relating to marketing standards for fats and descriptions of milk and milk products (Articles 115 and 114 respectively). Article 230 (1)(c) of Regulation (EU) 2013 provides that Articles 114 and 115 of, and certain parts of Annex XIV to, Council Regulation 2007 are to continue to apply until the

corresponding marketing rules come into force. Save to the extent that Council Regulation 2007 applies, Regulation (EU) 2013 applies and the 2008 Regulations are amended to refer to the relevant provisions in Regulation (EU) 2013 (regulation 9).

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, it was not considered necessary to carry out a regulatory impact assessment as to the likely costs and benefits of complying with these Regulations.

2013 No. (W.)

AGRICULTURE

**The Single Common Market
Organisation (Consequential
Amendments) (Wales) Regulations
2013**

Made 27 December 2013

Laid before the National Assembly for Wales
31 December 2013

Coming into force 1 January 2014

The Welsh Ministers, are designated for the purposes of making regulations under section 2(2) of the European Communities Act 1972(1) (“the 1972 Act”) in relation to the common agricultural policy of the European Union(2), and they make the following Regulations in exercise of the powers conferred by that section.

These Regulations make provision for a purpose mentioned in section 2(2) of the 1972 Act and it appears to the Welsh Ministers that it is expedient for references in these Regulations to the Regulation of the European Parliament and of the Council adopted on 16 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007, to be construed as references to that Regulation as amended from time to time(3).

(1) 1972 c. 68. Section 2(2) is amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c. 51) and by section 3(3) of, and Part 1 of the Schedule to, the European Union (Amendment) Act 2008 (c. 7). Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006.

(2) S.I.2010/2690

(3) O.J. L 347, 20.12.2013, p. 1.

Title, application and commencement

1. These Regulations

- (a) are entitled the Single Common Market Organisation (Consequential Amendments) (Wales) Regulations 2013
- (b) apply in relation to Wales; and
- (c) come into force on the 1 January 2014.

Amendments to the Beef and Pig Carcase Classification (Wales) Regulations 2011

2.—(1) The Beef and Pig Carcase Classification (Wales) Regulations 2011⁽¹⁾ are amended as follows.

(2) In regulation 2(1) (interpretation) omit the definition of “Council Regulation” (“*Rheoliad y Cyngor*”) and after the definition of “prescribed communication” (“*cyfathrebiad rhagnodedig*”) insert the following definition—

““Regulation (EU) 2013” (“*Rheoliad (EU) 2013*”) means “the Regulation of the European Parliament and of the Council adopted on 16 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007, as amended from time to time;”.

(3) In regulation 2(3) (interpretation) omit subparagraph (b).

(4) In Part 1 of Schedule 1 (European provisions: bovine carcases)—

- (a) in column 1 of the table for “Council Regulation” substitute “Regulation (EU) 2013”;
- (b) In column 2 of the table for “Annex V”, in each place it occurs, substitute “Annex IV”.

(5) In the table in Schedule 2 (European provisions: pig carcases)—

- (a) in column 1 for “Council Regulation” substitute “Regulation (EU) 2013”;
- (b) in column 2 for “Annex V”, in each place it occurs, substitute “Annex IV”.

Amendments to the Beef and Veal Labelling (Wales) Regulations 2011

3.—(1) The Beef and Veal Labelling (Wales) Regulations 2011⁽²⁾ are amended as follows.

(1) S.I. 2011/1826 (W. 198); as amended by 2012/948 (W. 125).
(2) S.I. 2011/991 (W. 145).

(2) For regulation 2(1)(c) (competent authority) substitute—

“(c) Article 78 of, and Part I of Annex VII to, the Regulation of the European Parliament and of the Council adopted on 16 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007, as amended from time to time;”.

(3) For regulation 4(1)(c) (offences under European legislation) substitute—

“(c) The following provisions of the Regulation of the European Parliament and of the Council adopted on 16 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007, as amended from time to time—

- (i) Article 78 and paragraph II of Part I of Annex VII (classification at the slaughterhouse);
- (ii) Article 78 and paragraph III of Part I of Annex VII (sales descriptions);
- (iii) Article 78 and paragraph IV of Part I of Annex VII (compulsory indication on the label);
- (iv) Article 78 and paragraph V of Part I of Annex VII (recording).”.

(4) In regulation 4(2) (required information in relation to un-prepacked meat) for “paragraph IV(2) of Annex XIa to Council Regulation (EC) No 1234/2007” substitute “point IV(2) of Part I of Annex VII to the Regulation of the European Parliament and of the Council adopted on 16 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007, as amended from time to time”.

Amendments to the Drinking Milk (Wales) Regulations 2010

4.—(1) The Drinking Milk (Wales) Regulations 2010(1) are amended as follows.

(1) S.I. 2010/1492 (W.135).

- (2) In regulation 2(1) (interpretation)—
- (a) omit the definition of “the Annex” (“*yr Atodiad*”);
 - (b) in the definitions of “drinking milk” (“*llaeth yfed*”) and “milk” (“*llaeth*”) for “the Annex” substitute “Part IV”;
 - (c) after the definition of “milk” insert—

““Part IV” (“*Rhan IV*”) means Part IV of Annex VII to the Regulation of the European Parliament and of the Council adopted on 16 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007, as amended from time to time.”.
- (3) In regulation 2(2) (interpretation) after “Council Regulation”, in each place it occurs, insert “or Part IV”.
- (4) Omit regulation 2(3) (interpretation).
- (5) In regulation 3 (sale or delivery of milk and use of sales description) for “the Annex as read with point III of the Annex” substitute “Part IV as read with point III of Part IV”.
- (6) Omit regulation 4 (imports of products from outside the EU for sale as drinking milk).
- (7) In regulation 5(3) (enforcement) for “the Annex” substitute “Part IV”.
- (8) In regulation 6 (offences and penalties) omit “or 4”.

Amendments to the Eggs and Chicks (Wales) Regulations 2010

5.—(1) The Eggs and Chicks (Wales) Regulations 2010(1) are amended as follows.

(2) In regulation 3(1) (interpretation) after the definition of “Regulation 2160/2003” insert—

““Regulation (EU) 2013” (“*Rheoliad (EU) 2013*”) means the Regulation of the European Parliament and of the Council adopted on 16 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007, as amended from time to time;”.

(3) In regulation 3(3) (interpretation) for “Part A of Annex XIV to the Single CMO Regulation” substitute “Part VI of Annex VII to Regulation (EU) 2013”.

(1) S.I. 2010/1671 (W. 158).

(4) In regulation 3(5)(a) and (6)(a) (interpretation) after “Single CMO Regulation” insert “or Regulation (EU) 2013”.

(5) In regulation 8 (application of Part 3)—

(a) in paragraphs (1) and (2)(a) for “Part A of Annex XIV to the Single CMO”, substitute “Part VI of Annex VII to Regulation (EU) 2013”; and

(b) in paragraph (2)(b) for “Part A of Annex XIV to the Single CMO Regulation, to the sale of eggs to which point I(1) of Part A of Annex XIV” substitute “Part VI of Annex VII to Regulation (EU) 2013, to the sale of eggs to which point I(1) of Part VI of Annex VII”.

(6) In regulation 11(1) and (2) (derogations relating to the marking of eggs) for “Part A of Annex XIV to the Single CMO Regulation”, in each place it occurs, substitute “Part VI of Annex VII to Regulation (EU) 2013”.

(7) In Part 1 of Schedule 1 (EU provisions relating to eggs for hatching and chicks contravention of which is an offence)—

(a) in the heading under Part 1 insert at the end “or Regulation (EU) 2013”;

(b) in the headings to columns 1 and 2 after “Regulation” insert “or Regulation (EU) 2013”;

(c) in column 1 for “Article 113(3), first subparagraph” substitute “Article 74 of Regulation (EU) 2013”;

(d) in column 1 after “Annex XIV”, in each place it occurs, insert “to the Single CMO Regulation”.

(8) In Schedule 2 (general EU provisions relating to eggs in shells for consumption contravention of which is an offence)—

(a) for Part 1 (provisions of the Single CMO Regulation) substitute—

“PART 1

PROVISIONS OF REGULATION (EU) 2013

| <i>Column 1</i> | <i>Column 2</i> | <i>Column 3</i> |
|--|---|-----------------|
| Relevant provision of Regulation (EU) 2013 | Provisions to be read with the provisions of Regulation (EU) 2013 mentioned in column 1 | Subject matter |

| | | |
|--|---|---|
| Article 74 insofar as it relates to the marketing of eggs | Part VI of Annex VII to Regulation (EU) 2013 and Commission Regulation (EC) No. 589/2008 | Prohibition on the marketing of eggs except in accordance with the marketing standards laid down in Part VI of Annex VII to Regulation (EU) 2013 and Commission Regulation (EC) No. 589/2008. |
| Point II(1) of Part VI of Annex VII | Article 2(1) and (4) of Commission Regulation (EC) No. 589/2008 | Quality grading of eggs as Class A (or fresh) or Class B eggs. |
| Point II(2) of Part VI of Annex VII | Article 4(1) of Commission Regulation (EC) No. 589/2008 | Weight grading of Class A eggs. |
| Point II(3) of Part VI of Annex VII | | Prohibition on the delivery of Class B eggs except to the food and non-food industry. |
| Point III(1) of Part VI of Annex VII, first sub-paragraph | Articles 9(1) and 11 of Commission Regulation (EC) No. 589/2008 | Marking of Class A eggs. |
| Point III(1) of Part VI of Annex VII, second sub-paragraph | Articles 9, 10 and 11 of Commission Regulation (EC) No. 589/2008, paragraphs (a) and (b) of the second sub-paragraph of point 2 of Part D of Annex II to Regulation (EC) No. 2160/2003 and regulation | Marking of Class B eggs. |

| | | |
|---|--|--|
| | 11(1) | |
| Point III(2) of Part VI of Annex VII | Point III(1) of Part VI of Annex VII to Regulation (EU) 2013 | Place at which eggs are marked. |
| Point III(3) of Part VI of Annex VII, first sub-paragraph | Point III(1) of Part VI of Annex VII and the second sub-paragraph of point III(3) of Part VI of Annex VII to Regulation (EU) 2013 and regulation 11(2) | Marking of eggs sold by a producer to the final consumer at a local public market. |
| Articles 75(2) and (3) of Regulation (EU) 2013 | Article 30(2) of Commission Regulation (EC) No. 589/2008 | Marking of eggs imported from a third country where the rules applied in relation to those eggs in that country have been found to offer sufficient guarantees as to equivalence with EU legislation |
| Articles 75(2) and (3) of Regulation (EU) 2013 | Articles 11, 30(2) and (3) of Commission Regulation (EC) No. 589/2008 | Marking of eggs imported from a third country where sufficient guarantees of equivalence of the rules relating to those eggs with EU legislation have not been provided.” |

(b) in the table in Part 2 (provisions of Commission Regulation (EC) 589/2008)—

(i) in column 2 for “point II(1) of Part A of Annex XIV to the Single CMO Regulation”, in each place it occurs,

- substitute “point II(1) of Part VI of Annex VII to Regulation (EU) 2013”;
- (ii) in column 2 for “Point II(2) of Part A of Annex XIV to the Single CMO Regulation” substitute “Point II(2) of Part VI of Annex VII to Regulation (EU) 2013”;
- (iii) in column 2 for “point III(1) of Part A of Annex XIV to the Single CMO Regulation”, in each place it occurs, substitute “point III(2) of Part VI of Annex VII to Regulation (EU) 2013”;
- (iv) in relation to the entry for Article 30(3) in column 2 omit “point IV(3) of Part A of Annex XIV”;

(9) in column 2 of the table in Schedule 3 (Community salmonella related controls on eggs in shell for consumption contravention of which is an offence) for “Articles 113(3) and 116 of, and Part A of Annex XIV to, the Single CMO Regulation” substitute “Article 74 and Part VI of Annex VII to Regulation (EU) 2013”.

Amendments to the Marketing of Fresh Horticultural Produce (Wales) Regulations 2009

6.—(1) The Marketing of Fresh Horticultural Produce (Wales) Regulations 2009⁽¹⁾ are amended as follows.

(2) In regulation 2(2) (interpretation)—

- (a) in the definition of “EU marketing rules” (“*rheolau marchnata’r UE*”) for “Council Regulation 1234/2007, and includes the rules relating to those standards contained in Articles 113 and 113a of Council Regulation 1234/2007” substitute “Regulation (EU) 2013, and includes the rules relating to those standards contained in Articles 74, 75 and 76” of Regulation (EU) 2013;
- (b) omit the definition of “Council Regulation 1234/2007” (“*Rheoliad y Cyngor 1234/2007*”);
- (c) in the definition of “general marketing standard” (“*safon farchnata gyffredinol*”) for “Article 113a(1) of Regulation 1234/2007” substitute “Article 76(1) of Regulation (EU) 2013”;
- (d) in the definition of “horticultural produce” (“*cynnyrch garddwriaethol*”) for “The Council Regulation 1234/2007” substitute “Regulation (EU) 2013”;

(1) S.I. 2009/1551 (W. 151); as amended by 2011/2486 (W. 270).

- (e) after the definition of “re-graded label” (“*label ailraddio*”) insert the following definition—

““Regulation (EU) 2013” (“*Rheoliad (EU) 2013*”) means the Regulation of the European Parliament and of the Council adopted on 16 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007, as amended from time to time;”;

- (f) in the definition of “specific marketing standards” (“*safonau marchnata penodol*”) for “Article 113(1)(b) of Council Regulation 1234/2007” substitute “Article 75(1)(b) of Regulation (EU) 2013”.

(3) In regulation 2(3) (interpretation) for “Council Regulation 1234/2007” substitute “Regulation (EU) 2013”.

Amendments to the School Milk (Wales) Regulations 2008

7.—(1) The School Milk (Wales) Regulations 2008 (1) are amended as follows.

(2) In regulation 2 (interpretation)—

- (a) in the definition of “Community aid” (“*cymorth Cymunedol*”) for “Article 102(1) of Council Regulation 1234/2007” substitute “Article 26(1) of Regulation (EU) 2013”;
- (b) omit the definition of “Council Regulation” (“*Rheoliad y Cyngor*”);
- (c) in the definition of “national aid” (“*cymorth gwladol*”) for “Article 102(2) of the Council Regulation” substitute “Article 217 of Regulation (EU) 2013”.
- (d) after the definition of “national aid” (“*cymorth gwladol*”) insert the following definition—

““Regulation (EU) 2013” means the Regulation of the European Parliament and of the Council adopted on 16 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007, as amended from time to time;”.

(1) S.I. 2008/2141 (W.190); as amended by 2009/108 (W. 21).

Amendments to the Poultrymeat (Wales) Regulations 2011

8.—(1) The Poultrymeat (Wales) Regulations 2011⁽¹⁾ are amended as follows.

(2) In regulation 1(3) (application of Regulations to poultrymeat)—

- (a) for “point I(1) of Part B of Annex XIV to the Single CMO Regulation” substitute “point I of Part V of Annex VII to Regulation (EU) 2013”; and
- (b) for “that Part of that Annex to that Regulation” substitute “Part B of Annex XIV to the Single CMO Regulation”.

(3) In regulation 2 (interpretation)—

(a) in paragraph (1)—

(i) in the definition of “European poultry provision” (“*darpariaeth cig dofednod Ewropeaidd*”) after “Single CMO Regulation” insert “or Regulation (EU) 2013”;

(ii) for the definition of “poultrymeat” (“*cig dofednod*”) substitute—

““poultrymeat” (“*cig dofednod*”) has the meaning given by point II(1) of Part V of Annex VII to Regulation (EU) 2013;”;

(iii) after the definition of “premises” (“*mangre*”) insert the following definition—

““Regulation (EU) 2013” (“*Rheoliad (EU) 2013*”) means “the Regulation (EU) 2013 of the European Parliament and of the Council establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007, as amended from time to time;”and

(b) in paragraph (3) after “Single CMO Regulation” insert “or Regulation (EU) 2013”.

(4) In regulation 12 (powers of an authorised officer) for “Single CMO Regulation” substitute “Regulation (EU) 2013”.

(5) In Part 1 of Schedule 1 (European poultrymeat provisions – compliance notices)—

(a) in the heading under Part 1 after “Single CMO Regulation” insert “or Regulation (EU) 2013”

(1) S.I. 2011/1719 (W. 195)

- (b) for the heading in column 1 of the table substitute “Relevant provision of the Single CMO or Regulation (EU) 2013”;
 - (c) in the heading in column 2 of the table after “Single CMO Regulation” insert “or Regulation (EU) 2013”;
 - (d) in column 1 of the table for “Article 113(3), first sub-paragraph” substitute “Article 74 of Regulation (EU) 2013”;
 - (e) in column 2 of the table for “Article 116 of, and Part B of Annex XIV to the Single CMO Regulation” substitute “Article 116 and Part B(I)(2) and (3) and (III)(1) of Annex XIV to the Single CMO Regulation and Part V of Annex VII to Regulation (EU) 2013”;
 - (f) in column 3 of the table for “Part B of Annex XIV to the Single CMO Regulation” substitute “Part B(I)(2) and (3) and (III)(I) of Annex XIV to the Single CMO Regulation and Part V of Annex VII to Regulation (EU) 2013”;
 - (g) in column 1 of the table after “point III(1) of Part B of Annex XIV” insert “to the Single CMO Regulation”;
 - (h) in column 1 of the table for “point III(2) of Part B of Annex XIV” substitute “point III of Part V of Annex VII to Regulation (EU) 2013”; and
 - (i) in column 2 of the table for “Part B of Annex XIV to the Single CMO Regulation”, in each place it occurs, substitute “Part V of Annex VII to Regulation (EU) 2013”.
- (6) In Part 2 of Schedule 1 (provisions of the Commission Regulation)—
- (a) in column 2 for “Points III(1) and (2) of Part B of Annex XIV to the Single CMO Regulation” substitute “Point III(1) of Part B of Annex XIV to the Single CMO Regulation and point III of Part V of Annex VII to Regulation (EU) 2013”; and
 - (b) for “Point II(3) of Part B of Annex XIV to the Single CMO Regulation” substitute “Point II(3) of Part V of Annex VII to Regulation (EU) 2013”.

Amendments to the Spreadable Fats (Marketing Standards) and the Milk and Milk Products (Protection of Designations)(Wales) Regulations 2008

9.—(1) The Spreadable Fats (Marketing Standards) and the Milk and Milk Products (Protection of

Designations) (Wales) Regulations 2008⁽¹⁾ are amended as follows.

(2) In regulation 2 (interpretation)—

(a) In paragraph (1), after the definition of “food authority” (“*awdurdod bwyd*”), insert—

““Regulation (EU) 2013” (“*Rheoliad (EU) 2013*”) means “the Regulation of the European Parliament and of the Council adopted on 16 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007, as amended from time to time”;

(b) in paragraph (2) after Council Regulation, in each place it occurs, insert “Regulation (EU) 2013”.

(3) In regulation 6(2) (offences and penalty for breach of any EU provision)—

(a) in sub-paragraph (a) for “Annex XII to that Regulation” substitute “Part III of Annex VII to Regulation (EU) 2013”;

(b) for sub-paragraph (b)(i) substitute “(i) points 1,3,5 and 6 of Part II and point 2 of Part IV of Annex XV to the Council Regulation”;

(c) insert after sub-paragraph (b) “(ba) Articles 75(1)(h) and 78(1) and (2) of Regulation (EU) 2013 (definitions, designations and sales descriptions applying to spreadable fats) as read with Part VII of Annex VII to that Regulation”.

Alun Davies

Minister for Natural Resources and Food, one of the
Welsh Ministers

27 December 2013

(1) S.I. 2008/1341 (W. 141).

Explanatory Memorandum to The Single Common Market Organisation (Consequential Amendments) (Wales) Regulations 2013.

This Explanatory Memorandum has been prepared by the Department for Sustainable Futures of the Welsh Government and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1

Member's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of The Single Common Market Organisation (Consequential Amendments) (Wales) Regulations 2013.

Alun Davies AM
Minister for Natural Resources and Food

27 December 2013

Explanatory Memorandum to The Single Common Market Organisation (Consequential Amendments) (Wales) Regulations 2013.

1. Description

This statutory instrument makes the minimum technical and consequential changes that are necessary to ensure that domestic enforcement agencies can continue to enforce our obligations under the new European Common Agricultural Policy (CAP) Single Common Market Organisation (SCMO) Regulation which will revoke and replace EU Regulation No 1234/2007 on 1 January 2014. The instrument itself does not impose any new obligations.

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

The Instrument breaches the 21 day rule. Following a 3-year period of negotiations on CAP reform, a new European SCMO Regulation was formally adopted on 16 December 2013. It was published in the Official Journal of the European Union on 21 December 2013 and comes into force on 1 January 2014.

Due to the very short period between the adoption of the new European SCMO Regulation at EU level and its entry into force, this instrument could not have been made on a date that would have enabled compliance with the 21 day rule. As far as possible, Legal Services prepared a draft of this instrument in advance of the formal adoption of the new European SCMO Regulation and steps have been taken to lay this instrument as soon as practicable.

It is important that this instrument comes into force on 1 January 2014 to comply with enforcement obligations under the new European SCMO Regulation. Without these Regulations the domestic legislation referred to in this instrument would no longer be in force as EU Regulation No 1234/2007 will have been repealed.

The EU Regulation will be implemented on the 1 January 2014 by other Member States. The UK needs to update domestic regulations to comply with EU Regulations; therefore, to ensure compliance there is a need to breach the 21 day rule. England will also be bringing equivalent regulations into force on 1 January 2014 by breaching the 21 day rule.

A letter of notification of any non-compliance has been prepared for the Minister for Local Government and Government Business to send to the Presiding Officer.

3. Legislative background

The Common Agricultural Policy is the system of subsidies and programmes under which European farmers work. The CAP covers farming, environmental measures and rural development, and controls EU agricultural markets.

On 16 December 2013, the Council of EU Agriculture Ministers formally adopted the four Basic Regulations for the reformed CAP as well as the Transitional Rules for 2014. This followed on from the approval of these Regulations by the European Parliament in November 2013. The new European SCMO Regulation, which is directly applicable in all EU Member States, revokes and replaces the current EU Regulation 1234/2007 (as amended) from 1 January 2014. It is directly applicable in all EU Member States.

The new European SCMO Regulation carries forward most of the existing rules for the management of agricultural markets in the EU, including rules on public intervention, private storage, marketing and quality standards, import and export rules, crisis measures, and competition and state aid rules.

There are a number of domestic regulations in place in Wales which implement and/or refer to the 2007 Regulation and provide entry powers to investigate breaches. In order to ensure legal certainty and avoid an enforcement gap, these domestic regulations need to be appropriately amended from 1 January 2014 to refer to the new European SCMO Regulation. No new or extended statutory powers of entry or offences are sought.

4. Purpose & intended effect of the legislation

The main purpose of the Instrument is to amend references to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) which appear in a number of Welsh statutory instruments. The amendments are necessary as Regulation 1234/2007 will be revoked and replaced when the new European SCMO Regulation comes into force on 1 January 2014.

It is important that this instrument comes into force on 1 January 2014 to comply with enforcement obligations under the new European SCMO Regulation. Without these Regulations the domestic legislation referred to in this instrument would no longer be operational as EU Regulation No 1234/2007 will have been revoked and replaced.

Consequently, there is a need to update the domestic regulations that refer to Regulation 1234/2007 in order to ensure that enforcement agencies continue to have appropriate powers of entry and other associated powers.

The new European SCMO Regulation also introduces changes to the rules for the classification of beef and pig carcasses, the reporting of deadweight beef prices by operators, and the definitions and sales descriptions of meat of bovine animals aged less than 12 months. There are some cross-references to these rules in domestic regulations which need to be updated in order to ensure consistency with the new European SCMO Regulation. The specific domestic regulations that are affected by these changes are the Beef and Pig Carcase Classification (Wales) Regulations 2011 and the Beef and Veal Labelling (Wales) Regulations 2011.

5. Consultation

The proposals for the European Commission's proposals for CAP reform and the domestic implementation of the revised CAP regime have been well publicised. The purpose of the new European SCMO Regulation was to update existing provisions and that trade and competition rules would be largely maintained. There has been little comment as there are no significant changes proposed.

The specific proposals from the Commission on beef and pig carcase classification were notified to industry stakeholders on 22 August 2012. Most respondents opposed the changes that the Commission were proposing. These comments were reported to the Commission and other Member States during the negotiations on the new European SCMO Regulation, but the UK was in a small minority and unable to resist the new proposals.

The Food Standards Agency has been notified of the relevant technical and consequential changes introduced by this instrument and has not raised any concerns.

This instrument makes the minimum technical and consequential changes needed to ensure that domestic enforcement agencies can continue to enforce our obligations under the new European SCMO Regulation. The instrument itself does not impose any new obligations.

6. Regulatory Impact Assessment (RIA)

The impact of this instrument on business, charities or voluntary bodies and the public sector is estimated to be of minimal cost because it is principally concerned with maintaining existing enforcement powers or involves only consequential amendments.

An Impact Assessment has therefore not been prepared for this instrument.

Constitutional and Legislative Affairs Committee Draft Report

CLA94)-02-14

CLA348 – The Single Common Market Organisation (Consequential Amendments) (Wales) Regulations 2013

These Regulations amend a number of Regulations as a result of Regulation (EU) 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 (“the 2013 Regulation”).

Regulation 2013 repealed (subject to transitional and final provisions) the earlier Single Common Market Organisation - Council Regulation (EC) No 1234/2007 of 22 October 2007 (“Council Regulation 2007”) establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products.

Procedure: Negative

Technical Scrutiny

The following points are identified for reporting under Standing Order 21.2 in respect of this instrument –

1. The Regulations make use of the power to provide that references to European legislation are to be ‘as amended from time to time’. That power is contained in paragraph 1A of Schedule 2 to the European Communities Act 1972. The power is correctly footnoted on page 4 of the Regulations, but should also have been cited alongside section 2(2) of that Act in the opening paragraph of the Preamble.

[Standing Order 21.2(vi) – that the drafting appears to be defective]

Merits Scrutiny

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

The 2013 Regulation was agreed in Brussels on the 16th December to come into force on the 1st January. As European Regulations have direct effect, that may have been sufficient time from an European perspective, but

provided very little time for Member States to correct cross-references in domestic legislation particularly at that time of year.

The result is that, on this occasion, the description of the 2013 Regulation in these Regulations does not follow the normal practice when citing European legislation. The conventional citation would have been to 'Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007' with 'Regulation (EU) No 1308/2013' being the defined term.

The discrepancy in dates appears to result from the Regulation having been agreed on the 16th December, but signed off on the 17th. The defined term 'the 2013 Regulation' is not incorrect, but the departure from normal drafting style deserves this explanation. The Regulation number should also be inserted as a footnote to assist readers of these Regulations.

[Standing Order 21.3(i) - that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Assembly]

Legal Advisers

Constitutional and Legislative Affairs Committee

January 2014



Rosemary Butler AM
Presiding Officer
Welsh Government
Cardiff Bay
Cardiff
CF99 1NA

27 December 2013

Introduction of The Single Common Market Organisation (Consequential Amendments) (Wales) Regulations 2013

I am writing to inform you that in order to bring The Single Common Market Organisation (Consequential Amendments) (Wales) Regulations 2013 into force in Wales, it has become necessary to breach the 21-day rule. These Regulations will be made on 27 December 2013 and will come into force on 1 January 2014.

The new European Common Agricultural Policy (CAP) Single Common Market Organisation (SCMO) Regulation (Regulation of the European Parliament and of the Council adopted on 16 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 237/79, (EC) No 1037/2001 and (EC) No 1234/2007) provides common rules for managing agricultural markets, standards for marketing agricultural products and for importing and exporting them to and/or from the European Union. It will revoke and replace Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) ("EU Regulation 1234/2007") from 1 January 2014. It is directly applicable in all EU Member States.

There are a number of Welsh regulations in place which refer to the existing EU Regulation 1234/2007 (as amended). The Welsh Ministers have made statutory instruments which refer to EU Regulation 1234/2007 and which provide entry powers to investigate breaches. Consequently, there is a need to update the domestic regulations that refer to Regulation 1234/2007 in order to ensure that enforcement agencies continue to have appropriate powers of entry and other associated powers.

Parallel Regulations are expected to come into force throughout the UK no later than 1 January 2014. The European SCMO Regulation was published formally on 21 December 2013 in the Official Journal of the European Union. This gave insufficient time to make these Regulations to come into force on 1 January 2014 and also to comply with the 21 day

rule. Due to the tight timescales involved it is necessary that the Statutory Instrument comes into force without complying with the 21 day rule. This will ensure legal certainty and avoid an enforcement gap. No new or extended statutory powers of entry or offences are sought.

An Explanatory Memorandum has been prepared, and laid, together with these Regulations, in the Table Office.

A copy of this letter has been sent to David Melding, Chair of the Constitutional and Legislative Affairs Committee and to Gareth Williams, Clerk to the Constitutional and Legislative Affairs Committee.

A handwritten signature in cursive script that reads "Lesley Griffiths". The signature is written in a light grey or blue ink.

Lesley Griffiths AM
Minister for Local Government and Government Business
Y Gweinidog Llywodraeth Leol a Busnes y Llywodraeth

Agenda Item 5



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David Melding AM
Chair, Constitutional and Legislative Affairs Committee
National Assembly for Wales
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Ref: 283SOS13

19 December 2013

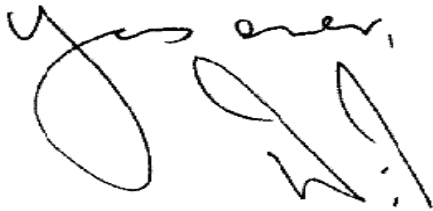
Dear David,

Thank you for your letter of 21 November, enclosing a copy of the Constitutional and Legislative Affairs Committee's review of the outcomes of the inquiry into powers granted to Welsh Ministers in UK laws.

In response to the Committee's recommendations, I attach a letter that I sent to the First Minister in March, setting out the UK Government's position on amending Devolution Guidance Note 9 to cover modification of Welsh Ministers' functions which are outside the Assembly's legislative competence.

Your Committee also recommended that the UK Government publish Devolution Guidance Note 7 (court proceedings) as a matter of urgency (recommendation 4). Devolution Guidance Notes (DGNs) provide UK Government Departments with guidance on how to work in accordance with the devolution settlements. Importantly, their purpose is to provide an introduction to the main principles involved in the managing of the devolution settlements, bilateral relations, correspondence, parliamentary business and legislation and concordats. It is not to devise additional mechanisms or procedures or to "clarify" the constitutional settlement.

Most of the DGNs have been operating successfully for many years. However, DGN 7, covering court proceedings, has never been published. Most of the procedures for referring questions of legislative competence to the Supreme Court are set out clearly in the respective Devolution Acts, and so it is open to question what might be gained from drafting guidance on this issue. It could not, for example, address the issue raised by the First Minister in his evidence to the Committee, that there ought to be a means of obtaining preliminary rulings from the Supreme Court on questions of competence. We will give further consideration in the New Year as to the need for DGN 7.

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

Rt. Hon. / Y Gwir Anrh. David Jones MP / AS
Secretary of State for Wales
Ysgrifennydd Gwladol Cymru



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Rt Hon Carwyn Jones AM
First Minister of Wales
Welsh Government
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CF99 1NA

Ref: 38SOS 13

12 March 2013

Dear Carwyn

Thank you for your letter of 1 March relating to the recommendations of the Assembly's Constitutional and Legislative Affairs Committee's report on powers granted to Welsh Ministers in UK laws.

You wrote specifically about recommendation 5 - which recommends amending the Assembly's Standing Orders so that the consent of the Assembly would be required where a UK Parliamentary Bill legislates to modify the legislative competence of the Assembly or the executive competence of Welsh Ministers.

The practical effect of implementing this recommendation would be to extend the use of Legislative Consent Motions (LCMs) to include modifications to Welsh Ministers' functions which fall outside the legislative competence of the Assembly. I note that the Welsh Government has accepted recommendation 5, and wishes to amend DGN9 to take forward the recommendation.

Having considered the issue very carefully, I cannot agree the recommendation. In deciding against taking it forward I believe that, above all, it would be wrong in principle for Parliament to seek the approval of the Assembly to legislate in an area which is non-devolved.

I note that the position in regard to Scotland and Northern Ireland is different. The Scottish Parliament approves provisions in UK Parliamentary Bills which confer functions on Scottish Ministers, or modify their existing functions, in non-devolved areas. This reflects the position set out in the Scotland Act 1998 where Orders in Council transferring functions to the



Wales Office
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Scottish Ministers must be approved by each House of the UK Parliament and by the Scottish Parliament.

In contrast, the Government of Wales Act 2006 requires the approval of both Houses of Parliament and the Welsh Ministers to an equivalent Order conferring functions on Welsh Ministers. It would be inconsistent to require Assembly approval for provisions in UK Parliamentary Bills which confer functions on Welsh Ministers, but not for equivalent provisions in Orders in Council.

As we both appreciate, each devolution settlement is different and tailored to particular circumstances. The different approaches set out in the 1998 and 2006 Acts reflect the fact that Scottish Ministers exercise functions almost exclusively in areas where the Scottish Parliament exercises legislative competence. In Wales, devolved and non-devolved functions are far more intertwined; Welsh Ministers exercise far more functions in non-devolved areas and some executive functions in devolved areas are exercised by the Secretary of State.

Given that I am not persuaded by the case for a change to DGN9, I would ask you to resist any amendment to the Assembly's Standing Orders to implement recommendation 5.

Rt. Hon. / Y Gwir Anrh. David Jones MP / AS
Secretary of State for Wales
Ysgrifennydd Gwladol Cymru

Agenda Item 6.1

Document is Restricted

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

Document is Restricted