

Constitutional and Legislative Affairs Committee

Meeting Venue:

Committee Room 2 – Senedd

Meeting date:

15 September 2014

Meeting time:

14.30

Cynulliad
Cenedlaethol
Cymru

National
Assembly for
Wales



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Agenda

MeetingTitle

1 Introduction, apologies, substitutions and declarations of interest

2 Instruments that raise no reporting issues under Standing Order 21.2 or 21.3 (Pages 1 – 6)

CLA(4)-21-14 – Paper 1 – Statutory Instruments with clear reports

Negative Resolution Instruments

CLA427 – The Social Services Complaints Procedure (Wales) Regulations 2014

Negative procedure; Date made: 7 July 2014; Date laid: 9 July 2014; Coming into force date: 1 August 2014.

CLA428 – The Representations Procedure (Wales) Regulations 2014

Negative procedure; Date made: 7 July 2014; Date laid: 9 July 2014; Coming into force date: 1 August 2014.

CLA429 – The Common Agricultural Policy Basic Payment Scheme (Provisional Payment Region Classification) (Wales) Regulations 2014

Negative procedure; Date made: 11 July 2014; Date laid: 14 July 2014; Coming into force date: 4 August 2014.

CLA430 – The Food Hygiene (Wales) (Amendment) Regulations 2014

Negative procedure; Date made: 14 July 2014; Date laid: 16 July 2014; Coming into force date: 8 August 2014.

CLA432 – The Education (European Institutions) and Student Support (Wales) (Revocation) Regulations 2014

Negative procedure; Date made: 16 July 2014; Date laid: 18 July 2014; Coming into force date: 31 August 2014.

CLA434 – The Education (National Curriculum) (Foundation Phase) (Wales) Order 2014

Negative procedure; Date made: 23 July 2014; Date laid: 28 July 2014; Coming into force date: 1 September 2014.

CLA435 – The Head Teacher's Report to Parents and Adult Pupils (Wales) (Amendment) Regulations 2014

Negative procedure; Date made: 23 July 2014; Date laid: 28 July 2014; Coming into force date: 1 September 2014.

CLA436 – The National Curriculum (Assessment Arrangements for the Foundation Phase and the Second and Third Key Stages) (Wales) Order 2014

Negative procedure; Date made: 23 July 2014; Date laid: 28 July 2014; Coming into force date: 1 September 2014.

CLA437 – The National Health Service (Optical Charges and Payments) (Amendment) (Wales) (No.2) Regulations 2014

Negative procedure; Date made: 28 July 2014; Date laid: 29 July 2014; Coming into force date: 19 September 2014.

CLA438 – The Student Fees (Amounts) (Wales) (Amendment) Regulations 2014
Negative procedure; Date made:23 July 2014; Date laid: 4 August 2014; Coming into force date: 31 August 2014.

CLA439 – The Dissolution of Further Education Corporations (Publication of Proposals and Prescribed Bodies) (Wales) Regulations 2014
Negative procedure; Date made:6 August 2014; Date laid: 8 August 2014; Coming into force date: 1 September 2014.

CLA441 – The Regional Transport Planning (Wales) Order 2014
Negative procedure; Date made:7 August 2014; Date laid: 14 August 2014; Coming into force date: 4 September 2014.

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

Negative Resolution Instruments

CLA440 – The Welfare of Animals at the Time of Killing (Consequential Amendments) (Wales) Regulations 2014 (Pages 7 – 17)
Negative procedure; Date made:6 August 2014; Date laid: 8 August 2014; Coming into force date: 5 September 2014.

CLA(4)–21–14 – Paper 2 – Report

CLA(4)–21–14 – Paper 3 – Regulations

CLA(4)–21–14 – Paper 4 – Explanatory Memorandum

Composite Negative Resolution Instruments

CLA433 – The Sulphur Content of Liquid Fuels (England and Wales) (Amendment) Regulations 2014 (Pages 18 – 29)
Composite Negative procedure; Date made:21 July 2014; Date laid: 25 July 2014; Coming into force date: 29 August 2014.

CLA(4)-21-14 – Paper 5 – Report
CLA(4)-21-14 – Paper 6 – Regulations
CLA(4)-21-14 – Paper 7 – Explanatory Memorandum

Joint Negative Resolution Instruments

CLA431 – The Diseases of Swine Regulations 2014 (Pages 30 – 76)

Joint Negative procedure; Date made: 16 July 2014; Date laid: 18 July 2014; Coming into force date: 14 August 2014.

CLA(4)-21-14 – Paper 8 – Report
CLA(4)-21-14 – Paper 9 – Regulations
CLA(4)-21-14 – Paper 10 – Explanatory Memorandum

4 Papers to note

Letter from the First Minister regarding Reciprocal Guidance (Pages 77 – 90)
CLA(4)-21-14 – Paper 11 – Letter from the First Minister

Correspondence regarding a proposal from the European Commission on the prohibition of driftnets COM(2014)265 (Pages 91 – 97)

CLA(4)-21-14 – Paper 12 – Letter from Commissioner Damanaki, 23 July 2014

CLA(4)-21-14 – Paper 13 – Letter from First Minister, 8 August 2014

CLA(4)-21-14 – Paper 14 – Letter from Chair of CLA Committee, 16 July 2014

CLA(4)-21-14 – Paper 15 – Letter from Chair of CLA Committee, 17 July 2014

Correspondence from the Presiding Officer (Page 98)

CLA(4)-21-14 – Paper 16 – Letter from the Presiding Officer to Committees regarding the draft budget

Written Statement in relation to the Social Services and Well-being (Wales) Act 2014
(Pages 99 – 102)

CLA(4)-21-14 – Paper 17 – Written Statement

Letter from the First Minister regarding the Inquiry into Disqualification of Membership from the National Assembly for Wales (Pages 103 – 104)

CLA(4)-21-14 – Paper 18 – Letter from the First Minister

Legislative Consent Memorandum : Deregulation Bill: Amendments in relation to Farriers and Home-School Arrangements (Pages 105 – 110)

CLA(4)-21-14 – Paper 19 – Letter from Minister

CLA(4)-21-14 – Paper 20 – Committee Report July 2014

Statement by the First Minister: The Legislative Programme July 2014 (Pages 111 – 114)

CLA(4)-21-14 – Paper 21 – Oral Statement

5 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 the Assembly, is to be discussed.

Draft Report Higher Education (Wales) Bill (Pages 115 – 225)

CLA(4)-21-14 – Paper 22 – Draft Report

CLA(4)-21-14 – Paper 23 – Statement of Policy Intent

CLA(4)-21-14 – Paper 24 – Table of Derivations

CLA(4)-21-14 – Paper 25 – Legal Advice Note 1

CLA(4)-21-14 – Paper 26 – Legal Advice Note 2

CLA(4)-21-14 – Paper 27 – Letter from the Minister, 23 July 2014

CLA(4)-21-14 – Paper 28 – Letter from the Minister, 2 July 2014

CLA(4)-21-14 – Paper 29 – Written Evidence from Higher Education Wales

Making Laws Inquiry – Update (Pages 226 – 227)

CLA(4)-21-14 – Paper 30 – Update paper

Forward Work Programme (Pages 228 – 229)

CLA(4)-21-14 – Paper 31 – Forward Work Programme

Agenda Item 2

Constitutional and Legislative Affairs Committee
Statutory Instruments with Clear Reports
15 September 2014

CLA427- The Social Services Complaints Procedure (Wales) Regulations 2014

Procedure: Negative

These Regulations establish new procedures for handing complaints made to local authorities about the exercise of their social services functions. Representations made under the Children Act 1989 and the Adoption and Children Act 2002 are not covered by these Regulations but will be dealt with under the Representations Procedure (Wales) Regulations 2014 in respect of which a separate report will be placed before the Committee .

CLA428 - The Representations Procedure (Wales) Regulations 2014

Procedure: Negative

These Regulations establish new procedures for handing complaints made to local authorities under the Children Act 1989 and the Adoption and Children Act 2002. Complaints relating to a local authority's other social services functions are dealt with under the Social Services Complaints Procedure (Wales) Regulations 2014 in respect of which a separate report will be placed before the Committee.

CLA429 - The Common Agricultural Policy Basic Payment Scheme (Provisional Payment Region Classification) (Wales) Regulations 2014

Procedure: Negative

These Regulations make provision, in relation to Wales, for the administration of Council Regulation (EC) No 1307/2013, in relation to direct

payments to farmers under support schemes of the Common Agricultural Policy.

They make arrangements for the Welsh Ministers to inform farmers of the provisional payment region classification of their field parcels for the purposes of claiming support under the basic payment scheme.

Regulation 3 provides that there are three regions in Wales for the purposes of the basic payment scheme and provides farmers with a mechanism to appeal a determination by the Welsh Ministers of a provisional payment region classification.

Note that the title includes the word 'provisional'. If changes are made to the regions as a result of successful appeals, the Regulations will need to be re-made to refer to the final map.

CLA430 – The Food Hygiene (Wales) (Amendment) Regulations 2014

Procedure: Negative

These Regulations amend the Food Hygiene (Wales) Regulations 2006 by implementing in relations to Wales Commission Regulation (EU) 2075/2014 laying down specific controls for *Trichinella* in meat. They also implement Commission Regulations 2018/2014 amending Annexes to Regulations (EC) No 853/2004 and (EC) No 854/2004 of the European Parliament and of the Council which removes the need for a special health mark and the restriction to the national market for emergency slaughter meat.

CLA432 – The Education (European Institutions) and Student Support (Wales) (Revocation) Regulations 2014

Procedure: Negative

These Regulations revoke the existing Education (European Institutions) and Student Support (Wales) Regulations 2013. This means that funding

previously available for one student wishing to study at either the College of Europe or the Johns Hopkins SAIS Europe based in Bologna, Italy has been withdrawn.

CLA434 – The Education (National Curriculum) (Foundation Phase) (Wales) Order 2014

Procedure: Negative

This Order replaces the Education (National Curriculum) (Foundation Stage) (Wales) Order 2008. The 'Foundation Phase' was originally called the 'Foundation Stage' in Part 7 of the Education Act 2002. In practice practitioners referred to the 'Foundation Stage' as the 'Foundation Phase' in English. Consequently the Education (Wales) Measure 2009 ("the 2009 Measure") amended Part 7 of the Education Act 2002 so as to refer to the 'Foundation Phase' instead of the 'Foundation Stage'. In light of that change made by the 2009 Measure it is considered appropriate to revoke and remake the 2008 Order to reflect in law the change of name used in practice to provide consistency and clarity.

CLA435 – The Head Teacher's Report to Parent and Adult Pupils (Wales) (Amendment) Regulations 2014

Procedure: Negative

The Head Teacher's Report to Parents and Adult Pupils (Wales) (Amendment) Regulations 2014 amend the Head Teacher's Report to Parents and Adult Pupils (Wales) Regulations 2011. These Regulations amend the 2011 Regulations to require head teachers to report the results of the assessments introduced by the National Curriculum (Assessment Arrangements for the Foundation Phase and the Second and Third key Stages) (Wales) Order 2014 to parents and adult pupils.

CLA436 – The National Curriculum (Assessment Arrangements for the Foundation Phase and the Second and Third Key Stages) (Wales) Order 2014

Procedure: Negative

This Order places a statutory duty on schools to assess learners' undertaking the Foundation phase and second and third key stages overall standards in literacy and numeracy using the National Literacy and Numeracy Framework.

CLA437 – The National Health Service (Optical Charges and Payments) (Amendment) (No 2) (Wales) Regulations 2014

Procedure: Negative

These Regulations amend the National Health Service (Optical Charges and Payments) Regulations 1997 by providing for an increase in the NHS sight test fees by 1% with effect from 1 April 2014. The retrospective effect of the Regulations is permissible under section 76(9) of the National Health Service (Wales) Act 2006.

CLA438 – The Student fees (Amounts) (Wales) (Amendments) Regulations 2014

Procedure: Negative

These Regulations amend the Student Fees (Amounts) (Wales) regulations 2011 to provide for the new tuition and financial support arrangements for students undertaking a work placement year or a whole year abroad as part of their studies (Erasmus and non-Erasmus programmes) from academic year 2014–15.

Institutions delivering higher education will be permitted to charge Erasmus and non-Erasmus student taking a full year placement abroad a fee of up to 15% of the institution's fee cap.

Students (Erasmus and non-Erasmus) undertaking a work placement as part of a sandwich course may be charged a tuition fee of up to 20% of the institution's maximum fee cap.

CLA439 – The Dissolution of Further Education Corporations (Publication of Proposals and Prescribed Bodies) (Wales) Regulations 2014

Procedure: Negative

These Regulations prescribe the time and manner of publication, and content of draft proposals for the dissolution of further education corporations. The Regulations also provide detail on the consultation process that must be followed, as well as prescribing the bodies to which a further education corporation can transfer its property, rights and liabilities upon dissolution.

CLA441 – The Regional Transport Planning (Wales) Order 2014

Procedure: Negative

The effect of this Order is to exercise the power of the Welsh Ministers under section 113A of the Transport Act 2000 to permit local transport plans to be made in respect of part only of an authority's area. It also allows two or more local transport authorities to produce a local transport plan jointly, rather than on an individual authority basis, in respect of the whole or part of their collective area.

Agenda Item 3.1

Constitutional and Legislative Affairs Committee Draft Report

CLA(4)-21-14

CLA440 – The Welfare of Animals at the Time of Killing (Consequential Amendments) (Wales) Regulations 2014

These Regulations make amendments consequential on the Welfare of Animals at the Time of Killing (Wales) Regulations 2014 (S.I. 2014/951) (W. 92).

They make consequential amendments to three Acts of Parliament and one statutory instrument to provide that those Acts and instrument refer to certificates of competence and licences issued under the Welfare of Animals at the Time of Killing (Wales) Regulations 2014.

Procedure: Negative

1. Technical Scrutiny

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

2. Merits Scrutiny

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

The Explanatory Memorandum notes as follows –

“These amending Regulations are made under the negative resolution procedure of the National Assembly for Wales as the provisions of these amending Regulations do not substantially affect the provisions of Acts of Parliament.”

As regulations are being used to amend primary legislation, the Committee would expect the affirmative procedure to be used, even though these are consequential amendments.

[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;]

Legal Advisers

Constitutional and Legislative Affairs Committee

August 2014

Government's Response

The Welfare of Animals at the Time of Killing (Wales) Regulations 2014 that came into force on the 20 May 2014 (the 2014 Regulations) made provision in Wales for the administration and enforcement of Council Regulation (EC) No. 1099/2009 and certain national rules maintained or adopted under Article 26(1) and (2) of the that Regulation. The 2014 Regulations also revoked the Welfare of Animals (Slaughter or Killing) Regulations 1995 (the 1995 Regulations) as they applied to Wales.

The Welfare of Animals at the Time of Killing (Consequential Amendments) (Wales) Regulations 2014 (the 2014 WATOK Consequential Regulations) make amendments consequential upon the 2014 Regulations to three Acts of Parliament and one Statutory Instrument.

As they apply to the three Acts, the effect of the 2014 WATOK Consequential Regulations is to amend those three Acts, as appropriate, to refer to the requirements of the 2014 Regulations as well as the requirements of the 1995 Regulations or to refer to certificates of competence and licences issued under the 2014 Regulations as well as licences issued under the 1995 Regulations.

The effect of the 2014 WATOK Consequential Regulations, in the case of the Statutory Instrument, is to include a reference to certificates of competence and licences issued under the 2014 Regulations. Therefore, the Statutory Instrument will refer to certificate of competence and licences issued under the 2014 Regulations as well as licences issued under the 1995 Regulations

and certificates of competence to kill animals under the Welfare of Animals at the Time of Killing (Scotland) Regulations 2012.

The 2014 WATOK Consequential Regulations were made by the Welsh Ministers exercising the powers contained within section 2(2) of the European Communities Act 1972. The Welsh Ministers are designated to exercise those powers in relation to the Common Agricultural Policy of the European Union. Section 2(2) of, and Schedule 2 to, the European Communities Act 1972 do not prescribe the legislative procedure that must be followed in making regulations such as the 2014 WATOK Consequential Regulations.

The 2014 WATOK Consequential Regulations were made under the negative resolution procedure of the National Assembly for Wales as the provisions of these Regulations as set out above, did not make amendments which substantially affected the relevant provisions of the Acts of Parliament which they amended.

2014 No. 2124 (W. 208)

ANIMALS, WALES

PREVENTION OF CRUELTY

The Welfare of Animals at the Time
of Killing (Consequential
Amendments) (Wales) Regulations
2014

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make amendments consequential on the Welfare of Animals at the Time of Killing (Wales) Regulations 2014 (S.I. 2014/951) (W. 92).

They make consequential amendments to three Acts of Parliament and one statutory instrument to provide that those Acts and instrument refer to certificates of competence and licences issued under the Welfare of Animals at the Time of Killing (Wales) Regulations 2014.

No regulatory impact assessment has been prepared in respect of this instrument as no costs to the business or voluntary sector is foreseen.

2014 No. 2124 (W. 208)

ANIMALS, WALES

PREVENTION OF CRUELTY

The Welfare of Animals at the Time
of Killing (Consequential
Amendments) (Wales) Regulations
2014

Made 6 August 2014

Laid before the National Assembly for Wales
8 August 2014

Coming into force 5 September 2014

The Welsh Ministers are designated for the purposes of section 2(2) of the European Communities Act 1972⁽¹⁾ in relation to the common agricultural policy of the European Union⁽²⁾ and make these Regulations in exercise of those powers.

PART 1

General

Title, application and commencement

1. These Regulations—

- (a) are entitled the Welfare of Animals at the Time of Killing (Consequential Amendments) (Wales) Regulations 2014;

(1) 1972 c. 68; section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c. 51) and section 3(3) of the European Union (Amendment) Act 2008 (c. 7).

(2) S.I. 2010/2690.

- (b) apply in relation to Wales and consequently the amendments made by regulation 2—
 - (i) extend to England and Wales; and
 - (ii) apply in relation to Wales only; and
- (c) come into force on 5 September 2014.

Consequential amendments

2.—(1) In section 10 of the Firearms Act 1968**(1)** (slaughter of animals)—

- (a) in subsection (1), for “licensed under the Welfare of Animals (Slaughter or Killing) Regulations 1995 to slaughter horses, cattle, sheep, swine or goats” substitute “holding a relevant licence”; and
- (b) after subsection (1) insert—

“(1A) For the purposes of subsection (1) a person holds a relevant licence if that person—

- (a) is licensed under the Welfare of Animals (Slaughter or Killing) Regulations 1995 to slaughter horses, cattle, sheep, swine or goats; or
- (b) holds a certificate of competence or is licensed under the Welfare of Animals at the Time of Killing (Wales) Regulations 2014.”

(2) In section 16(1)(c) of the Slaughterhouses Act 1974**(2)** (management of public slaughterhouses), after “the Welfare of Animals (Slaughter or Killing) Regulations 1995” insert “or the Welfare of Animals at the Time of Killing (Wales) Regulations 2014”.

(3) In Schedule 1 to the Animals (Scientific Procedures) Act 1986**(3)** (appropriate methods of humane killing), in Table A, in the left-hand column of the fifth entry, after “a current licence granted under the Welfare of Animals (Slaughter or Killing) Regulations 1995” insert “or a certificate of competence or licence issued under the Welfare of Animals at the Time of Killing (Wales) Regulations 2014”.

(4) In paragraph 12 of the Schedule to the Gangmasters Licensing (Exclusions) Regulations 2013**(4)**—

- (a) delete the word “or” after sub-paragraph (a); and
- (b) after sub-paragraph (b) insert “or;

(1) 1968 c. 27; section 10 was amended by S.I. 1995/731, regulation 28(2) and Schedule 14, paragraph (1).
 (2) 1974 c. 3; section 16(1)(c) was amended by S.I. 1995/731, regulation 28(2) and Schedule 14, paragraph 2(3).
 (3) 1986 c. 14; relevant amendments to Table A in Schedule 1 were made by S.I. 2012/3039, regulations 2 and 16(1) and (4)(d).
 (4) S.I. 2013/2216.

(c) a certificate of competence or licence to kill animals under the Welfare of Animals at the Time of Killing (Wales) Regulations 2014.”

Rebecca Evans

Deputy Minister for Agriculture and Fisheries under authority of the Minister for Economy, Science and Transport, one of the Welsh Ministers

6 August 2014

Explanatory Memorandum to The Welfare of Animals at Time of Killing (Consequential Amendments) (Wales) Regulations 2014:

This Explanatory Memorandum has been prepared by the Office of the Chief Veterinary Officer and 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 Welfare of Animals at Time of Killing (Consequential Amendments) (Wales) Regulations 2014

Rebeca Evans

Deputy Minister for Agriculture and Fisheries under authority of the Minister for Economy, Science and Transport, one of the Welsh Ministers

6 August 2014

1. Description

These Regulations make amendments consequential on the Welfare of Animals at the Time of Killing (Wales) Regulations 2014 (the 2014 Regulations) (S.I. 2014/951) (W. 92). They make consequential amendments to three Acts of Parliament and one Statutory Instrument to provide that those Acts and Instrument refer to certificates of competence and licences issued under the 2014 Regulations.

The 2014 Regulations came into force on 20 May 2014. They give effect, in Wales, to Council Regulation (EC) 1099/2009 on the protection of animals at the time of killing. They revoke and replace the Welfare of Animals (Slaughter and Killing) Regulations 1995 (“the 1995 Regulations”) in so far as they apply to Wales.

Technical consequential amendments are required as a result of the 2014 Regulations coming into force. It was agreed that the Secretary of State would take forward some consequential amendments to the following pieces of legislation:

- the Firearms Act 1968;
- the Slaughterhouses Act 1974;
- the Animals (Scientific Procedures) Act 1986; and
- the Gangmasters Licensing (Exclusions) Regulations 2013.

The Secretary of State’s Regulations were laid on 16 May but they were revoked before they came into force by another set of Regulations laid on 16 May. Therefore, the consequential amendments still need to be applied in Wales.

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

These amending Regulations are made under the negative resolution procedure of the National Assembly for Wales as the provisions of these amending Regulations do not substantially affect the provisions of Acts of Parliament.

3. Legislative background

These amending Regulations are made under section 2(2) of the European Communities Act 1972. The Welsh Ministers are designated for the purpose of section 2(2) in relation to the Common Agricultural Policy by a designation order (S.I. 2010/2690).

4. Purpose & intended effect of the legislation

The 2014 Regulations require that a person carrying out listed slaughterhouse operations undergoes training and obtains a certificate of competence (whereas a slaughter man working under the 1995 Regulations would have instead required a licence). Therefore, the licence requirement under the 1995 Regulations has been replaced with a certificate of competence requirement under the 2014 Regulations.

There are 4 references to licences issued under the 1995 Regulations elsewhere on the statute book and those references should now be modified as they apply to Wales. In view of the fact that the Secretary of State’s Regulations did not come into

force, amendments now need to be made to those 4 pieces of legislation in relation to Wales by the Welsh Ministers.

The Consequential Amendments

The Firearms Act 1968 currently provides that if a person holds a licence under the 1995 Regulations in relation to a firearm as a slaughtering instrument, then he or she does not also require a Firearms Act licence.

Section 16 of the Slaughterhouse Act 1974 confirms that Local Authorities may employ persons benefiting from a licence under the 1995 Regulations to work at public slaughterhouses.

The Animals (Scientific Procedures) Act 1986 provides that animals slaughtered by a person authorised under the 1995 Regulations are exempt from the requirements of that 1986 Act, and no additional authorisation under the 1986 Act is required.

The Gangmasters Licensing (Exclusions) 2013 currently provide that a person does not require a licence under the Gangmasters Licensing Act 2004 to recruit a slaughter man licensed under the 1995 Regulations.

In those 4 items of legislation, the references to a licence under the 1995 Regulation needs to be amended to include a reference to a certificate of competence issued under the 2014 Regulations to ensure those qualified under the new system have parity in terms of the exemptions they benefit from in those other pieces of regulatory legislation.

5. Consultation

As these Regulations refer to technical changes to references within existing legislation no consultation has been under taken.

A short consultation exercise on proposals to implement of the Council Regulation (EC) 1099/2009 was conducted by the Welsh Government between 24 September and 5 November 2012 that sought views on proposals to implement Council Regulation (EC) 1099/2009 on the Protection of Animals at the Time of Killing, in Wales.

<http://wales.gov.uk/consultations/environmentandcountryside/120924protectionofanimals/?status=closed&lang=en>

6. Regulatory Impact Assessment (RIA)

No Regulatory Impact Assessment has been prepared in respect of this instrument as there are no costs associated to business or voluntary sector as a result of these amending Regulations.

An RIA was presented to the National Assembly for Wales with the Welfare of Animals at Time of Killing (Wales) Regulations on 9 April 2014. These amending Regulations make minor technical changes and do not change the information presented in that RIA.

Agenda Item 3.2

Constitutional and Legislative Affairs Committee Draft Report

CLA433 – The Sulphur Content of Liquid Fuels (England and Wales) (Amendment) Regulations 2014

Procedure: Negative

These regulations implement new EU requirements limiting the content of sulphur in liquid fuels. The regulations amend the current law by providing for specific exceptions to, and prohibitions on, the use of certain fuels containing sulphur. There is also a requirement for the Secretary of State to check the use of such fuels by regular sampling.

These regulations are made on a composite basis, which the UK Government and the Welsh Government feel is appropriate.

1. Technical Scrutiny

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

- The regulations are drafted in English only. However, the Welsh Government states that its Welsh Language Scheme does not require these regulations to be translated. Therefore, under Standing Order 15.4, the Welsh Government does not consider it appropriate or reasonably practicable to translate the regulations.

Standing Order 21.2(ix) – the instrument is not made in both Welsh and English.

2. Merits Scrutiny

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

- The Explanatory Note states that a transposition note (i.e. a note explaining how the relevant EU law is being transposed into domestic law) is available from DEFRA, with copies having been placed in each House of Parliament. It would have been useful if the Welsh Government had provided a copy of the transposition note with the instrument, to help the Committee's scrutiny.

Standing Order 21.3(ii) – the instrument gives rise to issues of public policy likely to be of interest to the Assembly.

Legal Advisers

Constitutional and Legislative Affairs Committee

August 2014

STATUTORY INSTRUMENTS

2014 No. 1975

ENVIRONMENTAL PROTECTION, ENGLAND AND WALES

**The Sulphur Content of Liquid Fuels (England and Wales)
(Amendment) Regulations 2014**

<i>Made</i>	- - - -	<i>21st July 2014</i>
<i>Laid before Parliament</i>		<i>25th July 2014</i>
<i>Laid before the National Assembly for Wales</i>		<i>25th July 2014</i>
<i>Coming into force</i>	- -	<i>29th August 2014</i>

These Regulations are made in exercise of the powers conferred by section 2(2) of the European Communities Act 1972^(a).

The Secretary of State is designated^(b) for the purposes of section 2(2) of that Act in relation to the environment. The Welsh Ministers are vested with a designation^(c) for the purposes of section 2(2) of that Act in relation to measures relating to the assessment and management of ambient air quality and compliance with air quality limit values, target values and objectives.

The Secretary of State, in relation to England, and the Welsh Ministers, in relation to Wales, make the following Regulations.

Citation, commencement and extent

- 1.—(1) These Regulations may be cited as the Sulphur Content of Liquid Fuels (England and Wales) (Amendment) Regulations 2014 and come into force on 29th August 2014.
(2) These Regulations extend to England and Wales.

Amendment of the Sulphur Content of Liquid Fuels (England and Wales) Regulations 2007

2. The Sulphur Content of Liquid Fuels (England and Wales) Regulations 2007^(d) are amended in accordance with regulations 3 to 9.

Regulation 2

3. For regulation 2 (interpretation) substitute—

(a) 1972 c.68.
(b) S.I. 2008/301.
(c) S.I. 2000/2812. By virtue of section 162 of, and paragraph 28(1) of Schedule 11 to, the Government of Wales Act 2006, c.32, this designation of the National Assembly for Wales now vests in the Welsh Ministers.
(d) S.I. 2007/79.

“2.—(1) In these Regulations—

“combustion plant” means any technical apparatus in which fuels are oxidised in order to use the heat generated;

“Council Directive 1999/32/EC” means Council Directive 1999/32/EC relating to a reduction in the sulphur content of certain liquid fuels and amending Directive 93/12/EEC(a);

“gas oil” means any petroleum-derived liquid fuel—

- (a) that falls within CN code 2710 19 25, 2710 19 29, 2710 19 47, 2710 19 48, 2710 20 17 or 2710 20 19; or
- (b) where less than 65 per cent by volume (including losses) distils at 250°C and at least 85 per cent by volume (including losses) distils at 350°C by the ASTM D86 method,

but excluding marine fuels, diesel fuels (as defined by Article 2(2) of Directive 98/70/EC of the European Parliament and of the Council relating to the quality of petrol and diesel fuels(b)) and fuels used in non-road mobile machinery or agricultural tractors;

“heavy fuel oil” means any petroleum-derived liquid fuel—

- (a) that falls within CN code 2710 19 51 to 2710 19 68, 2710 20 31, 2710 20 35 or 2710 20 39;
- (b) which, by reason of its distillation limits, falls within the category of heavy oils intended for use as fuel and of which less than 65 per cent by volume (including losses) distils at 250°C by the ASTM D86 method; or
- (c) where the distillation cannot be determined by the ASTM D86 method, that is categorised as heavy fuel oil,

but excluding marine fuel and gas oil;

“marine fuel” means any petroleum-derived liquid fuel intended for use or in use on board a vessel, including those fuels defined in ISO 8217(c);

“sulphur content of liquid fuels permit” has the meaning given in regulation 4(5)(b).

(2) In paragraph (1)—

- (a) an ASTM method means a method laid down by the American Society for Testing and Materials in the 1976 edition of standard definitions and specifications for petroleum and lubricating products(d); and
- (b) the reference to a numbered CN code is a reference to the code set out in Annex I to Council Regulation 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff(e).

(3) Expressions used in these Regulations that also appear in Council Directive 1999/32/EC have the same meaning as they do in that Directive.”.

Regulation 4

4. For regulation 4 (maximum sulphur content of heavy fuel oil) substitute—

“4.—(1) No person shall use any heavy fuel oil that has a sulphur content exceeding 1 per cent by mass.

(2) Until 1st January 2016, paragraph (1) shall not apply to the use of heavy fuel oil—

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- (a) OJ L 121, 11.5.1999, p.13, last amended by Directive 2012/33/EU (OJ L 327, 27.11.2012, p. 1).
 - (b) OJ L 350, 28.12.1998, p.58, last amended by Commission Directive 2011/63/EU (OJ L 147, 2.6.2011, p. 15).
 - (c) ISO 8217 (1996) is described in the British Standard entitled, “Specification for Petroleum Fuels for marine oil engines and boilers”, published under the numbers BS MA100:1996 and ISO 8217:1996, which came into effect on 15th August 1996.
 - (d) The ASTM method is described in the 1999 Annual Book of the ASTM Standards: Section 5-Petroleum Products, Lubricants and Fossil Fuels, published by the American Society for Testing and Materials, November 1999.
 - (e) OJ L 256, 7.9.1987, p. 1, last amended by Council Regulation (EU) 2013/1326 (OJ L 334, 13.12.2013, p. 4).

- (a) in a new plant that—
 - (i) is subject to Article 4(1) of Directive 2001/80/EC and is operated in accordance with a permit containing a condition that emission limit values for sulphur dioxide are at least as stringent as those set out for new plants in Part A of Annex IV of that Directive; or
 - (ii) is subject to Article 4(2) of Directive 2001/80/EC and is operated in accordance with a permit containing a condition that emission limit values for sulphur dioxide are at least as stringent as those set out for new plants in Part B of Annex IV of that Directive;
 - (b) in an existing plant—
 - (i) operated in accordance with a permit containing a condition that emission limit values for sulphur dioxide are at least as stringent as those set out for new plants in Part A of Annex IV of Directive 2001/80/EC; or
 - (ii) that is a participating plant operated in accordance with a permit containing a condition prohibiting the monthly average emissions of sulphur dioxide from the plant from exceeding 1,700 mg/Nm³ at an oxygen content in the flue gas of 3 per cent by volume on a dry basis;
 - (c) in a combustion plant, other than a plant to which sub-paragraph (a) or (b) applies, that is operated in accordance with a permit containing a condition prohibiting the monthly average of emissions of sulphur dioxide from the plant from exceeding 1,700 mg/Nm³ at an oxygen content in the flue gas of 3 per cent by volume on a dry basis; or
 - (d) in a combustion plant, other than a gas engine, a gas turbine or a plant to which sub-paragraph (a) or (b) applies, that—
 - (i) forms part of a refinery; and
 - (ii) is operated in accordance with a permit containing a condition that the monthly average of emissions of sulphur dioxide averaged over all combustion plants in the refinery, irrespective of the type of fuel or fuel combination used, does not exceed 1,700 mg/Nm³ at an oxygen content in the flue gas of 3 per cent by volume on a dry basis.
- (3) As from 1st January 2016, paragraph (1) shall not apply to the use of heavy fuel oil—
- (a) in a combustion plant that—
 - (i) falls within the scope of Chapter III of Directive 2010/75/EU; and
 - (ii) is operated in accordance with a permit containing a condition that emission limit values for sulphur dioxide are at least as stringent as those set out in Annex V to that Directive;
 - (b) in a combustion plant that—
 - (i) falls within the scope of Chapter III of Directive 2010/75/EU;
 - (ii) is not subject to the emission limit values for sulphur dioxide set out in Annex V to that Directive; and
 - (iii) is operated in accordance with a permit containing a condition prohibiting the monthly average emissions of sulphur dioxide from the plant from exceeding 1,700 mg/Nm³ at an oxygen content in the flue gas of 3 per cent by volume on a dry basis;
 - (c) in a combustion plant, other than a plant to which sub-paragraph (a) or (b) applies, that is operated in accordance with a permit containing a condition prohibiting the monthly average emissions of sulphur dioxide from exceeding 1,700 mg/Nm³ at an oxygen content in the flue gas of 3 per cent by volume on a dry basis; or
 - (d) in a combustion plant, other than a gas engine, a gas turbine or a plant to which sub-paragraph (a) or (b) applies, that—
 - (i) forms part of a refinery; and

- (ii) is operated in accordance with a permit containing a condition that the monthly average of emissions of sulphur dioxide averaged over all combustion plants in the refinery, irrespective of the type or fuel or fuel combination used, does not exceed 1,700 mg/Nm³ at an oxygen content in the flue gas of 3 per cent by volume on a dry basis.

(4) An authority that grants a permit referred to in paragraph (2) or (3) shall carry out appropriate monitoring of emissions of sulphur dioxide to ensure that the limitations on emissions contained in that permit are not exceeded.

(5) In this regulation—

“Directive 2001/80/EC” means Directive 2001/80/EC of the European Parliament and of the Council on the limitation of emissions of certain pollutants into the air from large combustion plants(a);

“Directive 2010/75/EU” means Directive 2010/75/EU of the European Parliament and of the Council on industrial emissions (integrated pollution prevention and control) (Recast)(b);

“existing plant” and “new plant” have the meaning given in Article 2(10) and 2(9) respectively of Directive 2001/80/EC;

“gas engine” and “gas turbine” have the meaning given in Article 3(34) and (33) respectively of Directive 2010/75/EU;

“participating plant” has the meaning given in regulation 3(1)(a) of the Large Combustion Plants (National Emission Reduction Plan) Regulations 2007(c);

“permit” means—

(a) if the operation of the combustion plant requires an authorisation or permit—

(i) an authorisation under Part I of the Environmental Protection Act 1990 (integrated pollution control and air pollution control by local authorities)(d); or

(ii) a permit under regulations made under section 2 of the Pollution Prevention and Control Act 1999 (regulation of polluting activities)(e); or

(b) a sulphur content of liquid fuels permit which—

(i) was granted for the purposes of the Sulphur Content of Liquid Fuels (England and Wales) Regulations 2000(f) and which is still subsisting; or

(ii) is granted under these Regulations.

(6) The Schedule (sulphur content of liquid fuels permits) has effect.”.

Regulation 5

5. For regulation 5 (maximum sulphur content in gas oil) substitute—

“5. No person shall use any gas oil that has a sulphur content exceeding 0.1 per cent by mass.”.

Regulation 6

6. For regulation 6 (sampling and analysis) substitute—

(a) OJ L 309, 27.11.2001, p. 1, last amended by Directive 2009/31/EC (OJ L 140, 5.6.2009, p. 114).

(b) OJ L 334, 17.12.2010, p. 17.

(c) S.I. 2007/2325; relevant amending instruments are S.I. 2007/3476, 2007/3538, 2010/675.

(d) 1990 c.43.

(e) 1999 c.24. Regulations made under that section relevant to this regulation are S.I. 2010/675, to which there are amendments not relevant to this regulation, and S.I. 2013/971.

(f) S.I. 2000/1460.

“6.—(1) The Secretary of State shall take all necessary measures to ensure that periodic sampling is carried out of heavy fuel oil and gas oil and that the samples are analysed to check that the use of those fuels complies with regulations 4(1) and 5.

(2) Sampling shall be carried out with sufficient frequency and in such a way that the Secretary of State is satisfied that the samples are representative of the fuels examined.

(3) The samples shall be analysed without undue delay.

(4) The reference method adopted for determining the sulphur content of fuels sampled pursuant to paragraph (1) shall be defined by EN ISO 8754:2003 or EN ISO 14596:2007(a).”.

New regulation 9

7. After regulation 8 (revocation and saving) insert—

“Review

9. The Secretary of State must from time to time—

- (a) carry out, in relation to England, a review of these Regulations;
- (b) set out the conclusions of the review in a report; and
- (c) publish the report.

(2) In carrying out the review the Secretary of State must, so far as reasonable, have regard to how Council Directive 1999/32/EC, which is being implemented by means of these Regulations, is implemented in other member States.

(3) The report must in particular—

- (a) set out the objectives intended to be achieved by the regulatory system established by these Regulations;
- (b) assess the extent to which those objectives are achieved, and
- (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.

(4) The first report under this regulation must be published before 29th August 2019.

(5) Reports under this regulation are afterwards to be published at intervals not exceeding five years.”.

Schedule 1

8.—(1) Schedule 1 (sulphur content of liquid fuel permits) is amended as follows.

(2) In the heading to that Schedule—

- (a) omit “1”; and
- (b) for “Regulation 4(5)” substitute “Regulation 4(6)”.

(3) In paragraph (1) for the words “an existing plant, new plant or other combustion plant” substitute “a combustion plant”, and after “regulation 4(2)” add “or (3)”.

(4) At the end of paragraph (2) add “or (3).”.

(a) EN ISO 8754:2003 is described in the British Standard entitled, “Petroleum Products-Determination of Sulphur content-Energy-dispersive X-ray fluorescence methods”, published under the number BS EN ISO 8754:2003, which came into effect on 14 August 2003 as amended by Amendment No. 14812 Corrigendum No. 1, which came into effect on 27 October 2003. EN ISO 14596:2007 is described in the British Standard entitled, “Petroleum Products. Determination of sulphur content. Wavelength-dispersive X-ray fluorescence spectrometry”, published under the number BS EN ISO 14596:2007, which came into effect on 31 October 2007.

Schedule 2

9.—(1) Schedule 2 (technical requirements for analysis samples) is omitted.

15th July 2014

Dan Rogerson
Parliamentary Under Secretary of State
Department for Environment, Food and Rural Affairs

Signatory text

21st July 2014

John Griffiths
Minister for Natural Resources, Culture and Sport
One of the Welsh Ministers

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Sulphur Content of Liquid Fuels (England and Wales) Regulations 2007 (S.I. 2007/79) (“the 2007 Regulations”) to implement matters concerning heavy fuel oil and gas oil (except marine fuel) in Council Directive 1999/32/EC relating to a reduction in the sulphur content of certain liquid fuels (OJ L 121, 11.5.1999, p. 13) as amended by Directive 2012/33/EU of the European Parliament and of the Council as regards the sulphur content of marine fuels (OJ L 327, 27.11.2012, p. 1).

Regulation 3 substitutes a new regulation 2 (interpretation) into the 2007 Regulations to amend the definitions of “gas oil” and “heavy fuel oil” and make other minor amendments. Regulation 4 substitutes a new regulation 4 (maximum sulphur content of heavy fuel oil) into the 2007 Regulations to amend the exceptions to the prohibition on the use of heavy fuel oil with a sulphur content exceeding 1 per cent by mass. Regulation 6 substitutes a new regulation 6 (sampling and analysis) into the 2007 Regulations to amend the reference method to be adopted for determining the sulphur content of fuels sampled pursuant to regulation 6(1) and make other minor amendments.

Regulation 7 inserts a review clause into the 2007 Regulations that will apply to the Secretary of State in relation to England. Regulation 8 makes minor consequential amendments to Schedule 1 of the 2007 Regulations. Regulation 9 omits Schedule 2 of the 2007 Regulations.

A full impact assessment in relation to England has not been produced for this instrument as no impact on the private or voluntary sector is foreseen.

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.

A transposition note is available from Industrial Pollution, Department for Environment, Food and Rural Affairs, Nobel House, 17 Smith Square, London, SW1P 3JR and at www.defra.gov.uk. Copies have been placed in the library of each House of Parliament.

Copies of the British Standards publications referred to in these Regulations may be obtained from any of the outlets operated by the British Standards Institution, or by post from the British Standards Institution at Standards House, 389 Chiswick High Road, London W4 4AL. The 1999 Annual Book at ASTM Standards is available from the American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428, USA.

Explanatory Memorandum to The Sulphur Content of Liquid Fuels (England and Wales) (Amendment) Regulations 2014

This Explanatory Memorandum has been prepared by The Department for Natural Resources, Culture and Sport and 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 Sulphur Content of Liquid Fuels (England and Wales) (Amendment) Regulations 2014.

John Griffiths AM

Minister for Natural Resources, Culture and Sport

21 July 2014

1. Description

1.1 Council Directive 1999/32/EC ('the Principal Directive') sets limitations on the sulphur content of certain petroleum derived liquid fuels that are used in combustion plant on land and at sea. The limitations relating to land based plant were transposed in England and Wales by the Sulphur Content of Liquid Fuels (England and Wales) Regulations 2007. The Principal Directive was amended in 2012 by Directive 2012/33/EU. The Sulphur Content of Liquid Fuels (England and Wales) (Amendment) Regulations 2014 transpose EC Directive 2012/33/EU in respect of petroleum derived liquid fuels that are used in combustion plant on land.

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

2.1 The legislation is being made on a composite basis. The Sulphur Content of Liquid Fuels (England and Wales) Regulations 2007 were made compositely and this established approach remains appropriate for The Sulphur Content of Liquid Fuels (England and Wales) (Amendment) Regulations 2014.

2.2 The European Communities Act 1972 provides discretion as to what procedure to use in making subordinate legislation. As the Regulations merely give effect to an amending provision of EU law, application of the negative procedure is considered appropriate.

3. Legislative background

3.1 Council Directive 1999/32/EC ("the principal directive") imposes limitations on the sulphur content of certain petroleum-derived liquid fuels used in plant on land and at sea. The provisions concerning the use of those fuels in plant on land were transposed in England and Wales by the Sulphur Content of Liquid Fuels (England and Wales) Regulations 2007 (SI 2007/79) ("the 2007 Regulations"). The principal directive was amended in 2012 by Directive 2012/33/EU ("the 2012 directive") and it is now necessary to transpose these amendments.

3.2 The National Assembly for Wales was designated under section 2(2) of the European Communities Act 1972 in respect of the assessment and management of ambient air quality and compliance with air quality limit values, targets and objectives. This designation now rests with the Welsh Ministers by virtue of section 162 of, and paragraph 30 to, the Government of Wales Act 2006 ('GOWA 2006'). These Regulations are subject to the negative procedure.

4. Purpose & intended effect of the legislation

4.1 The proposed Regulations transpose the 2012 Directive, by making amendments to the 2007 Regulations. These amendments relate to:

- the definitions of 'heavy fuel oil' and 'gas oil';
- exceptions to the general prohibition on the use of heavy fuel oil with a sulphur content of more than 1% by mass;
- the prohibition on the use of gas oils with a sulphur content of 0.1% by mass (removal of a higher maximum sulphur limit - 0.2% by mass - that applied to gas oils used in the period up to 1 January 2008); and
- the requirement for member states to take all necessary measures to check by sampling, that the sulphur content of fuels complies with the above limits with reference to various sampling and analysis requirements. The 2012 Directive includes a requirement for sampling to be carried out 'periodically' and analysed without undue delay. It also provides the reference method to be adopted for determining the sulphur content of sampled fuels.

4.2 The changes being made are limited in nature, and affect only the two main sectors involved in industrial regulation – ie: Local Authorities, who are the enforcers of the requirements, and those industrial installations which are regulated under the Environmental Permitting regime across England and Wales.

5. Consultation

5.1 In April 2014, Defra and the Welsh Government published a consultation document seeking views on the transposition of the amendments required by the 2012 directive. It was agreed that this should be a short, 3 week consultation, targeted at local authorities, who are the enforcers of the requirements, and relevant industry representatives. There were two responses to that consultation exercise, both of which expressed support for the transposition proposals, as outlined in para.4 above.

Regulatory Impact Assessment (RIA)

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.

This legislation has no impact on the statutory duties (sections 77 -79 GOWA 2006) or statutory partners (sections 72-75 GOWA 2006).

The proposed Regulations are being made in order to transpose the 2012 Directive. They make routine technical amendments to the 2007 Regulations.

Agenda Item 3.3

Constitutional and Legislative Affairs Committee Draft Report CLA(4)-21-14

CLA431 – The Diseases of Swine Regulations 2014

These composite Regulations implement EU law for the control of:

- a) swine vesicular disease ('SVD') contained in Council Directive 92/119/EEC introducing general community measures for the control of certain animal diseases and specific measures relating to swine vesicular disease;
- b) classical swine fever ('CSF') contained in Council Directive 2001/89/EC on Community measure for the control of classical swine fever;
- c) african swine fever ('ASF') contained in Council Directive 2002/60/EC laying down specific control of African swine fever and amending Directive 92/199 EEC as regards Teschen disease and African swine fever.

The Regulations only apply when ASF, CSF or SVD are suspected or confirmed in Great Britain.

In addition, these Regulations replace the following SIs, in Wales:

- The African Swine Fever (Wales) Order 2003
- The Classical Swine Fever (Wales) Order 2003
- The Swine Vesicular Disease (Wales) Regulations 2009
- The Swine Vesicular Disease (Amendment) (Wales) Regulations 2009

Procedure: Negative

1. Technical Scrutiny

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

1. Being composite regulations subject to a parliamentary procedure at Westminster, these Regulations have been made in English only.

[Standing Order 21.2(ix) – that the instrument is not made in both English and Welsh.]

The Welsh Government has provided the following response:

“These composite Regulations will apply to Great Britain and are subject to negative resolution procedure in the National Assembly for Wales and in the UK Parliament. Accordingly, it is not considered reasonably practicable for this instrument to be made, or laid, bilingually.”

2. Merits Scrutiny

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

Legal Advisers

Constitutional and Legislative Affairs Committee

August 2014

STATUTORY INSTRUMENTS

2014 No. 1894

ANIMALS

ANIMAL HEALTH

The Diseases of Swine Regulations 2014

<i>Made</i> - - - -	<i>16th July 2014</i>
<i>Laid before Parliament</i>	<i>18th July 2014</i>
<i>Laid before the National Assembly for Wales</i>	<i>18th July 2014</i>
<i>Coming into force</i> - -	<i>14th August 2014</i>

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The Secretary of State and the Welsh Ministers are each designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to the common agricultural policy of the European Union.

These Regulations make provision for a purpose mentioned in that section and it appears to the Secretary of State and the Welsh Ministers that it is expedient for the references in these Regulations to the following European Union instruments to be construed as references to such instruments as amended from time to time—

- (a) Council Directive 92/119/EEC introducing general Community measures for the control of certain animal diseases and specific measures relating to swine vesicular disease(c);
- (b) Council Directive 2001/89/EC on Community measures for the control of classical swine fever(d); and
- (c) Council Directive 2002/60/EC laying down specific provisions for the control of African swine fever(e).

The Secretary of State, in relation to England and Scotland, and the Welsh Ministers, in relation to Wales, make these Regulations under the powers conferred by section 2(2) of, as read with paragraph 1A of Schedule 2(f) to, the European Communities Act 1972.

(a) For the Secretary of State, see S.I. 1972/1811, (for the Welsh Ministers S.I. 2010/2690) in relation to the common agricultural policy. The function of the former Minister of Agriculture, Fisheries and Food of making regulations under section 2(2) of the European Communities Act 1972 was transferred to the Secretary of State by the Ministry of Agriculture, Fisheries and Food (Dissolution) Order 2002 (S.I. 2002/794).

(b) 1972 c. 68. section 2(2) was amended by the Legislative and Regulatory Reform Act 2006 (c.51), section 27(1)(a), and the European Union (Amendment) Act 2008 (c.7), Part 1 of the Schedule. Under section 57(1) of the Scotland Act 1998 (c. 46), despite the transfer to Scottish Ministers of functions in relation to implementing obligations under EU law in relation to devolved matters, the Secretary of State retains power to exercise such functions in or as regards Scotland. Under paragraph 5 of Schedule 3 to the Government of Wales Act 2006 (c. 32), despite the transfer to the Welsh Ministers of functions in relation to implementing obligations under EU law in relation to devolved matters, the Secretary of State retains power to exercise such functions as regards Wales.

(c) OJ No L 62, 15.3.1993, p.69 as last amended by Council Decision 2009/470/EC (OJ No L 155, 18.6.2009, p. 30).

(d) OJ No L 316, 1.12.2001, p.5 as last amended by Council Directive 2008/73/EC (OJ No L 219, 14.8.2008, p. 40).

(e) OJ No L 192, 20.7.2002, p.27 as last amended by Council Directive 2008/73/EC.

(f) Paragraph 1A was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 (c. 46) and amended by the European Union (Amendment) Act 2008, Part 1 of the Schedule, and S.I. 2007/1388.

PART 1

Introduction

Citation, extent and commencement

1.—(1) These Regulations—

- (a) may be cited as the Diseases of Swine Regulations 2014;
- (b) extend to Great Britain; and
- (c) come into force on 14th August 2014.

Interpretation

2.—(1) In these Regulations—

“carcase” means a carcase or part of a carcase of a pig, but does not include a sample taken from a carcase;

“Chief Veterinary Officer” means the Chief Veterinary Officer for England, Scotland or Wales dependent upon where disease is present;

“contact premises” means premises that are designated as contact premises under regulation 8(1);

“Council Directive 92/119/EEC” means Council Directive 92/119/EEC introducing general Community measures for the control of certain animal diseases and specific measures relating to swine vesicular disease as amended from time to time;

“Council Directive 2001/89/EC” means Council Directive 2001/89/EC on Community measures for the control of classical swine fever as amended from time to time;

“Council Directive 2002/60/EC” means Council Directive 2002/60/EC laying down specific provisions for the control of African swine fever as amended from time to time;

“designated slaughterhouse” means a slaughterhouse designated by the appropriate authority under the Products of Animal Origin (Disease Control) (England) Regulations 2008(a), the Products of Animal Origin (Disease Control) (Scotland) Order 2008(b) or the Products of Animal Origin (Disease Control) (Wales) Regulations 2008(c);

“Diagnostic Manual” refers to the Diagnostic Manual contained in—

- (a) Commission Decision 2000/428/EC establishing diagnostic procedures, sampling methods and criteria for the evaluation of the results of laboratory tests for the confirmation and differential diagnosis of swine vesicular disease(d),
- (b) Commission Decision 2002/106/EC approving a Diagnostic Manual establishing diagnostic procedures, sampling methods and criteria for evaluation of the laboratory tests for the confirmation of classical swine fever(e),
- (c) Commission Decision 2003/422/EC approving an African swine fever Diagnostic Manual(f);

“disease” in these Regulations, unless the context refers to only one or more of these diseases, means any of the following diseases of pig (and includes the virus of any such disease)—

- (a) African swine fever;
- (b) classical swine fever (otherwise known as hog cholera); and
- (c) swine vesicular disease;

(a) S.I. 2008/465, amended by S.I. 2009/1297, 2012/2897.

(b) S.S.I. 2008/158, amended by S.S.I. 2009/173, 2009/174.

(c) S.I. 2008/1275 (W.132), amended by S.I. 2009/1373 (W.136), 2009/1910 (W.173).

(d) OJ No L 167, 7.7.2000 p.22.

(e) OJ No L 39, 9.2.2002, p.71, as amended by Commission Decision 2003/859/EC (OJ No L.324, 11.12.2003, p.55).

(f) OJ No L 143, 11.6.2003, p.5.

“equipment”, except in regulation 34(9)(a), means any equipment that has been in contact with pigs or faeces, blood or other bodily fluids from a pig;

“feral pig” means any non-captive pig which is living in the wild;

“infected premises” means premises that have been designated as infected premises under regulation 10;

“inspector” means a person appointed to be an inspector for the purposes of the Animal Health Act 1981(a) by an appropriate authority or by a local authority, and, when used in relation to an officer of the appropriate authority, includes a veterinary inspector;

“keeper” means any person who owns or is responsible for a pig, whether on a permanent or temporary basis;

“livestock” means any hoofed animals other than equidae;

“local authority” means—

(a) in England—

(i) where there is an authority which is the sole principal council for its local government area (“a unitary authority”), that authority;

(ii) where there is not a unitary authority—

(aa) in a metropolitan district, the council of that district;

(bb) in a non-metropolitan county, the county council;

(cc) in each London borough, the council of that borough; or

(dd) in the City of London, the Common Council;

(b) in Wales, a county council or a county borough council;

(c) in Scotland, a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994(b);

“marker vaccine” means a vaccine which results in a clear differentiation between a vaccinated pig and a diseased pig;

“occupier” means any person having day-to-day responsibility for the premises or for any pigs on the premises;

“pig” means any animal of the *Suidae* family;

“premises” includes any land, building or other place;

“sentinel pig” means a pig introduced to infected premises after cleansing and disinfection in accordance with regulation 18 for surveillance purposes;

“seropositive pig” means a pig identified as having antibodies against swine vesicular disease, African swine fever or classical swine fever;

“suspect premises” means premises that are designated as suspect premises under regulation 7(2);

“vectors” means ticks of the species *Ornithodoros erraticus* or any other tick or insect species specified by the appropriate authority;

“veterinary inspector” means a veterinary inspector appointed by an appropriate authority for the purposes of the Animal Health Act 1981.

(2) In these Regulations—

(a) “appropriate authority” means—

(a) Section 89 of the Animal Health Act 1981 c.22. Functions conferred under that Act on “the Ministers” (as defined in section 86) are now exercisable in relation to England by the Secretary of State. Functions of “the Ministers” were transferred, so far as exercisable by the Secretaries of State for Scotland and Wales, to the Minister of Agriculture, Fisheries and Food by the Transfer of Functions (Agriculture and Food) Order 1999 (S.I. 1999/3141). Functions of the Minister of Agriculture, Fisheries and Food were then transferred to the Secretary of State by the Ministry of Agriculture, Fisheries and Food (Dissolution) Order 2002 (S.I. 2002/794).

(b) 1994 c. 39 amended by the Environment Act 1995 (c.25), section 120(1) and Schedule 22, paragraph 232(1).

- (i) the Secretary of State where the functions are exercised in England;
 - (ii) the Scottish Ministers where the functions are exercised in Scotland; and
 - (iii) the Welsh Ministers where the functions are exercised in Wales;
- (b) terms used in the European Union instruments have the same meaning as in those instruments.
- (3) In paragraph (2)(b) “the European Union instruments” means—
- (a) Council Directive 92/119/EEC;
 - (b) Council Directive 2001/89/EC;
 - (c) Council Directive 2002/60/EC;
 - (d) Commission Decision 2000/428/EC establishing diagnostic procedures, sampling methods and criteria for the evaluation of the results of laboratory tests for the confirmation and differential diagnosis of swine vesicular disease;
 - (e) Commission Decision 2002/106/EC approving a Diagnostic Manual establishing diagnostic procedures, sampling methods and criteria for evaluation of the laboratory tests for the confirmation of classical swine fever; and
 - (f) Commission Decision 2003/422/EC approving an African swine fever Diagnostic Manual.

Occupier and changes of occupier

3.—(1) Any notice that is required or authorised under these Regulations to be served on the occupier may be served on a person appearing to the person serving the notice to be the occupier.

(2) Where a notice has been served on a person referred to in paragraph (1), and it later becomes clear to the person who served the notice that another person is the keeper of the pigs then a replacement notice must be served on the other person.

(3) Where there is a change in occupation of premises subject to any controls or restrictions under these Regulations—

- (a) the existing occupier must immediately notify the appropriate authority of the details of the new occupier before the change in occupation takes place; and
- (b) if the new occupier does not have day-to-day responsibility for restricted pigs under these Regulations the new occupier must allow the keeper of the restricted pigs, or any person acting on behalf of the keeper, to enter the premises to feed or otherwise attend to the welfare of the pigs during the period of control or restriction and for seven days following the ending of such restrictions.

Exemptions

4.—(1) These Regulations do not apply—

- (a) to anything done under the terms of a licence granted under the Specified Animal Pathogens Order 2008(a), the Specified Animal Pathogens (Scotland) Order 2009(b) or the Specified Animal Pathogens (Wales) Order 2008(c); or
- (b) at any border inspection post within the meaning of, and for so long as it remains approved for the purposes of, regulation 11 of the Trade in Animals and Related Products Regulations 2011(d), regulation 9 of the Trade in Animals and Related Products

(a) S.I. 2008/944; relevant amending instrument is S.I. 2009/3083.
(b) S.S.I. 2009/45; relevant amending instrument is S.S.I. 2009/394.
(c) S.I. 2008/1270 (W.129); relevant amending instrument is S.I. 2009/3234 (W.281).
(d) S.I. 2011/1197, to which there are amendments not relevant to these Regulations.

(Scotland) Regulations 2012^(a) or regulation 11 of the Trade in Animals and Related Products (Wales) Regulations 2011^(b).

(2) Parts 2 and 3 do not apply in relation to swine vesicular disease in any period during which action is being taken by the appropriate authority under the Foot-and-Mouth Disease (England) Order 2006^(c), the Foot-and-Mouth Disease (Scotland) Order 2006^(d) or the Foot-and-Mouth Disease (Wales) Order 2006^(e).

PART 2

Notification and investigation of suspicion of disease

Notification requirements

5.—(1) Any person who suspects that a domestic or feral pig or carcase is infected with disease must immediately notify the appropriate authority.

(2) Any person who examines a sample taken from a pig or a carcase and who—

- (a) suspects that the pig or carcase is infected with disease, or
- (b) detects evidence of antibodies to, or antigens of, disease,

must immediately notify the appropriate authority.

Initial measures following notification

6.—(1) This regulation applies where the appropriate authority receives a notification under regulation 5, and a veterinary inspector considers that further investigation relating to the possible presence of disease is necessary.

(2) A veterinary inspector must examine the pig or carcase, and may examine any other pig or carcase on the same premises.

(3) A veterinary inspector must as soon as reasonably practicable orally inform (followed up by service of a notice by a veterinary inspector or by an inspector under the direction of a veterinary inspector) the occupier that the further investigation will be undertaken, and except in the case of a notification involving a feral pig or feral pig carcase, the occupier so informed must comply with the initial measures set down in paragraph (4).

(4) For the purposes of paragraph (3), the initial measures are—

- (a) not to move, or permit to be moved—
 - (i) the pig or carcase which is the subject of the notification from the premises where it is located;
 - (ii) any other pig or carcase to or from those premises;
 - (iii) any other animal from those premises if the veterinary inspector is of the opinion that it is likely to spread disease;
 - (iv) any thing off those premises unless the veterinary inspector is of the opinion that it is not likely to spread disease;
- (b) to ensure that any person who has been in contact with any pig or carcase, or who has been on any part of the premises that may be contaminated with disease, takes all necessary biosecurity precautions to reduce the risk of spreading disease before leaving the premises; and

(a) S.S.I. 2012/177, to which there are amendments not relevant to these Regulations.

(b) S.I. 2011/2379 (W.252).

(c) S.I. 2006/182, to which there are amendments not relevant to these Regulations.

(d) S.S.I. 2006/44, to which there are amendments not relevant to these Regulations.

(e) S.I. 2006/179 (W.30), to which there are amendments not relevant to these Regulations.

- (c) where the occupier is an operator of a slaughterhouse—
 - (i) not to permit any pig to be slaughtered unless authorised by a veterinary inspector; and
 - (ii) to identify and isolate any carcase in respect of which the notification requirements in regulation 5 apply, any carcase originating from the same premises (and any carcase that has been in contact with any such carcase) so that such carcasses do not come into contact with any other pig or carcase at the slaughterhouse.

(5) In the case of a notification involving a feral pig or feral pig carcase the occupier must comply with any initial measures that are required by the veterinary inspector.

- (6) The initial measures required under this regulation continue to apply until—
 - (a) a veterinary inspector informs the occupier that the presence of disease on the premises is not suspected;
 - (b) the premises are designated by notice as suspect premises by an inspector in accordance with regulation 7(2); or
 - (c) the occupier is notified that the measures no longer apply.

Measures on suspicion of disease

7.—(1) This regulation applies where a veterinary inspector suspects—

- (a) that a pig or carcase is or has been infected with disease; and
- (b) that pig or carcase is or has been on any premises other than in circumstances where Part 4 (disease at a slaughterhouse) or Part 5 (suspicion and confirmation of disease in feral pigs) applies.

(2) An inspector must serve a notice on the occupier designating premises as suspect premises, and Schedule 1 applies upon service of that notice.

(3) A veterinary inspector must take all reasonable steps to establish whether or not disease is present at the suspect premises.

(4) For the purposes of paragraph (3), a veterinary inspector may, if the Chief Veterinary Officer considers it necessary, take and have tested—

- (a) samples from any pig or carcase that is, or has previously been, on the premises;
- (b) environmental samples from the premises.

(5) In the case of classical swine fever and African swine fever, where required by the epidemiological situation, the Chief Veterinary Officer may order and arrange for the killing of any pig on the suspect premises and arrange for the taking of a sufficient number of post-mortem samples to confirm or negate the presence of disease.

(6) The notice served under paragraph (2) may only be revoked if a veterinary inspector is satisfied that the suspect premises no longer pose a risk of spread of disease.

(7) Where that notice is revoked, the measures in Schedule 1 cease to apply upon revocation of that notice.

(8) In the case of swine vesicular disease only, where a seropositive pig has been detected on premises designated as suspect premises but none of the pigs on the premises show clinical signs of that disease, a veterinary inspector must take further samples at least 28 days from the date when the disease was first suspected by the veterinary inspector and have those samples tested.

(9) If such tests reveal no evidence of swine vesicular disease on the premises, the seropositive pig must be—

- (a) slaughtered at a designated slaughterhouse—
 - (i) with the pig being kept separate from other pigs in transport and at the slaughterhouse; and
 - (ii) ensuring that the carcase and any animal by-product coming from the seropositive pig is kept separate and not exported from the United Kingdom; or

- (b) killed on the suspect premises and subsequently destroyed under supervision of a veterinary inspector.

Measures at contact premises

8.—(1) Where premises have been shown to have an epidemiological link with—

- (a) suspect premises,
- (b) infected premises, or
- (c) other premises on which disease has been detected, including where a veterinary inspector is of the view that due to its proximity to an infected premises it is likely that disease may have been transmitted there,

an inspector must serve a notice on the occupier designating that premises as contact premises, and Schedule 1 applies upon service of that notice.

(2) Following the designation of premises as contact premises—

- (a) where pigs on the contact premises do not show clinical signs of disease, but where the suspicion of disease cannot be ruled out, the Chief Veterinary Officer must assess the epidemiological situation at the premises, and on the basis of that assessment may—
 - (i) order and arrange for the killing of any pig on the premises if considered necessary to prevent the spread of disease;
 - (ii) require a person under the direction of a veterinary inspector, to monitor all pigs on the contact premises (which may require the taking and testing of samples) until the veterinary inspector is satisfied that the disease is not present;
- (b) where any pig on the contact premises shows clinical signs of disease—
 - (i) if considered to be necessary to prevent the spread of disease, the Chief Veterinary Officer may order and arrange for the killing of any pig on the contact premises, and arrange for the taking of a sufficient number of post-mortem samples to confirm or negate the presence of disease; and
 - (ii) a veterinary inspector must take all reasonable steps to establish whether or not disease is present at the contact premises, which may include the taking and testing of samples, until satisfied that the disease is not present on the premises.

(3) Where pigs have been killed and disease cannot be negated, cleansing and disinfection must be carried out in accordance with regulations 13 and 14, followed by restocking with sentinel pigs unless a veterinary inspector specifies otherwise in writing, in accordance with regulation 18.

(4) The notice served under paragraph (1) may not be revoked until the Chief Veterinary Officer is satisfied following any tests or actions of a veterinary inspector, or the satisfactory completion of the steps in paragraph (3), that it is no longer appropriate for the premises to remain designated as contact premises.

(5) Where the notice served under paragraph (1) is revoked, the measures in Schedule 1 cease to apply upon revocation of that notice.

Temporary control zone

9.—(1) The appropriate authority may declare a temporary control zone around suspect premises.

(2) The temporary control zone must be of such extent as the appropriate authority considers necessary to reduce the risk of the spread of disease as far as practicable.

(3) A person must not move a pig from premises in the temporary control zone, except in accordance with a licence granted by a veterinary inspector.

(4) The declaration may apply any measure of a type listed in Schedule 1 as the appropriate authority considers necessary in all or part of the temporary control zone in order to prevent or reduce the risk of the spread of disease.

(5) Any part of a temporary control zone that is subsequently incorporated into a protection or surveillance zone will cease to exist as a temporary control zone.

(6) Where disease has been negated at suspect premises, the appropriate authority must revoke the temporary control zone declaration.

PART 3

Infected premises

Designating premises as infected premises when the presence of disease is confirmed

10.—(1) Where the Chief Veterinary Officer is satisfied as a result of any—

- (a) tests carried out under these Regulations,
- (b) clinical signs in any pig or carcase, or
- (c) epidemiological connections,

that disease is or has been present on premises, an inspector must serve a notice on the occupier designating them to be infected premises.

(2) Where such a notice is served on the occupier Schedule 1 applies, together with any additional measures that a veterinary inspector considers necessary in order to reduce the risk of the spread of disease.

(3) This regulation does not apply where disease is confirmed in a slaughterhouse or in feral pigs.

Killing pigs on infected premises

11. When premises are designated as infected premises the appropriate authority must arrange for the killing of all pigs on the premises unless regulation 12 applies.

Conservation and related measures

12.—(1) After consulting with the European Commission the appropriate authority may decide not to kill a pig—

- (a) kept in a zoo or wildlife park; or
- (b) kept for—
 - (i) educational purposes;
 - (ii) scientific research or breeding for such research; or
 - (iii) purposes related to conservation of species or genetic resource.

(2) Where the appropriate authority decides under paragraph (1) not to kill a pig, a veterinary inspector must serve a notice on the occupier of the premises on which it is kept detailing the biosecurity arrangements that the occupier must follow to reduce the risk of the spread of disease.

(3) The appropriate authority may for disease control reasons at any time decide to order the killing of a pig that has previously been spared under paragraph (1).

Disposal of carcasses and preliminary cleansing and disinfection

13.—(1) Where a pig is killed under these Regulations other than in accordance with regulation 19(4), the appropriate authority must arrange for the disposal of the carcase.

(2) The appropriate authority may arrange for the disposal of the carcase of any pig that has died, or is suspected to have died, from disease.

(3) The appropriate authority must ensure that any such disposal is carried out in such a way as to avoid the risk of the spread of disease.

(4) Following such disposal the appropriate authority must without delay carry out preliminary cleansing and disinfection of—

- (a) all parts of the premises (other than fields, slurry lagoons and other parts of the premises where the disinfectant would have no effect) and all equipment or other things to which the pig has had access; and
- (b) anything contaminated during the killing of the pig.

Notice requiring secondary cleansing and disinfection

14.—(1) Irrespective of whether or not pigs are to be reintroduced on infected or contact premises, an inspector may serve a notice on the occupier requiring secondary cleansing and disinfection as specified in the notice.

(2) Secondary cleansing and disinfection must be carried out in such a way as to minimise the risk of the spread of disease or survival of any virus.

(3) If the occupier does not comply with the notice, an inspector may arrange for secondary cleansing and disinfection to be carried out by another person at the expense of the occupier.

(4) Following completion of the secondary cleansing and disinfection, a veterinary inspector must certify in writing when satisfied that the requirements of the notice have been completed.

Use of approved disinfectants

15. Where disinfection is carried out under these Regulations the disinfectants must be—

- (a) approved by the appropriate authority under the Diseases of Animals (Approved Disinfectants) (England) Order 2007(a), the Diseases of Animals (Approved Disinfectants) (Scotland) Order 2008(b) or the Diseases of Animals (Approved Disinfectants) (Wales) Order 2007(c), and shown on the list of approved disinfectants published under the appropriate Order as being approved—
 - (i) specifically as being effective against the spread of swine vesicular disease where that disease has been identified; or
 - (ii) for effectiveness against the spread of disease other than swine vesicular disease; and
- (b) used at the authorised dilution rate and in accordance with the manufacturer's instructions.

Special measures to prevent the spread of African swine fever virus by vectors

16.—(1) Where the presence of vectors is suspected on premises where African swine fever has been confirmed, any building that has housed pigs (and the surrounding environment) must be checked by an inspector for the presence of vectors and, if deemed necessary, a veterinary inspector (or any person acting under the direction of a veterinary inspector) may—

- (a) arrange for the obtaining of specimens of the vectors and proportionate further monitoring; and
- (b) require the occupier to implement practical vector control measures.

(2) Where such specimens are obtained the appropriate authority must arrange for appropriate laboratory tests to be carried out on them to confirm or negate the presence of the African swine fever virus in the vectors.

(a) S.I. 2007/448, amended by S.I. 2011/1509; there are other amending instruments but none are relevant.

(b) S.S.I. 2008/219, to which there are amendments not relevant to these Regulations.

(c) S.I. 2007/2803 (W.236), to which there are amendments not relevant to these Regulations.

Revocation of a regulation 10 notice

17.—(1) Unless otherwise provided for in this regulation, a notice under regulation 10 (designation of an infected premises) must not be revoked until a veterinary inspector is satisfied that sufficient time has elapsed for the virus of disease to have decayed naturally to the extent that the virus will no longer pose a risk of infecting a pig with disease.

(2) A veterinary inspector, or an inspector acting under the direction of a veterinary inspector, may revoke such a notice of designation in relation to the whole or a part of the infected premises if—

- (a) any required cleansing and disinfection has been certified as satisfactorily completed in accordance with regulation 14(4); and
- (b) the premises have been tested for the existence of disease using sentinel pigs with negative results in accordance with regulation 18.

(3) In the case of African swine fever (where the occurrence of disease has not been linked to vectors) or in the case of classical swine fever, as a derogation from the testing in accordance with paragraph (2)(b), such a notice may be revoked by a veterinary inspector if—

- (a) more than six months has elapsed from the completion of the cleansing and disinfection; and
- (b) the veterinary inspector is of the opinion that there is no further risk of the spread of disease.

(4) In the case of African swine fever, where occurrence of disease has been linked to vectors, such a notice must not be revoked until—

- (a) all sentinel restocking in accordance with regulation 18 has been carried out without evidence of disease; and
- (b) a further 60 days has elapsed since full restocking.

(5) Where such a notice is revoked, the measures in Schedule 1 (together with any additional measure imposed) cease to apply upon revocation of that notice.

Restocking and testing with sentinel pigs on infected or contact premises

18.—(1) On infected premises or contact premises once a veterinary inspector has certified in accordance with regulation 14(4) that secondary cleansing and disinfection have been satisfactorily completed, sentinel pigs may be introduced (at the expense of the occupier) for monitoring for the resurgence of disease in accordance with this regulation as a precursor to full restocking of the premises with pigs.

(2) Other than in the situation in paragraph (7), the number of sentinel pigs introduced by the occupier must be such restricted number as is deemed to be sufficient by a veterinary inspector to test for the continuing presence of disease on all parts of the premises where disease was formerly present.

(3) The sentinel pigs may only be introduced in accordance with a licence granted by a veterinary inspector, and not before the following prescribed number of days, equivalent to the incubation period for the virus, after the secondary cleansing and disinfection has been certified as being satisfactorily completed in accordance with regulation 14(4)—

- (a) 40 days in the case of African swine fever;
- (b) 30 days in the case of classical swine fever; and
- (c) 28 days in the case of swine vesicular disease.

(4) The sentinel pigs must have—

- (a) come from premises not subject to any controls or restrictions under these Regulations; or
- (b) been tested at the expense of the occupier before being brought on to the premises and found to be negative for the presence of antibodies against disease.

(5) After the time limits set down in the following table a veterinary inspector must clinically examine all sentinel pigs on the premises and take a statistically valid number of samples deemed necessary for the serological testing for the presence of antibodies to the disease—

	<i>African swine fever (where disease has not been linked to vectors)</i>	<i>Classical swine fever</i>	<i>Swine disease</i>	<i>vesicular</i>
Number of days after the arrival of the last sentinel pig onto the premises	45	40	28	

(6) A person must not allow a sentinel pig to leave premises until negative results of the serological tests taken in accordance with paragraph (5) are obtained by the veterinary inspector.

(7) For premises that only have pigs entirely enclosed in buildings, as an alternative to the veterinary inspector restricting the number of sentinel pigs in accordance with paragraph (2), the veterinary inspector may license the introduction of an unlimited number of sentinel pigs into enclosed buildings on the premises, but in such circumstances—

- (a) paragraphs (3), (4), (5) and (6) apply in relation to the introduction of the unlimited number of sentinel pigs;
- (b) the conditions in the following table apply—

	<i>African swine fever (where disease has not been linked to vectors)</i>	<i>Classical swine fever</i>	<i>Swine disease</i>	<i>vesicular</i>
All the sentinel pigs must arrive on the premises within the following periods from the date of arrival of the first sentinel pig	20 days	20 days	8 days	

; and

- (c) in the case of swine vesicular disease, a person must not allow a pig to leave the premises until at least 60 days after the arrival of the last sentinel pig.

(8) In the case of African swine fever where the disease has been linked to spread by vectors, restocking with sentinel pigs cannot take place for a period of six years.

(9) The period of six years may be reduced where a veterinary inspector has supervised vector eradication measures on infected premises and is satisfied that—

- (a) the vector eradication measures have been successfully carried out under the supervision of a veterinary inspector; or
- (b) the persistence of the vector no longer presents a significant risk of transmitting African swine fever.

(10) Where restocking has taken place in accordance with paragraphs (8) or (9), a person must not allow a pig to leave the premises after full repopulation until serological examinations with negative results for African swine fever have been taken at least 60 days after full repopulation in accordance with the Diagnostic Manual.

PART 4

Suspicion and confirmation of disease at a slaughterhouse

Measures on suspicion and confirmation of disease at a slaughterhouse

19.—(1) Where a veterinary inspector has examined a pig or pig carcass at a slaughterhouse and cannot negate the presence of disease an inspector must serve a notice on the operator of the slaughterhouse imposing the following measures—

- (a) no pig or carcass may be moved to or from the slaughterhouse;
- (b) no other animal may be moved to or from the slaughterhouse if the veterinary inspector suspects there is a risk that it could spread disease;
- (c) all biosecurity measures that the veterinary inspector believes are necessary must be taken by the operator;
- (d) no pig can be slaughtered unless authorised by a veterinary inspector; and
- (e) the operator must identify and isolate—
 - (i) any carcass of a suspect pig;
 - (ii) a pig that has come into contact with a suspect pig;
 - (iii) any carcass from the same premises as a suspect pig; and
 - (iv) any carcass that has been in contact with a paragraph (iii) carcass.

(2) A veterinary inspector may take samples from a pig, carcass or any other thing and have those samples tested to ascertain whether or not disease is present at the slaughterhouse.

(3) Following the results of the tests carried out under paragraph (2), where the Chief Veterinary Officer is satisfied that that disease is not present at the slaughterhouse—

- (a) a veterinary inspector must as soon as reasonably practicable orally inform the operator that disease has not been found to be present, at which point the paragraph (1) measures no longer apply; and
- (b) this must be followed up in writing as soon as reasonably practicable.

(4) Following the results of the tests carried out under paragraph (2), where the Chief Veterinary Officer is satisfied that disease is present at the slaughterhouse, the appropriate authority must ensure that all pigs in the slaughterhouse are slaughtered without delay under the supervision of a veterinary inspector.

(5) Following such slaughter—

- (a) the operator must destroy—
 - (i) the carcasses and offal of infected pigs;
 - (ii) the carcasses and offal of other pigs that a veterinary inspector suspects may be infected with disease;
 - (iii) the carcasses and offal of other pigs contaminated through contact with an infected pig or carcass;
- (b) cleansing and disinfection of buildings, equipment and vehicles (including control of vectors where African swine fever has been linked to spread by vectors) must be carried out by the operator as instructed by a veterinary inspector;
- (c) an epidemiological enquiry by a veterinary inspector must take place;
- (d) other than in the situation in sub-paragraph (e), a veterinary inspector must notify the operator of the removal of the paragraph (1) measures at the slaughterhouse on the expiry of 24 hours after cleansing and disinfection operations have been completed at the slaughterhouse to the satisfaction of the veterinary inspector; and
- (e) in the case of African swine fever, in addition to the veterinary inspector being satisfied in accordance with sub-paragraph (d), the veterinary inspector must be satisfied that any

vector controls (if required) have been effectively applied before notifying the operator of the removal of the paragraph (1) measures.

PART 5

Suspicion and confirmation of disease in feral pigs

Measures on suspicion of disease in feral pigs

- 20.**—(1) Where it is suspected that a feral pig is infected with disease—
- (a) a veterinary inspector must take all reasonable steps to establish whether or not that suspicion is correct; and
 - (b) the appropriate authority must make available information regarding the suspicion to keepers and to hunters believed to be operating in the area exposed to the risk of spread of disease.
- (2) Where it is suspected that a feral pig is infected with disease a veterinary inspector must—
- (a) carry out investigations of any feral pigs shot or found dead in the area believed to be exposed to the risk of spread of disease; and
 - (b) produce a report that assesses the disease situation in feral pigs.
- (3) Following the suspicion of disease in a feral pig the appropriate authority may declare a feral pig investigation zone and apply some or all of the Schedule 2 measures.

Measures on confirmation of disease in feral pigs

- 21.**—(1) Where the Chief Veterinary Officer concludes that African swine fever or classical swine fever is present in a feral pig, the appropriate authority must declare a feral pig control zone, and all the measures in Schedule 2 apply within that zone.
- (2) Where the Chief Veterinary Officer concludes that swine vesicular disease is present in a feral pig, the appropriate authority may declare a feral pig control zone, and may apply some or all of the Schedule 2 measures.
- (3) Meat from a feral pig hunted in any feral pig control zone must not be placed on the market by any person unless the carcass is tested negative for disease in accordance with the relevant Diagnostic Manual and a veterinary inspector considers there is no risk of the spread of disease.

Emergency vaccination of feral pigs against classical swine fever

- 22.**—(1) Where the Chief Veterinary Officer concludes that classical swine fever is present in a feral pig, and the epidemiological data available suggest that the disease threatens to spread, the appropriate authority may—
- (a) introduce emergency vaccination of feral pigs in a specified area; and
 - (b) impose such conditions and restrictions in the specified area as the appropriate authority believes are necessary in order to enhance the effectiveness of the vaccination campaign.
- (2) An occupier must comply with any such conditions and restrictions.

PART 6

Area controls following confirmation of disease in domestic pigs

Protection and surveillance zones

- 23.**—(1) This regulation applies where the existence of disease has been confirmed on premises.

(2) Where the premises comprise—

- (a) a slaughterhouse,
- (b) a veterinary surgery where a pig has been brought for examination, or
- (c) any other place to which a pig has been brought temporarily and the appropriate authority does not consider that place to be the centre of infection,

the appropriate authority may declare a protection zone and a surveillance zone around the premises.

(3) In any other case the appropriate authority must declare a protection zone and a surveillance zone around the premises.

(4) The zones must be centred on the part of the premises that the appropriate authority considers most appropriate for disease control and—

- (a) a protection zone must have a radius of at least 3 kilometres;
- (b) a surveillance zone around the outside of the protection zone must, subject to paragraph (5), have a radius of at least 10 kilometres.

(5) The appropriate authority may reduce the size of a surveillance zone if approval to do so is obtained from the European Commission.

(6) The appropriate authority must ensure that within those zones, as far as is reasonably practicable—

- (a) premises that contain pigs are identified; and
- (b) veterinary inspectors visit such identified premises to—
 - (i) inspect, and as necessary examine, the pigs on the premises; and
 - (ii) collect and have tested such samples as the Chief Veterinary Officer considers necessary.

(7) The measures in Part 1 of Schedule 3 apply in a protection zone.

(8) The measures in Part 2 of Schedule 3 apply in a surveillance zone.

(9) The measures in Schedule 4 apply in a protection and surveillance zone.

(10) The appropriate authority may in a declaration apply any other measure that it deems to be necessary in order to reduce the spread of disease in respect of the whole or any part of any protection zone or surveillance zone.

Declarations of zones

24.—(1) The declaration of a zone under these Regulations—

- (a) must be in writing;
- (b) must define the extent of the zone being declared;
- (c) must specify the disease to which it relates; and
- (d) may be amended or revoked by further declaration at any time.

(2) A person who keeps a pig within the zone to which the declaration relates must comply with any applicable measure that is specified in the declaration.

(3) Where a zone crosses a country border, the zone may be jointly declared by more than one appropriate authority.

Removal of protection and surveillance zones

25.—(1) The appropriate authority must keep in place a surveillance zone for at least the following periods—

- (a) in the case of African swine fever, 40 days (but if an intensive testing programme has been carried out then 20 days),
- (b) in the case of classical swine fever, 20 days, or

(c) in the case of swine vesicular disease, 28 days,
after pigs from infected premises have been killed and until such cleansing and disinfection as the Chief Veterinary Officer considers sufficient has been carried out on those premises.

(2) The appropriate authority must keep in place a protection zone for at least the following periods—

- (a) in the case of African swine fever, 45 days (but if an intensive testing programme has been carried out then 30 days),
- (b) in the case of classical swine fever, 30 days, or
- (c) in the case of swine vesicular disease, 28 days,

after pigs from infected premises have been killed and until such cleansing and disinfection as the Chief Veterinary Officer considers sufficient has been carried out on those premises.

(3) In this regulation “intensive testing programme” means testing for African swine fever in accordance with sections F and G of Chapter IV of the Diagnostic Manual^(a).

Premises straddling a protection or a surveillance zone

26.—(1) Premises which are partly inside a protection zone and partly inside a surveillance zone must be deemed to be wholly inside the protection zone.

(2) Premises which are partly inside and partly outside the outer boundary of a surveillance zone must be deemed to be wholly inside that zone.

Publicity of declared zones

27.—(1) The appropriate authority must publicise—

- (a) the extent of any zone declared under these Regulations (including any emergency vaccination zone or feral pig control zone);
- (b) the date of the commencement of the application of the zone;
- (c) the nature of the measures relating to that zone;
- (d) any amendment to the extent of a zone or measures applicable in the zone; and
- (e) the date from which the zone no longer applies.

(2) The local authority may where practicable erect signs or posters indicating the existence of any zone declared under these Regulations.

PART 7

Vaccination

Prohibition on vaccination except in certain cases

28.—(1) A person must not vaccinate a domestic pig against disease other than in accordance with this Part or under the authority of a licence granted by a veterinary inspector.

(2) A person must not vaccinate a feral pig against disease other than in accordance with regulation 22.

Declaration of an emergency vaccination zone following confirmation of classical swine fever

29.—(1) This regulation applies where classical swine fever has been confirmed and the appropriate authority is concerned that it threatens to spread to other areas.

(a) Commission Decision 2003/422/EC, approving an African swine fever Diagnostic Manual (OJ No L 143, 11.6.2003, p.5).

(2) The appropriate authority may decide to declare an emergency vaccination zone after considering relevant criteria and risk factors, including—

- (a) the rate at which outbreaks are confirmed;
- (b) the density of pigs in the area;
- (c) the likelihood of further outbreaks in the area for at least the next two months;
- (d) the availability of resources to control disease.

(3) Premises which are partly inside and partly outside the outer boundary of an emergency vaccination zone must be deemed to be wholly inside that zone.

(4) Before declaring an emergency vaccination zone, the Secretary of State must submit to the European Commission—

- (a) an emergency vaccination plan with the proposed measures for approval in accordance with Article 19(3) of Council Directive 2001/89/EC^(a); or
- (b) an outline plan in accordance with Article 19(7) of that Directive.

(5) Where the appropriate authority decides to use a marker vaccine during the vaccination period the emergency vaccination plan must contain a request to use such a marker vaccine in accordance with Article 19(9) of Council Directive 2001/89/EC.

(6) The declaration must include details of the responsibilities of the appropriate authority for organising the vaccination and subsequent monitoring to assess its effectiveness in preventing the spread of disease.

(7) Other than in the situation in paragraph (8), an emergency vaccination zone must remain in place for a period of at least 6 months after the completion of the vaccination operations within the zone (“the vaccination period”).

(8) The appropriate authority may reduce the vaccination period where all the vaccinated pigs within the declared zone have been slaughtered and cleansing and disinfection has been carried out at all infected premises.

(9) As far as reasonably practicable the appropriate authority must notify every keeper within the zone regarding the emergency vaccination requirements.

(10) A person must not move a pig from premises in an emergency vaccination zone unless a licence is granted by a veterinary inspector to move it direct to a designated slaughterhouse.

(11) Before sending to a slaughterhouse a pig which is on premises in an emergency vaccination zone, the keeper of the pig must notify the operator of the slaughterhouse of the expected time of arrival of the pig.

(12) The operator of a slaughterhouse must ensure—

- (a) that vaccinated pigs are kept and slaughtered separately from unvaccinated pigs; and
- (b) that the carcasses of vaccinated pigs are kept separate from the carcasses of unvaccinated pigs at the slaughterhouse.

(13) During the vaccination period within an emergency vaccination zone, other than under a licence granted by a veterinary inspector, a person must not—

- (a) move any pig from any premises;
- (b) collect semen, embryos or ova from seropositive pigs; or
- (c) use semen, embryos or ova collected from pigs during the 30 days prior to vaccination.

Pigs vaccinated against classical swine fever

30.—(1) This regulation applies to pigs vaccinated against classical swine fever.

(2) A keeper who has had a pig vaccinated in an emergency vaccination zone or under the authority of a licence granted by a veterinary inspector must—

(a) OJ No L 316, 1.12.2001, p.5 as last amended by Council Directive 2008/73/EC (OJ No L 219, 14.8.2008, p. 40).

- (a) ensure that it is identified in accordance with instructions from a veterinary inspector; and
 - (b) keep a record that it has been vaccinated.
- (3) The keeper must only have a vaccinated pig slaughtered at a designated slaughterhouse.
- (4) Following slaughter of a vaccinated pig the carcass must—
- (a) be disposed of in accordance with the Animal By-Products (Enforcement) (England) Regulations 2013(a), the Animal By-Products (Enforcement) (Scotland) Regulations 2013(b) or the Animal By-Products (Enforcement) (Wales) Regulations 2014(c); or
 - (b) have a stamp applied and be treated under the Products of Animal Origin (Disease Control) (England) Regulations 2008(d), the Products of Animal Origin (Disease Control) (Scotland) Order 2008(e) or the Products of Animal Origin (Disease Control) (Wales) Regulations 2008(f).
- (5) Where a marker vaccine has been used on a pig, the meat derived from that pig may be exempted by the appropriate authority from the requirement to be treated as restricted meat under the appropriate legislation listed in paragraph (4)(b).

Compulsory vaccination and controls for pigs vaccinated against swine vesicular disease

- 31.**—(1) This regulation applies where swine vesicular disease has been confirmed.
- (2) Following confirmation of swine vesicular disease, the appropriate authority may declare an emergency vaccination zone in which every keeper inside the zone must ensure the vaccination of their pigs after considering relevant criteria and risk factors, including—
- (a) the rate at which outbreaks are confirmed;
 - (b) the density of pigs in the area;
 - (c) the likelihood of further outbreaks in the area for at least the next two months; and
 - (d) the availability of resources to control disease.
- (3) Premises which are partly inside and partly outside the outer boundary of an emergency vaccination zone must be deemed to be wholly inside that zone.
- (4) As far as reasonably practicable the appropriate authority must notify every keeper within the zone regarding the emergency vaccination requirements.
- (5) A person in possession or charge of a pig that has been vaccinated under this regulation must—
- (a) ensure that the pig is identified in accordance with instructions from a veterinary inspector; and
 - (b) keep a record of the date when the pig was vaccinated.
- (6) A person must not move a pig from premises in an emergency vaccination zone unless a licence is granted by a veterinary inspector to move it direct to a designated slaughterhouse.
- (7) Before sending a vaccinated pig to a slaughterhouse the person responsible for its movement must notify the operator of the slaughterhouse of the expected time of arrival of the pig.
- (8) The operator of a slaughterhouse must ensure that—
- (a) vaccinated pigs are kept and slaughtered separately from unvaccinated pigs; and
 - (b) carcasses of vaccinated pigs are kept separate from carcasses of unvaccinated pigs.
- (9) In the case of a pig outside an emergency vaccination zone—

(a) S.I. 2013/2952.
 (b) S.S.I. 2013/307.
 (c) S.I. 2014/517 (W.60).
 (d) S.I. 2008/465, amended by S.I. 2009/1297.
 (e) S.S.I. 2088/158, amended by S.S.I. 2009/173, 2009/174.
 (f) S.I. 2008/1275 (W.132), amended by S.I. 2009/136 (W.136).

- (a) a veterinary inspector may serve a notice on the keeper to require the vaccination of the pig on those premises in accordance with the conditions of that notice; and
- (b) a person must not move the vaccinated pig from the premises on which it was vaccinated except to a designated slaughterhouse under a licence granted by a veterinary inspector.

PART 8

Inspection, enforcement and miscellaneous provisions

Notices

32.—(1) Any notice served under these Regulations must be in writing and may be amended, suspended or revoked in writing at any time.

(2) A notice may be served on or given to a person by—

- (a) personal delivery;
- (b) leaving it at the person's proper address; or
- (c) sending it by post or by electronic means to the person's proper address.

(3) In the case of a body corporate, a notice may be served on or given to an officer of that body.

(4) In the case of a partnership, a notice may be served on or given to a partner or a person having control or management of the partnership business.

(5) In the case of an unincorporated association, a notice may be served on or given to an officer of the association.

(6) For the purposes of this regulation and section 7 of the Interpretation Act 1978(a) (service of documents by post) to the extent that it applies, "proper address" means—

- (a) in the case of a body corporate or an officer of that body—
 - (i) the registered or principal office of that body, or
 - (ii) the email address of the officer;
- (b) in the case of a partnership or a partner or person having control or management of the partnership business—
 - (i) the principal office of the partnership, or
 - (ii) the email address of the partner or person having that control or management;
- (c) in the case of an unincorporated association or an officer of the association—
 - (i) the office of the association, or
 - (ii) the email address of the officer;
- (d) in any other case, a person's last known address, which includes an email address.

(7) For the purposes of paragraph (6), the principal office of a body corporate registered outside the United Kingdom or of a partnership or Scottish partnership established outside the United Kingdom is its principal office in the United Kingdom.

(8) If the name or address of any occupier of premises on whom a notice is to be served or given under these Regulations cannot, after reasonable inquiry, be ascertained, the notice may be served by leaving it conspicuously affixed to a building or object on the premises.

(9) A notice may require any action that an inspector reasonably believes is necessary for controlling the spread of disease.

(10) A notice may specify that a person in receipt of it must immediately inform an inspector of its safe receipt.

(a) 1978 c. 30.

(11) A person must comply with the terms of any notice served, given or displayed under these Regulations.

(12) In this regulation—

“body corporate” includes a limited liability partnership;

“director”, in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate;

“officer”, in relation to a body corporate, means any director, manager, secretary or other similar officer of the body corporate;

“partnership” includes a Scottish partnership, but does not include a limited liability partnership.

Licences

33.—(1) A licence granted under these Regulations must be in writing and may be—

- (a) general or specific;
- (b) subject to conditions; and
- (c) amended, suspended or revoked in writing at any time.

(2) A person moving any pig or thing under the authority of a specific licence must—

- (a) carry the licence or a copy of it at all times during the movement; and
- (b) on demand by an inspector or other officer of the appropriate authority, produce the licence or a copy and allow a copy or extract to be taken.

(3) A person moving any pig or thing under the authority of a general licence must—

- (a) at all times during the movement, carry a document containing details of—
 - (i) what is being transported, including the quantity;
 - (ii) the date of the movement;
 - (iii) the names of the persons responsible for the pig or thing being moved at the place of departure and the place of destination;
 - (iv) the addresses of the place of departure and the place of destination;
- (b) on demand by an inspector or other officer of the appropriate authority, produce the document and allow a copy or extract to be taken; and
- (c) keep the document for at least six months.

(4) If any pig or thing has been moved to premises under a licence, an inspector may serve a notice on the occupier of the premises of destination imposing such movement restrictions on those premises as the veterinary inspector deems necessary to prevent the risk of spreading disease.

(5) A person who has a licence to do anything under these Regulations must comply with any conditions of that licence.

(6) Where a licence is required or authorised under these Regulations to be granted by a veterinary inspector, it may also be granted by an inspector acting under the direction of a veterinary inspector.

(7) A licence granted under these Regulations in England, Scotland or Wales is valid in any other part of Great Britain so long as the licensed activity is authorised in that other part of Great Britain.

Powers of inspectors

34.—(1) An inspector may, on giving reasonable notice, and on producing a duly authenticated authorisation if required, enter any premises, vehicle, vessel or trailer (except if used wholly or mainly as a private dwelling) at any reasonable hour for the purpose of executing or enforcing these Regulations.

- (2) The requirement to give notice does not apply where—
- (a) the requirement has been waived by the occupier;
 - (b) reasonable efforts to identify the occupier have failed;
 - (c) reasonable efforts to agree an appointment have failed;
 - (d) an inspector has reasonable suspicion of a failure to comply with these Regulations; or
 - (e) the inspector has reasonable suspicion that disease is likely to spread to other premises if an immediate check is not carried out on the pigs at the premises.
- (3) A justice of the peace, or in Scotland a stipendiary magistrate or a sheriff, may by signed warrant permit an inspector to enter any premises, vehicle, vessel or trailer, if necessary by reasonable force, if satisfied on sworn information in writing—
- (a) that there are reasonable grounds to enter those premises for the purpose of executing or enforcing these Regulations; and
 - (b) that any of the conditions in paragraph (4) are met.
- (4) The conditions are—
- (a) entry to premises has been, or is likely to be, refused, and notice of the intention to apply for a warrant has been given to the occupier;
 - (b) asking for admission to premises, or giving such a notice, would defeat the object of the entry;
 - (c) entry is required urgently; or
 - (d) the premises are unoccupied or the occupier is temporarily absent.
- (5) A warrant is valid for three months.
- (6) An inspector entering premises which are unoccupied or from which the occupier is temporarily absent must leave them as effectively secured against unauthorised entry as they were before entry.
- (7) An inspector entering any premises, vehicle, vessel or trailer may—
- (a) inspect any pig or thing there;
 - (b) take samples;
 - (c) seize and destroy any equipment or other thing that may spread disease;
 - (d) detain or isolate any pig, equipment or other thing that may spread disease;
 - (e) mark, tag or micro-chip for identification purposes any pig or thing;
 - (f) carry out any inquiries, examinations and tests;
 - (g) move any pig or vehicle, vessel or trailer carrying a pig or any other thing that may be contaminated with disease to a specified location;
 - (h) undertake surveillance for vectors and implement insect control measures;
 - (i) undertake surveillance for feral pigs;
 - (j) capture and detain a feral pig;
 - (k) in the case of classical swine fever, vaccinate a feral pig;
 - (l) take samples from a feral pig, or authorise another under supervision to take such samples;
 - (m) kill a feral pig (or authorise another person under the inspector's supervision to kill a feral pig) if the Chief Veterinary Officer is satisfied that killing is necessary either for the control of disease or for surveillance purposes, and in particular if—
 - (i) it is not reasonably practicable to take samples from the feral pig without killing it;
 - (ii) it is not reasonably practicable to detain it pending the results of any testing or sampling; or
 - (iii) feral pigs are suspected by the Chief Veterinary Officer of—

- (aa) spreading disease,
 - (bb) being likely to spread disease, or
 - (cc) being at risk of contracting disease;
- (n) have access to, inspect and copy any documents or records (in whatever form they are held) appertaining to these Regulations, and remove them to enable them to be copied;
- (o) inspect and check the operation of any computer and any associated apparatus or material that is or has been in use in connection with any documents or records;
- (p) require by notice served on the occupier—
- (i) any pig to be marked, tagged or micro-chipped for identification purposes;
 - (ii) any pig or thing (including a vehicle or trailer) to be moved from premises to other specified premises;
 - (iii) the undertaking of surveillance for the presence of vectors;
 - (iv) the implementation of such insect control measures as the inspector considers practical and necessary;
 - (v) a pig to be retained for use as a sentinel pig or a sentinel pig to be introduced onto those premises.

(8) Where an inspector has entered any premises, vehicle, vessel or trailer and it is not reasonably practicable to determine whether any documents or records found on those premises appertain to these Regulations, the inspector may seize them to ascertain whether or not they are relevant.

(9) The inspector may—

- (a) take any necessary equipment or vehicle on to the premises;
- (b) be accompanied by—
 - (i) such other persons as the inspector considers necessary; and
 - (ii) any representative of the European Commission.

(10) Any power or obligation to take a sample and test it includes a power to—

- (a) re-test any sample; and
- (b) take further samples from pigs, carcasses or from the environment for testing.

Notices following a contravention of movement controls

35.—(1) If a pig has been moved to any premises in contravention of any provision of these Regulations or any licence or notice served under these Regulations, an inspector may serve a notice on the occupier of those premises requiring—

- (a) that pig, or any other pig on the premises, to be detained on the premises; or
- (b) any pig on the premises to be moved to other premises specified in the notice.

(2) If a pig has been moved to other premises under such a notice, an inspector may serve a notice on the occupier of those other premises imposing such movement restrictions relating to any pig on those premises as the inspector considers necessary to reduce the risk of spreading disease.

Powers of inspectors in case of default

36. If any person fails to comply with a requirement in or under these Regulations, an inspector may take such steps as that inspector considers necessary, including seizure of things, to ensure the requirement is met at the expense of that person.

Compensation for pigs killed and things seized

37.—(1) The appropriate authority must pay compensation in accordance with this regulation for—

- (a) any pig killed pursuant to regulations 7(5), 8(2) or 11;
- (b) any thing likely to spread disease that is seized under these Regulations and not returned other than where such things are seized by an inspector acting under regulation 36.

(2) The amount of any compensation payable under paragraph (1)(a) is—

- (a) one half of the value of the pig immediately before it became affected where the pig was affected with classical swine fever or African swine fever;
- (b) the value of the pig immediately before it became affected where the pig was affected with swine vesicular disease (less any price received by the owner at slaughter);
- (c) where the pig is not affected with disease, the value of the pig immediately before it was killed.

(3) The amount of any compensation payable under paragraph (1)(b) is the value of the thing seized at the time of its seizure;

(4) The value of the pig or thing seized (as the case may be) is—

- (a) the amount determined in writing by the appropriate authority (“the appropriate authority’s valuation”); or
- (b) where the determination of the value has been referred to an appointed valuer under paragraph (5), the amount determined in writing by that valuer.

(5) If, within 14 days after receiving the appropriate authority’s valuation, the owner of the pig killed or the thing seized (as the case may be) gives written notice to the appropriate authority disputing that valuation, with reasons, the appropriate authority must refer the determination of the value to an appointed valuer.

(6) The appointed valuer must be a person—

- (a) appointed jointly by the owner and the appropriate authority for the purpose of conducting a valuation under this regulation; or
- (b) failing agreement on such appointment within 10 days of receipt of the notice given under paragraph (5), appointed by the appropriate authority for that purpose.

(7) The determination of value by the appointed valuer is final and binding on the appropriate authority and the owner.

(8) Fees charged or expenses incurred by an appointed valuer for work done under this regulation must be paid—

- (a) where the valuer’s determination is equal to or less than the appropriate authority’s valuation, by the owner;
- (b) otherwise, by the appropriate authority.

(9) Action under this regulation to determine the value of any pig or other thing must not result in any delay in the killing of a pig for the purposes of controlling disease.

Obstruction

38. A person must not—

- (a) intentionally obstruct or impede anyone acting in the execution or enforcement of these Regulations;
- (b) without reasonable cause, proof of which lies on the person charged, fail to give to any person acting in the execution or enforcement of these Regulations any assistance or information that is reasonably required;
- (c) provide to anyone acting in the execution or enforcement of these Regulations any information knowing it to be false or misleading or not believing it to be true; or

- (d) fail to produce a record when required to do so by any person acting in the execution or enforcement of these Regulations.

Offences and penalties

39.—(1) It is an offence to fail to comply with—

- (a) regulation 3(3)(a) or (b) (obligations on change in occupation);
- (b) regulation 5(1) or (2) (requirement to notify the appropriate authority of suspect pig or carcass);
- (c) regulation 6(3) or (5) (requirements on occupier to comply with initial measures);
- (d) regulation 9(3) (movement of a pig in a temporary control zone);
- (e) regulation 19(5)(a) or (b) (obligations on operator of slaughterhouse);
- (f) regulation 21(3) (placing feral pig meat on the market without a negative test for disease);
- (g) regulation 22(2) (failure to comply with any measure specified following vaccination of feral pigs);
- (h) regulation 24(2) (movement restriction in a declared zone);
- (i) regulation 28(1) or (2) (prohibition on vaccination);
- (j) regulation 29(10), (12) or (13) (requirements arising from emergency vaccination);
- (k) regulation 30(2) or (3) (requirements relating to pigs vaccinated against classical swine fever);
- (l) regulation 31(5), (6), (8) or (9)(b) (requirements relating to pigs vaccinated against swine vesicular disease);
- (m) regulation 32 (11) (requirement to comply with notice);
- (n) regulation 33(5) (requirement to comply with conditions of a licence);
- (o) regulation 38 (obstruction);
- (p) Schedule 1 (measures on suspect, contact and infected premises);
- (q) Schedule 2 (measures in a feral pig investigation or control zone);
- (r) paragraph 1, 5, 6, 7, 8 or 9 of Part 1 of Schedule 3 (measures in a protection zone);
- (s) paragraph 10, 15, 16, 17, 18 or 19 of Part 2 of Schedule 3 (measures in a surveillance zone);
- (t) Schedule 4 (cleansing and disinfection of vehicles).

(2) A person guilty of an offence is liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding three months or both;
- (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding six months or both.

Offences by bodies corporate, partnerships and unincorporated associations

40.—(1) Where a body corporate is guilty of an offence under these Regulations, and that offence is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of—

- (a) a director, manager, secretary or other similar officer of the body corporate, or
- (b) a person who was purporting to act in any such capacity,

that person, as well as the body corporate, is guilty of the offence.

(2) In paragraph (1) “director”, in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate.

(3) Where a partnership or Scottish partnership is guilty of an offence under these Regulations, and that offence is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of a partner, the partner, as well as the partnership or Scottish partnership, is guilty of the offence.

(4) In paragraph (3) “partner” includes a person purporting to act as a partner.

(5) Where an unincorporated association is guilty of an offence under these Regulations and that offence is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of an officer of the association, that officer, as well as the association, is guilty of the offence.

(6) In paragraph (5) “officer” in relation to an unincorporated association, means—

- (a) an officer of the association or a member of its governing body, or
- (b) a person purporting to act in such a capacity.

Enforcement

41.—(1) These Regulations are enforced by the relevant local authority.

(2) The appropriate authority may direct, in relation to cases of a particular description or in relation to particular cases, that the appropriate authority will enforce these Regulations instead.

(3) Where the Secretary of State makes a direction under paragraph (2), the Secretary of State may delegate to the Director of Public Prosecutions functions in relation to the prosecution of an offence under these Regulations in England.

(4) A constable may stop and search any vehicle that the constable reasonably believes to be carrying pigs and may check documents carried in the vehicle to ensure that pigs are not transported in contravention of these Regulations.

(5) Any vehicle suspected by the constable of carrying pigs in contravention of these Regulations may—

- (a) be detained by the constable until an inspector arrives; or
- (b) be ordered by the constable to be taken back to any place it came from.

Exceptional circumstances

42. A veterinary inspector may for the purpose of ensuring the health or welfare of any pig in exceptional circumstances—

- (a) license a person to carry out any action that is otherwise prohibited under these Regulations; or
- (b) exempt a person, by notice, from any requirement under these Regulations.

Miscellaneous revocations, disapplication and consequential amendments

43.—(1) The instruments listed in Schedule 5 are revoked.

(2) Section 31(d) of, and paragraph 4 of Schedule 3 to, the Animal Health Act 1981(a) do not apply to the extent that they refer to hog cholera (otherwise known as classical swine fever).

(3) The Artificial Insemination of Pigs (England and Wales) Regulations 1964(b) are amended as follows—

- (a) for regulation 7(2)(b) substitute—

(a) c.22. Functions conferred under that Act on “the Ministers” (as defined in section 86) are now exercisable in relation to England by the Secretary of State. Functions of “the Ministers” were transferred, so far as exercisable by the Secretaries of State for Scotland and Wales, to the Minister of Agriculture, Fisheries and Food by the Transfer of Functions (Agriculture and Food) Order 1999 (S.I. 1999/3141). Functions of the Minister of Agriculture, Fisheries and Food were then transferred to the Secretary of State by the Ministry of Agriculture, Fisheries and Food (Dissolution) Order 2002 (S.I. 2002/794).

(b) S.I. 1964/1172, amended by S.I. 1992/3161; there are other amending instruments but none is relevant.

- “(b) infected premises under the Diseases of Swine Regulations 2014;”, and
- (b) in regulation 7(2)(c), for “or swine fever” substitute “or under the Diseases of Swine Regulations 2014”.
- (4) The Artificial Insemination of Pigs (Scotland) Regulations 1964(a) are amended as follows—
- (a) for regulation 8(2)(b) substitute—
- “(b) infected premises under the Diseases of Swine Regulations 2014;”, and
- (b) in regulation 8(2)(c), for “or swine fever” substitute “or under the Diseases of Swine Regulations 2014”.
- (5) The Products of Animal Origin (Disease Control) (England) Regulations 2008(b) are amended as follows—
- (a) for regulation 3(8) (definition of restricted meat) substitute—
- “(8) Subject to paragraph (9), “restricted meat” is meat, including meat that has come into contact with meat—
- (a) produced on or after the date that a protection zone or a surveillance zone is declared, or an earlier date where the Secretary of State specifies such a date for the purpose of disease control;
- (b) from a restricted animal or restricted poultry that has come from an infected area, a protection zone or a surveillance zone; and
- (c) from pigs that have been vaccinated to protect them from classical swine fever for 6 months (or any other specified period).”;
- (b) in Schedule 1 (disease legislation) omit references to the Classical Swine Fever (England) Order 2003, the African Swine Fever (England) Order 2003 and the Swine Vesicular Disease Order 1972, and at paragraph 1 insert “The Diseases of Swine Regulations 2014”.
- (6) The Products of Animal Origin (Disease Control) (Wales) Regulations 2008(c) are amended as follows—
- (a) in the English text, for regulation 3(8) (restricted animal, restricted poultry and restricted meat: definitions) substitute—
- “(8) Subject to paragraph (9), “restricted meat” (“cig dan gyfyngiadau”) is meat, including meat that has come into contact with meat—
- (a) produced on or after the date that a protection zone or a surveillance zone is declared, or an earlier date where the Welsh Ministers specify such a date for the purpose of disease control;
- (b) from a restricted animal or restricted poultry that has come from an infected area, a protection zone or a surveillance zone; and
- (c) from pigs that have been vaccinated to protect them from classical swine fever for 6 months (or any other specified period).”;
- (b) in the English text of Schedule 1 (disease legislation) omit references to the Classical Swine Fever (Wales) Order 2003, the African Swine Fever (Wales) Order 2003 and the Swine Vesicular Disease Order 1972, and at paragraph 1 insert “The Diseases of Swine Regulations 2014”;
- (c) in the Welsh text, for regulation 3(8) (Anifail, dofednod a chig dan gyfyngiadau:diffiniadau) substitute—
- “(8) Yn ddarostyngedig I baragraff (9), “cig dan gyfyngiadau” (“restricted meat”) yw cig, sy’n cynnwys cig a ddaeth i gyffyrddiad â chig—

(a) S.I. 1964/1171, amended by S.I. 1992/3161; there are other amending instruments but none is relevant.

(b) S.I. 2008/465, amended by S.I. 2009/1297.

(c) S.I. 2008/1275 (W. 132), amended by S.I. 2009/1373 (W. 136), 2009/1910 (W. 173).

- (a) a gynhyrchwyd ar neu ar ôl y dyddiad y datganwyd parth gwarchod neu barth goruchwyllo, neu ddyddiad cynharach os bydd Gweinidogion Cymru yn pennu'r dyddiad hwnnw at ddibenion rheoli clefydau;
- (b) sy'n dod o anifail dan gyfyngiadau neu ddofednod dan gyfyngiadau sy'n dod o ardal heintiedig, parth gwarchod neu barth goruchwyllo; ac
- (c) sy'n dod o foch sydd wedi eu brechu er mwyn eu hamddiffyn rhag clwy clasurol y moch am 6 mis (neu unrhyw gyfnod arall a bennwyd).”;
- (d) in the Welsh text of Schedule 1 (deddfwriaeth clefydau) omit references to Gorchymyn Clwy Clasuroly y Moch (Cymru) 2003, Gorchymyn Clwy Affricanaidd y Moch (Cymru) 2003 and Gorchymyn Clefyd Pothello g y Moch 1972, and in paragraph 1 insert “Rheoliadau Clefydau'r Moch 2014”.

(7) The Products of Animal Origin (Disease Control) (Scotland) Order 2008(a) is amended as follows—

- (a) for article 4(9) (definition of restricted meat) substitute—
 - “(9) Subject to paragraph (10), “restricted meat” is meat, including meat that has come into contact with meat—
 - (a) produced on or after the date that the protection zone or surveillance zone was declared, or an earlier date where the Scottish Ministers specify such a date for the purpose of disease control;
 - (b) from a restricted animal or restricted poultry that has come from an infected area, a protection zone or a surveillance zone; and
 - (c) from pigs that have been vaccinated to protect them from classical swine fever for 6 months (or any other specified period).”;
- (b) in Schedule 1 (disease legislation) omit references to the African Swine Fever (Scotland) Order 2003, the Classical Swine Fever (Scotland) Order 2003 and the Swine Vesicular Disease (Scotland) Order 2009, and at paragraph 1 insert “The Diseases of Swine Regulations 2014”.

Review of the Regulations in England

44.—(1) Before the end of each review period, the Secretary of State must—

- (a) carry out a review of these Regulations in England;
- (b) set out the conclusions of the review in a report; and
- (c) publish the report.

(2) In carrying out the review in England the Secretary of State must, so far as is reasonable, have regard to how—

- (a) Council Directive 92/119/EEC,
- (b) Council Directive 2001/89/EC, and
- (c) Council Directive 2002/60/EC,

are implemented in other member States.

(3) The report must in particular—

- (a) set out the objectives intended to be achieved by the regulatory system established by these Regulations;
- (b) assess the extent to which those objectives are achieved; and
- (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.

(a) S.S.I. 2008/158 as amended by S.S.I. 2009/173, 2009/174.

(4) The first review period is the period of five years beginning with the date on which these Regulations come into force.

(5) Each subsequent review period is a period of five years beginning with the date on which the report of the preceding review was published.

16th July 2014

George Eustice
Parliamentary Under Secretary of State
Department for Environment, Food and Rural Affairs

15th July 2014

Rebecca Evans
Deputy Minister for Agriculture and Fisheries
Under authority of the Minister for Economy, Science and Transport, one of the Welsh Ministers

SCHEDULE 1

Regulation 7(2)

Measures on suspect, contact and infected premises

Records

1.—(1) The occupier must keep a record of the number of pigs of each category of pig production on the premises.

(2) The occupier must take all reasonable steps to update the record to show the number of pigs that—

- (a) are alive;
- (b) have died since restrictions under these Regulations were imposed in relation to the premises;
- (c) show clinical signs of illness; and
- (d) have been born since restrictions under these Regulations were imposed in relation to the premises.

(3) The occupier must keep the record for at least six months after—

- (a) the revocation of the notice served under regulation 7(2), 8(1) or 10(2), or
- (b) the premises cease to be within any zone declared under Part 6 (so far as the declaration applies to the premises),

whichever is the later.

Confinement or isolation of pigs

2. The occupier must ensure that pigs are confined or isolated as directed by a veterinary inspector.

Restriction on movement of pigs

3. A person must not move any pig or carcase on or off the premises except under the authority of a licence granted by a veterinary inspector.

Restriction on removal of any equipment, animal or thing liable to transmit disease

4. A person must not remove from the premises any equipment, animal or any other thing (including genetic material) that may spread disease except under the authority of a licence granted by a veterinary inspector.

Restrictions on spreading pig manure and slurry

5. A person must not spread pig manure or slurry except under the authority of a licence granted by a veterinary inspector.

Cleansing, disinfection and other biosecurity measures

6. The occupier must—

- (a) provide and maintain means of cleansing and disinfection at the entrances to, and exits from, the premises and all buildings on those premises housing pigs; and
- (b) comply with any directions from an inspector concerning such means of cleansing and disinfection and the imposition of other biosecurity measures (including rodent and vector control).

Restriction on movement of vehicles and persons

7.—(1) A person must not—

- (a) enter or leave the premises, or
- (b) move any vehicle to or from the premises,

except under the authority of a licence granted by a veterinary inspector.

(2) All persons entering or leaving the premises must observe appropriate biosecurity measures that may include cleansing and disinfecting footwear, outer clothing, exposed skin and any possessions they have on them.

(3) Sub-paragraph (1) does not apply to any movement necessary for the provision of emergency services.

SCHEDULE 2

Regulation 20(3)

Measures in a feral pig investigation or control zone

Requirement to report a carcase of a feral pig found on premises

1. An occupier must—
 - (a) report to the appropriate authority as soon as possible the location of any carcase of a feral pig (including where it has been shot by hunters) found on the premises; and
 - (b) not move such carcase other than under a licence granted by a veterinary inspector.

Requirements on occupier of premises containing domestic pigs

2. Following confirmation of classical swine fever or African swine fever in a feral pig occupiers of premises containing domestic pigs must ensure that—

- (a) all pigs on premises are kept in a place on the premises where they are isolated from feral pigs;
- (b) no person moves a pig on or off premises except under a licence granted by a veterinary inspector;
- (c) appropriate means of cleansing and disinfection are undertaken;
- (d) all persons entering or leaving the premises must observe appropriate biosecurity measures that include cleansing and disinfecting footwear, outer clothing, exposed skin and any possessions they have on them; and
- (e) vector control is carried out in accordance with any instructions from a veterinary inspector.

3. Following confirmation of swine vesicular disease in a feral pig, the occupier may be required by a veterinary inspector to comply with one or more of the requirements specified in paragraph 2.

Movement of genetic material

4. Following confirmation of classical swine fever or African swine fever in a feral pig, a person must not move pig semen, ova or embryos off the premises unless licensed to do so by a veterinary inspector.

Killing of feral pigs

5. A person must not kill a feral pig unless licensed to do so by a veterinary inspector.

Feeding of feral pigs

6. A person must not feed any feral pig other than in accordance with a licence granted by a veterinary inspector.

SCHEDULE 3

Regulation 23(7) and (8)

PART 1

Measures in a protection zone

Movement of pigs in a protection zone

1. A person must not move a pig in a protection zone unless—
 - (a) a licence is granted by a veterinary inspector to allow the pig to move from premises outside the protection zone direct to a slaughterhouse situated in the zone for immediate slaughter in accordance with paragraph 2;
 - (b) a licence is granted by a veterinary inspector to allow the movement of the pig between two premises within the zone, divided by a public road provided that the two premises would be contiguous except for the public road;
 - (c) the movement is allowed under paragraph 3; or
 - (d) the pig is transported and remains in a vehicle which must not enter any livestock premises within the zone.

2. A veterinary inspector may license the movement of a pig from outside the protection zone to a designated slaughterhouse inside the zone for immediate slaughter provided that—
 - (a) the appropriate authority obtains prior approval from the European Commission for such movements; and
 - (b) the vehicle transporting the pig is thoroughly cleansed and disinfected at the slaughterhouse after the pig has been unloaded.

Movement of pigs off premises in a protection zone

3. A licence may be granted by a veterinary inspector after the expiry of the relevant period specified in the table to this paragraph to allow movement of a pig off premises in a protection zone if directly transported to—
 - (a) a designated slaughterhouse;
 - (b) a plant where the pig is immediately killed and the carcase is processed in accordance with the Animal By-Products (Enforcement) (England) Regulations 2013(a), the Animal By-Products (Enforcement) (Scotland) Regulations 2013(b) or the Animal By-Products (Enforcement) (Wales) Regulations 2014(c); or
 - (c) other premises located in the protection zone, under exceptional circumstances following the appropriate authority obtaining approval by the European Commission for such movement.

<i>Period that must elapse before movement of a pig off premises in a protection zone may be licensed</i>			
<i>Period</i>	<i>African Swine Fever</i>	<i>Classical Swine Fever</i>	<i>Swine Vesicular Disease</i>
At least <i>x</i> days have elapsed since completion of preliminary cleansing and	<i>x</i> = 40	<i>x</i> = 30	<i>x</i> = 21

(a) S.I. 2013/2952.
 (b) S.S.I. 2013/307.
 (c) S.I. 2014/517 (W.60).

disinfection of infected premises			
At least y days have elapsed since the zone has been in place and there are multiple infected premises	y = 40	y = 30	y = 30

Note: In accordance with the Diagnostic Manual, if the appropriate authority has applied an intensive sampling and testing programme making it possible to negate the presence of African swine fever on the premises, the 'x' and 'y' periods for that disease are reduced to 30 days.

4. A licence may only be granted under paragraph 3 where—
- (a) a veterinary inspector has inspected the pigs on the premises and has individually examined each pig that is to be moved and found no clinical signs suggestive of disease;
 - (b) a sufficient number of samples are taken in accordance with the Diagnostic Manual from pigs which are to be slaughtered or killed, in order that the presence of disease in the batch of pigs can be determined; and
 - (c) the pigs to be moved are transported in a vehicle sealed by an inspector.

Movement of other animals and persons from premises on which pigs are kept

5. A person must not move any other animal that may carry disease on or off premises in the protection zone on which pigs are kept unless licensed by a veterinary inspector, and all persons entering or leaving such premises must observe appropriate biosecurity measures to reduce the risk of spread of disease.

Restriction on removal of any thing liable to transmit disease

6. A person must not move any thing liable to transmit disease, including a carcass, pig genetic material or animal feed, off premises on which pigs are kept within the protection zone except under the authority of a licence granted by a veterinary inspector.

Restrictions on the transporting and spreading of pig manure or slurry

7. A person must not transport manure or slurry, which contains waste material of swine origin, off premises in the protection zone other than under a licence granted by a veterinary inspector.

8. A person must not spread manure or slurry, which contains waste material of swine origin other than under a licence granted by a veterinary inspector.

Reporting of dead or diseased pigs

9. The keeper must report all dead or diseased pigs to the appropriate authority.

PART 2

Measures in a surveillance zone

Movement of pigs in a surveillance zone

10. A person must not move a pig through a surveillance zone unless—
- (a) the pig is transported and remains in a vehicle which must not enter any livestock premises within the zone;

- (b) a licence is granted by a veterinary inspector to allow the pig to move from premises outside the surveillance zone direct to a slaughterhouse within the zone for immediate slaughter in accordance with paragraph 11;
- (c) a licence is granted by a veterinary inspector to allow the movement of the pig between premises, divided by a public road provided that the premises would be contiguous except for the public road; or
- (d) the movement is licensed under paragraph 12 in the case of swine vesicular disease, or under paragraph 13 in the case of African swine fever and classical swine fever.

11. A veterinary inspector may license the movement of a pig from outside the surveillance zone to a designated slaughterhouse within the zone for immediate slaughter provided that the vehicle transporting the pig is thoroughly cleansed and disinfected at the slaughterhouse after the pig has been unloaded.

Movement of pigs off premises in a surveillance zone for swine vesicular disease

12. A licence may be granted by a veterinary inspector to allow the movement of pigs off premises in a surveillance zone to other premises within the zone declared for the control of swine vesicular disease, provided that no pig has moved on to the premises of origin in the previous 21 days, and where—

- (a) a veterinary inspector has inspected the pigs on the premises of origin and has individually examined each pig that is to be moved and found no clinical signs suggestive of swine vesicular disease;
- (b) a serological examination—
 - (i) of a statistical sample of the pigs to be moved has been carried out at the keeper’s expense without the detection of antibodies to the swine vesicular disease virus within the 14 days preceding the movement; or
 - (ii) in the case of pigs going for slaughter, may be carried out on the basis of blood samples taken at the designated slaughterhouse; and
- (c) the pigs to be moved are transported in a vehicle sealed by an inspector.

Movement of pigs off premises in a surveillance zone for African swine fever and classical swine fever

13. A licence may be granted by a veterinary inspector to allow movement of a pig after the expiry of the relevant period specified in the table to this paragraph if the pig is transported directly—

- (a) to a designated slaughterhouse;
- (b) to a plant where the pig is immediately killed and the carcass is processed in accordance with the Animal By-Products (Enforcement) (England) Regulations 2013, the Animal By-Products (Enforcement) (Scotland) Regulations 2013 or the Animal By-Products (Enforcement) (Wales) Regulations 2014; or
- (c) in exceptional circumstances, to other premises located in the zone.

<i>Period that must elapse before movement of a pig off premises in a surveillance zone may be licensed</i>		
<i>Period</i>	<i>African Swine Fever</i>	<i>Classical Swine Fever</i>
At least <i>x</i> days have elapsed since completion of preliminary cleansing and disinfection of infected premises	$x = 30$	$x = 21$
At least <i>y</i> days have elapsed since the zone has been in	$y = 40$	$y = 30$

place and there are multiple infected premises		
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Note: In accordance with the Diagnostic Manual, if the appropriate authority has applied an intensive sampling and testing programme making it possible to negate the presence of African swine fever on the premises, the “x” and “y” periods for that disease are reduced to 21 days and 30 days respectively.

14. A licence may only be granted under paragraph 13 where—

- (a) a veterinary inspector has inspected the pigs on the premises of origin and individually examined each pig to be moved and found no clinical signs suggestive of African swine fever or classical swine fever;
- (b) a sufficient number of samples are taken in accordance with the Diagnostic Manual from pigs which are to be slaughtered or killed, in order that the presence of disease in the batch of pigs can be determined; and
- (c) the pigs to be moved are transported in a vehicle sealed by an inspector.

Movement of other animals and persons from premises on which pigs are kept

15. A person must not move any other animal which might carry disease on to or off premises in the surveillance zone on which pigs are kept unless—

- (a) under a licence granted by a veterinary inspector; and
- (b) all persons entering or leaving such premises where pigs are kept observe appropriate biosecurity measures to reduce the risk of spread of disease.

Restriction on removal of any thing liable to transmit disease

16. A person must not move any thing liable to transmit disease, including a carcass, pig genetic material or animal feed, off premises on which pigs are kept within the surveillance zone except under the authority of a licence granted by a veterinary inspector.

Restrictions on the transporting and spreading of pig manure or slurry

17. A person must not transport manure or slurry, which contains waste material of swine origin, off premises in the surveillance zone other than under a licence granted by a veterinary inspector.

18. A person must not spread manure or slurry, which contains waste material of swine origin, other than under a licence granted by a veterinary inspector.

Reporting of dead or diseased pigs

19. The keeper must report all dead or diseased pigs to the appropriate authority.

SCHEDULE 4

Regulation 23(9)

Cleansing and disinfection of vehicles

Cleansing and disinfection of vehicles in a protection zone

1.—(1) The person in charge of—

- (a) any vehicle used to transport pigs within a protection zone,
- (b) any vehicle used to transport other livestock or material which may be contaminated with disease, or
- (c) any other vehicle which may be contaminated with disease,

may not leave the premises of destination without having thoroughly cleansed and disinfected the vehicle and any equipment in it so as to minimise the risk of spread of disease.

(2) In all cases, the person in charge of the vehicle must at least—

- (a) cleanse and disinfect its wheels, wheel arches, mud flaps and any other part of the vehicle that may contain contaminated material; and
- (b) ensure that the vehicle and any associated equipment is not visibly contaminated with mud, faeces or other material.

(3) A person must not allow a vehicle that has been used to transport pigs in the protection zone to leave the zone following cleansing and disinfection without being inspected and licensed to leave by an inspector.

Cleansing and disinfection of vehicles in a surveillance zone

2.—(1) A person in charge of a vehicle used to transport a pig within a surveillance zone, or other livestock or material which may be contaminated with disease, or any other vehicle which may be contaminated with disease, must not leave the premises of destination without having cleansed and disinfected the vehicle and any equipment in it so as to minimise the risk of spread of disease.

(2) In all cases, the person in charge of the vehicle must at least—

- (a) cleanse and disinfect its wheels, wheel arches and mud flaps; and
- (b) ensure that the vehicle and any equipment therein is not visibly contaminated with mud, faeces or other material.

Cleansing of vehicles which have moved a pig to premises outside of a protection or surveillance zone

3. Where a person transports a pig to premises outside of a protection or surveillance zone, that person must arrange for cleansing and disinfection to take place at that place of destination after delivery of the pig.

SCHEDULE 5

Regulation 43(1)

Revocations

<i>Instruments revoked</i>	<i>References</i>
The African Swine Fever Compensation Order 1980	S.I. 1980/146
The Classical Swine Fever (England) Order 2003	S.I. 2003/2329
The Classical Swine Fever (Wales) Order 2003	S.I. 2003/2456 (W.239)
The Classical Swine Fever (Scotland) Order 2003	S.S.I. 2003/426
The African Swine Fever (England) Order 2003	S.I. 2003/2913
The African Swine Fever (Wales) Order 2003	S.I. 2003/ 3273 (W.323)
The African Swine Fever (Scotland) Order 2003	S.S.I. 2003/586
The Swine Vesicular Disease Regulations 2009	S.I. 2009/1299
The Swine Vesicular Disease (Wales) Regulations 2009	S.I. 2009/1372 (W.135)
The Swine Vesicular Disease (Amendment)(Wales) Regulations 2009	S.I. 2009/1580 (W.156)
The Swine Vesicular Disease (Scotland) Order 2009	S.S.I. 2009/173

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement the provisions for the control of—

- (a) swine vesicular disease contained in Council Directive 92/119/EEC introducing general Community measures for the control of certain animal diseases and specific measures relating to swine vesicular disease (OJ No L 62, 15.3.1993, p 69);
- (b) classical swine fever contained in Council Directive 2001/89/EC on Community measures for the control of classical swine fever (OJ No L 316, 1.12.2001, p 5);
- (c) African swine fever contained in Council Directive 2002/60/EC laying down specific control of African swine fever and amending Directive 92/119/EEC as regards Teschen disease and African swine fever (OJ No L 192, 20.7.2002, p 27).

Part 1 is introductory and includes definitions.

Part 2 deals with requirements for disease notification and the investigation of suspicion of disease.

Part 3 deals with measures to be taken on infected premises where disease is confirmed.

Part 4 deals with measures to be taken on suspicion and confirmation of disease at a slaughterhouse.

Part 5 deals with measures to be taken on suspicion and confirmation of disease in feral pigs.

Part 6 makes provision for the establishment of protection zones, surveillance zones and infection zones following the confirmation of disease on any premises.

Part 7 prohibits vaccination against disease except in certain circumstances. For classical swine fever provision is made for declaring an emergency vaccination zone.

Part 8 contains provisions relating to inspection and enforcement.

These Regulations are enforced by the local authority (as defined in regulation 2(1)) or, if so directed, by the appropriate authority (as defined in regulation 2(2)).

Breach of any of the provisions listed in regulation 39 is an offence punishable on summary conviction or on conviction on indictment. On summary conviction, the offence is punishable with a fine not exceeding the statutory maximum or imprisonment for a term not exceeding three months, or both. On conviction on indictment, the offence is punishable with a fine or imprisonment for a term not exceeding six months, or both.

Regulation 43 deals with revocations, consequential amendments and a disapplication of provisions contained in the Animal Health Act 1981 (c. 22) in so far as they applied to classical swine fever.

Regulation 44 requires the Secretary of State to review the operation and effect of these Regulations in England only and publish a report within five years after they come into force and within five years after that and each subsequent publication.

An impact assessment has not been produced for this instrument as no negative impact on the costs of the private or voluntary sectors is foreseen. An Explanatory Memorandum is published alongside the instrument on www.legislation.gov.uk.

Explanatory Memorandum to the Diseases of Swine Regulations 2014.

This Explanatory Memorandum has been prepared by the Office of the Chief Veterinary Officer and 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 Diseases of Swine Regulations 2014.

Rebecca Evans

Deputy Minister for Agriculture and Fisheries

15 July 2014

1. Description

This Statutory Instrument sets out the control procedures to be used in an outbreak of Classical Swine Fever (CSF), African Swine Fever (ASF) or Swine Vesicular Disease (SVD).

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

The Order will be made by the Welsh Ministers and the Secretary of State for Environment, Food and Rural Affairs acting separately, but within a single composite legal instrument. The Secretary of State will act in relation to England and Scotland.

The Welsh Ministers may exercise powers under section 2(2) of the European Communities Act 1972. Section 59(2) of the Government of Wales Act 2006 empowers the Welsh Ministers to exercise the section 2(2) powers if they have been appropriately designated for the purposes of section 2(2). The Welsh Ministers have been designated in relation to the common agricultural policy. The relevant Designation Order is SI 2010/2690.

A composite instrument is likely to minimise the differences of approach between administrations. Furthermore, the order will be implemented across Great Britain by the Animal Health and Veterinary Laboratories Agency and a single instrument with wholly common provisions is far more advantageous to the Agency. Defra and the Welsh Government consider the consistent policy and implementation dates and enforcement coordination achieved by a composite statutory instrument are desirable for all three administrations and for those affected by the Order who may otherwise have to consult several pieces of legislation.

As this instrument is also subject to a Parliamentary procedure it is not considered reasonable or practicable for them to be made bilingually.

It is therefore considered appropriate that the Regulations be made by the Assembly's negative resolution procedure.

3. Legislative background

These Regulations are made under section 2(2) of the European Communities Act 1972 and provide for the implementation of the CSF Council Directive 2001/89/EC, the ASF Directive 2002/60/EC, and the SVD Directive 92/119/EC. The Regulations only apply when ASF, CSF or SVD are suspected or confirmed in the GB.

Previously, the SVD Directive has been transposed utilising the enabling powers available in the 1972 Act, but CSF and ASF Directives have been transposed by two separate Orders made under the Animal Health Act 1981.

These Regulations replace eleven SIs (as set out below) and certain powers from the Animal Health Act 1981 are disapplied.

4. Purpose & intended effect of the legislation

Pig notifiable disease outbreaks can cause significant impacts and costs to both industry and the taxpayer. If an outbreak occurs, government intervention is important in order to eradicate disease and regain disease freedom as quickly as possible.

These Regulations consolidate legislation for the control of disease during an outbreak of ASF, CSF or SVD in GB by replacing 11 Statutory Instruments:

- The African Swine Fever Compensation Order 1980
- The African Swine Fever (Wales) Order 2003
- The African Swine Fever (England) Order 2003
- The African Swine Fever (Scotland) Order 2003
- The Classical Swine Fever (Wales) Order 2003
- The Classical Swine Fever (England) Order 2003
- The Classical Swine Fever (Scotland) Order 2003
- The Swine Vesicular Disease (Wales) Regulations 2009
- The Swine Vesicular Disease (Amendment)(Wales) Regulations 2009
- The Swine Vesicular Disease Regulations 2009
- The Swine Vesicular Disease (Scotland) Order 2009)

The Regulations implement EU law (namely Directive 2001/89/EC for CSF; Directive 2002/60/EC for ASF and Directive 92/119/EC for SVD), which requires EU Member States to take strict control measures to eradicate disease quickly and effectively if an outbreak occurs in its territory. Having a single GB-wide instrument should lead to improved compliance and more effective enforcement of controls during an outbreak.

The Regulations are clear and transparent about the measures to be taken during an outbreak of one of these diseases in GB, which in turn should reduce the impact of any outbreak by aiding compliance and enforcement of controls. The Welsh Government needs the appropriate legal powers to deliver a fast and effective response to any outbreak of CSF, ASF or SVD. The overall aim is to reduce the total costs and burdens of the disease outbreak to businesses and taxpayers.

As with the previous legislation, the Regulations would only apply when ASF, CSF or SVD are suspected or confirmed in GB. The likelihood of a disease outbreak in GB is assessed as being very low for CSF and ASF and negligible

for SVD. The last outbreak of CSF occurred in the UK in 2000; the last case of SVD occurred in the UK in 1982; ASF has never occurred in the UK.

A table identifying the key changes to the current legislation addressed in the Diseases of Swine Regulations can be found at Doc 1.

5. Consultation

A four week public consultation was carried out on these Regulations from the 28 April. It was a joint consultation paper agreed by the Welsh Government, Scottish Government and Defra. Defra co-ordinated the process and the relevant consultation documents were published on GOV.UK (https://www.gov.uk/government/publications?departments%5B%5D=department-for-environment-food-rural-affairs&publication_filter_option=consultations). Formal invitations to reply were sent to all major industry stakeholder organisations.

Prior to the formal consultation, a number of stakeholders had been informally consulted during the drafting of the SI. Also during 2013, a Tier 2 UK-wide CSF emergency exercise, Exercise Walnut, was undertaken to assess readiness to respond to an outbreak of CSF. The exercise employed an advanced draft of the Regulations and lessons identified were taken account of in the version of the Regulations consulted on.

There were 8 responses in total. A summary of these responses is scheduled to be published on 14 July 2014 on the GOV.UK website.

The consultation responses clearly supported the idea of consolidating the existing regulations for CSF, ASF and SVD (87.5% agree & 12.5% strongly agree).

The consultation also asked for the industry whether SVD should be included in the Regulations as a recent decision from the World Organisation for Animal Health may mean that the existing controls for this disease may no longer be required in the future. Alternatively, it was proposed that all parties continue to rely on the separate SVD orders made in Wales, England and Scotland in 2009. Half of the consultation responses supported the inclusion of SVD in the Diseases of Swine Regulations. 50% of the responses were clear in their support for retaining SVD requirements in the regulations, 12.5% were undecided and three parties (37.5%) were in favour of its removal.

There was unanimous agreement that the Regulations should include a limited derogation from culling certain category of pigs. This derogation was not included in the current CSF and ASF regulations as they were made in 2003, before the derogation was enshrined in EU law. This derogation is in the current SVD regulations. The derogation will allow, in strictly controlled circumstances, for some pigs to be exempted from slaughter if they are for scientific research, educational purposes or of high value for conservation or genetic purposes. This would be subject to strict biosecurity requirements and dependent on approval by a Veterinary Inspector.

In addition to the above, some technical redrafting has been undertaken to address improvements identified by consultation responses.

6. Regulatory Impact Assessment (RIA)

An RIA has not been prepared as the Diseases of Swine Regulations consolidate existing regulations and transpose European Commission Directives.

The Disease of Swine Regulations will have no negative impact on business, charities or voluntary bodies compared to existing domestic legislation that is being revoked by this instrument.

The legislation does not apply when there are no suspected or confirmed cases of the pig notifiable diseases ASF, CSF or SVD in GB.

In the event of an outbreak, there are no new costs to businesses under this legislation as the GB control policy remains unchanged. The likelihood of a disease outbreak is currently assessed as being very low for CSF and ASF, and negligible for SVD by AHVLA International Disease Monitoring team.

This instrument will have no negative impact on the public sector compared to existing domestic legislation that is being revoked by this instrument.

The Regulations do not have any effect relevant to the statutory duties at sections 77-79 of the Government of Wales Act 2006, or to the statutory partners (sections 72-75).

Comparison of the proposed Diseases of Swine SI with existing domestic legislation

	Disease control measure/s	The proposed Diseases of Swine SI
1	Killing of pigs on an Infected Premises	<ul style="list-style-type: none"> ▪ The potential derogation from culling for special categories of pigs (including breeds at risk, research animals and zoo animals) available under the EU law for ASF and CSF is included. This derogation was omitted from the ASF and CSF 2003 Orders. This will make it possible to spare rare and genetically valuable pigs (which may also have a high monetary value) from culling in exceptional circumstances where disease control would not be jeopardised and consideration of wider issues and impacts allow this. ▪ EU law requires all pigs to be killed on a premises infected with ASF. The Joint Committee on Statutory Instruments reported that the ASF (England) Order 2003 failed to clearly implement the EU requirement to kill all pigs on infected premises. The Welsh ASF Order mirrored the English one. The proposed SI clearly transposes the EU requirement and therefore reduces the risk of legal challenge.
2	Declaration of control zones	EU law requires Member States to put in place control zones (a protection and surveillance zone) around a premises where disease has been confirmed. The process for declaring control zones has been simplified and improved by removing the existing requirement to use declaratory orders to establish control zones for ASF and CSF. Declaratory orders involve a statutory process, which may take more time.
3	Declaration of a Temporary Control Zone (TCZ) around a suspect premises for SVD	If there is a clinical suspect case of SVD, Foot-and-Mouth Disease (FMD) would also be suspected (as the clinical signs for SVD and FMD in pigs are identical) and therefore a FMD TCZ would be put in place, with movement controls on all FMD-susceptible animals, including cattle, sheep, pigs and goats. However, in a scenario that SVD alone is suspected (i.e. from a non-negative pre-export test), the proposed SI includes optional powers for a SVD-specific TCZ, which requires movements controls on pigs only and optional controls on the movement of other animals that may spread disease.

4	Measures when disease has been confirmed in domestic pigs	<p>Whilst the GB disease control strategy remains the same, there is greater transparency about the likely control measures to be applied during a disease outbreak in the proposed regulations.</p> <p>For example, the responsibilities of the occupier of the premises and the delivery partner (AHVLA) for cleansing and disinfection of infected premises are more clearly set out. Also the proposed legislation is transparent about what control measures apply in the protection and surveillance zones for all the diseases.</p>
5	Measures when suspicion and confirmation of disease in feral pigs	<p>The proposed legislation more clearly sets out the full set of powers and control measures required to effectively control disease in feral pigs when there is suspicion or confirmation of disease and to demonstrate disease freedom as quickly as possible.</p>
6	Vaccination policy	<p>Under EU law there are a number of controls required if vaccination against CSF is permitted. Previous FVO audits have criticised the fact that these controls were omitted in the current CSF 2003 Orders and would therefore require emergency legislation to be drafted if vaccination was permitted during a serious outbreak of CSF.</p> <p>This is addressed in the proposed Regulations.</p> <p>Our published GB policy on vaccination is unchanged – vaccination would not be a routine control measure and is unlikely to be considered appropriate during a controlled outbreak of CSF.</p>



Ein cyf/Our ref: MB/FM/3278/14

David Melding AM
Chair
Constitutional and Legislative Affairs Committee
National Assembly for Wales
Cardiff Bay
Cardiff
CF99 1NA

31st July 2014

Dear David,

I am writing to update you on progress with the Guidance to Welsh Government Departments on Liaison with the UK Government in Relation to Legislation. This is the Welsh Government's 'reciprocal guidance' which mirrors Devolution Guidance Notes 9 and 17.

In our response to the Constitutional and Legislative Affairs Committee's review of the outcomes of its Inquiry into Powers granted to Welsh Ministers in UK Laws I reported that we had sent a copy of our draft guidance to the Wales Office for their consideration.

It has taken longer than anticipated to come to agreement on the final wording of the 'reciprocal guidance' but this has now been finalised and I am now able to share a copy with you.

Yours sincerely

CARWYN JONES

LIAISON WITH THE UK GOVERNMENT ON ASSEMBLY BILLS, PARLIAMENTARY BILLS, ORDERS MODIFYING THE ASSEMBLY'S LEGISLATIVE COMPETENCE AND CHANGES TO THE WELSH MINISTERS' EXECUTIVE FUNCTIONS

GUIDANCE TO WELSH GOVERNMENT DEPARTMENTS

Summary

1. This is guidance for Welsh Government officials to follow in the interests of efficient and effective handling of Welsh Government and UK Government legislation where one government leads but the other has an interest. The guidance deals with four matters:
 - Assembly Bills;
 - Parliamentary Bills;
 - modifying the Assembly's Legislative Competence; and
 - changes to the Welsh Ministers' Executive Functions.
2. Early engagement and effective communication between the Welsh Government and the UK Government is crucial whenever proposals for Bills are likely to raise issues of concern to the other Government: for example, where Assembly Bills seek to modify certain functions of Ministers of the Crown, or have cross-border implications; or where parliamentary Bills seek to make provision in relation to Wales in areas of devolved legislative competence, or modify the Welsh Ministers' functions, or have cross-border implications.
3. The Assembly's legislative competence, and the Welsh Ministers' functions, can be modified by means of Orders in Council provided for under the Government of Wales Act 2006 ('the 2006 Act'), as well as in parliamentary Bills. Any proposals for such modification, whether through a parliamentary Bill or an Order in Council under the 2006 Act, should also be subject to early engagement and consultation between the Welsh and UK Governments.
4. It is therefore expected that Welsh Government and UK Government Departments will establish and maintain close working relationships when taking forward legislation in relation to Wales.
5. Discussions on forthcoming legislation are conducted on a confidential basis and there will be tight deadlines. Lead officials should seek to agree timescales and deadlines as early as possible and make clear to colleagues the importance of meeting them.
6. This guidance is reciprocal to the UK Government guidance to UK Government departments on handling [Parliamentary and Assembly Primary Legislation Affecting Wales](#) (Devolution Guidance Note 9 [DGN9]) and [Modifying the Legislative Competence of the National Assembly for Wales](#) (Devolution Guidance Note 17 [DGN17]). It should be read in conjunction with the [Memorandum of Understanding between the UK Government and Devolved Administrations](#).

ASSEMBLY BILLS

Key points

7. The Welsh Government should:

- identify and liaise with the lead UK Government Department(s) and the Wales Office on any issues in Bills which relate to UK Government responsibilities, at the earliest possible stage after securing a place in the legislative programme and securing Ministerial agreement to engage.
- confirm to Ministers at the point clearance for introduction is sought that -
 - potential vires or intervention issues have been explored;
 - the Bill is within the legislative competence of the Assembly; and
 - all issues relating to competence and matters which are the responsibility of the UK Government have either been, or are expected to be, resolved with the UK Government; or
 - where there is a difference of opinion, the Welsh Government's position has been agreed by the First Minister.

Legislative competence

8. The Assembly has primary law-making powers for Wales in relation to a broad range of subjects set out in twenty areas in Schedule 7 to the 2006 Act. The Assembly is said to have 'legislative competence' (i.e. the power to pass primary legislation) in relation to these subjects.
9. Assembly Acts are Welsh laws, passed by the Assembly. They can make any provision that could be made by Act of Parliament, subject to the constraints set out in the 2006 Act. These include a prohibition on Assembly Bills containing provision which is incompatible with Convention Rights, as set out in the Human Rights Act 1998, or with EU law. Section 110 of the 2006 Act requires the Member in Charge of the Bill and the Presiding Officer, to satisfy themselves that any Bill introduced into the Assembly is within the legislative competence of the Assembly and make a statement to that effect.

Minister of the Crown functions

10. An Act of the Assembly can do the following only with the consent of the Secretary of State:
- confer or impose a new function on a Minister of the Crown¹;
 - remove or modify a function which a Minister of the Crown could have exercised before the Assembly Act provisions came into force (i.e. before 5 May 2011) unless the provision removing or modifying the function is incidental to, or consequential on, any other provision in the relevant Assembly Act (in which case consent is not needed – see paragraph 12).

¹ A Minister of the Crown is a Minister in the UK Government, and includes HM Treasury.

11. The consent in writing of the Secretary of State to any provision in an Assembly Bill that does either of the above should be obtained before the Bill is introduced in the Assembly. You should seek advice from Legal Services to establish whether the consent of the Secretary of State is required.
12. An Act of the Assembly can do the following without the consent of the Secretary of State:
 - modify or remove a Minister of the Crown function if the function became exercisable by the Minister, after the Assembly Act provisions came into force (i.e. from 5 May 2011);
 - make changes to a Minister of the Crown function which are incidental to or consequential on any other provision in the relevant Assembly Act;
13. If a Bill modifies or removes a Minister of the Crown function for which consent is required, but this has not been obtained, it will mean the Bill or part of the Bill is not within the Assembly's legislative competence if the Bill is passed.

Powers of intervention

14. The Counsel General and/or the Attorney General may refer an Assembly Bill to the Supreme Court to determine whether the Bill (or specific provision in the Bill) is within the Assembly's legislative competence. The Supreme Court may in turn seek a preliminary ruling from the European Court of Justice if the issue relates to compatibility with EU law.
15. In addition, the UK Government has powers to intervene to prevent an Assembly Bill from becoming law, even if it would be within the Assembly's legislative competence, if the Secretary of State has reasonable grounds to believe that it would have an adverse effect on non-devolved matters; that it might have a serious adverse impact on water resources, supply or quality in England; that it would have an adverse effect on the operation of the law as it applies in England; or that it would be incompatible with any international obligation or the interests of defence or national security.
16. Engagement between the Welsh Government and the UK Government is necessary on Bills prior to introduction, and in particular on any aspects which may require consent in respect of Minister of the Crown functions or could trigger questions as to their impact on UK Government responsibilities.

Bills under preparation

Liaison with the UK Government on Welsh Government Bills

17. When considering the case for legislation, Welsh Government Departments should consider, in conjunction with Legal Services, whether any aspects of the proposals appear to raise questions about legislative competence, or matters concerning UK Government responsibilities on which the UK Government will need to be consulted. The UK Government will need to be engaged at the earliest opportunity in order that any issues are resolved before the Bill is

introduced. The lead Minister will need to consider how best to explore these matters with the UK Government. There are a number of concordats in place which set out frameworks for cooperation between the Welsh Government and individual UK Government Departments:

<http://wales.gov.uk/about/organisationexplained/intergovernmental/concordats/?skip=1&lang=en>

18. Where there is a policy consultation on the content of a Bill, this will be the most straightforward vehicle for establishing whether the UK Government has any views, although the UK Government will not formally respond as part of that consultation. The Bill Team must be proactive in identifying and drawing attention to potential issues, and this must be kept under review during the preparation of instructions and drafting process.
19. Where a Draft Bill is published for consultation prior to introduction, this will also allow any questions about legislative competence, or impact on matters which are the responsibility of the UK Government, to be tested in detail; but these matters should have been the subject of discussion with the UK Government during the development of the Bill prior to consultation.
20. Where there is a need for Secretary of State consent in respect of Minister of the Crown functions, sufficient time should be allowed to engage with the relevant Department, and the Wales Office, to enable them to reach a position on whether or not to give consent, or to agree alternative courses of action. Following this engagement, the formal request for consent should be made in a letter from the Minister in charge of the Bill, to the relevant UK Government Minister and the Secretary of State for Wales. Where a Bill will be making changes to functions for which consent is not required, the Bill team should inform the relevant UK Department and the Wales Office, as there could be a difference of opinion as to whether or not consent is required, which needs to be resolved.
21. When clearance for introduction of the Bill is sought, Ministers must be briefed on the position with regard to legislative competence and the potential impact on matters which are the responsibility of the UK Government. As far as questions of legislative competence are concerned, the Minister must be satisfied that he or she can make the statement on legislative competence that he or she is required to make, as Member in Charge of the Bill (see paragraph 9 above). As far as issues impacting on non-devolved matters are concerned, Ministers must be satisfied that the UK Government has been given sufficient opportunity to express any views, and that any concerns voiced by the UK Government about the implications of the Bill for its areas of responsibility have either been resolved, or are expected to be resolved, before the Bill is passed. Where there is a difference of opinion between the Welsh and UK Governments, Ministers must be aware of the risk of a reference or formal intervention (see paragraphs 14 and 15 above) should they decide to proceed. The Welsh Government's position in such cases must be agreed by the First Minister.

22. On the day of introduction into the Assembly, the Legislative Programme Unit will send a copy of the Bill to the Wales Office, who will send it to other relevant UK Government Departments.

Bills before the Assembly

23. The content of an Assembly Bill, including the policy it seeks to deliver, is for the National Assembly for Wales to scrutinise and approve. The UK Government will scrutinise the Bill to ensure that it does not impact adversely on matters which are the responsibility of the UK Government. It may make representations to the Welsh Government during the passage of the Bill requesting either clarification on effect, or specific amendments, and will come to its own decision on using the powers of reference or intervention if the Bill is passed.

Amendments

24. Questions relating to legislative competence and Minister of the Crown functions need to be addressed when Government amendments are proposed to a Bill. As with Bill preparation, engagement needs to take place with UK Government as soon as possible.

25. These requirements apply also to non-government amendments which are made to the Bill at the amending Stages of Assembly consideration. Bill teams may need to liaise with UK Government to identify potential issues and, if necessary, seek Secretary of State consent in relation to changes to Minister of the Crown functions.

Members', Assembly Commission, and Committee Bills

26. These Bills can also give rise to issues about legislative competence and Minister of the Crown functions which need to be discussed with the Wales Office and relevant UK Government Departments. The Welsh Government will liaise with the UK Government where possible, but its ability to do this will depend on the amount of information it has regarding the Bill before it is introduced. The Welsh Government may also make approaches on behalf of the Member in Charge.

PARLIAMENTARY BILLS

Key points

27. Welsh Government Departments should:

- identify proposals for parliamentary legislation on devolved matters as early as possible, and brief Ministers at an early stage;
- be proactive in seeking information from the lead UK Government Department and the Wales Office, and advising them of Welsh Government views;
- support UK Bill teams as required in relation to Welsh provisions in UK Bills.

Principles

28. The Welsh Government follows the principle that primary legislation on devolved matters should generally be enacted by the National Assembly. However, there may be circumstances where it makes sense for a provision which is within the Assembly's legislative competence to be included in a parliamentary Bill. If provisions which are within the Assembly's legislative competence are included in a parliamentary Bill, Welsh Ministers will need to gain the consent of the Assembly by means of a Legislative Consent Motion (LCM).
29. Early and effective engagement is dependent on having good information from UK Government Departments about proposals for parliamentary Bills. Welsh Government Departments should build relationships in order to facilitate the exchange of information, and explain requirements such as the potential need for Assembly consent for relevant provisions.
30. Welsh Government Departments should engage with their UK Government counterparts as soon as they become aware of the development of parliamentary Bills, and keep in touch throughout the process. UK departments are themselves required to identify and substantially resolve devolution issues before a bill is introduced into Parliament, see paragraph 35.
31. Welsh Government Departments should identify a lead Welsh Government official to co-ordinate communications between the UK Bill Team, the Wales Office and Welsh Government interests (see paras 35-36 below).

Nature of provisions relating to Wales in parliamentary Bills

32. The options for provisions relating to Wales in parliamentary Bills are varied. Officials will need to consider first of all whether or not the provisions fall within areas of policy which are devolved in Wales:
 - a) **Provisions in areas of policy responsibility which are not devolved in Wales:** while these provisions will often apply in the same way in both England and Wales (and possibly Scotland and Northern Ireland too), they may include functions for Welsh Ministers in non-devolved areas. Such provisions would not require a legislative consent motion, but Welsh Ministers' consent should be sought for any modification of their functions (see paragraph 45 below)
 - b) **Provisions in areas of policy responsibility which are devolved in Wales:** these provisions may apply in the same way in England and Wales (and possibly Scotland and Northern Ireland), or the provisions for Wales may be different. These provisions require a legislative consent motion, and officials will need to advise Welsh Ministers on the options, including whether or not the provisions should be made in the UK parliamentary bill.
33. If Welsh Ministers agree that provision in a devolved area of policy should be made in a UK parliamentary bill, then the options for those Welsh provisions include:

- a) “mirror” provisions making the same provision for Wales as for England but conferring powers on the Welsh Ministers rather than the Secretary of State, as regards Wales: this can include separate commencement provisions, or take the form of a Welsh Ministers’ power to apply the provisions in Wales
- b) different provision for Wales (while remaining within the scope of the Bill)
- c) provision which “saves” existing provisions for Wales – i.e. changes are made for England, but not for Wales
- d) provision which modifies the legislative competence of the Assembly (normally, we would expect modifications of the Assembly’s legislative competence to be taken forward through an Order in Council under section 109 of the Government of Wales Act 2006, but there are circumstances in which such modifications may be made through a parliamentary bill)

34. The choice of options – more than one of which may be used in the same Bill – is a matter of Ministerial policy. Any proposal to request provisions in a parliamentary Bill will need to be put to the lead portfolio Minister in the Welsh Government, though proposals that affect the Welsh Government’s legislative programme might need wider Cabinet clearance.

35. UK Cabinet clearance is needed to include provisions in UK Bills. Welsh Government Departments need to liaise closely with Bill Teams in lead UK Departments and the Wales Office in order to ensure that such clearance is given.

36. Devolution Guidance Note 9 sets out that all devolution issues with a parliamentary Bill, including any requirement for legislative consent, should be substantively resolved before the Bill is introduced.

Welsh Government lead official

37. For all UK Bills, which relate to, or impact upon, devolved matters, there will be a Welsh Government lead official whose role will include ensuring that the relevant Welsh Government Department(s) have the information they need in order to be able to confirm their requirements.

38. The lead official’s role and responsibilities will include all or some of the following, depending on the complexity of the Bill and its relevance to Wales in devolved areas.

Bills under preparation

- be the main liaison point for the UK Bill team;
- obtain information from the UK Bill team about the content of the Bill, including draft clauses relevant to the Welsh Government and Assembly, where available, as far as possible in advance, to allow Welsh Government policy officials and lawyers to consider in good time and put advice to Welsh Ministers on the policy content and whether provisions fall within Assembly legislative competence or modify its competence;

- ensure that Ministerial policy clearance is sought for provisions in the Bill which are within the Assembly's legislative competence and instruct Welsh Government Legal Services, who will liaise with instructing solicitors in the lead Whitehall Department and Wales Office legal advisers;
- ensure that the Welsh Government has done everything it can to resolve any outstanding issues regarding the content of the Welsh provisions of the Bill before it is introduced, provided the Welsh Government has been given sufficient notice of the proposed content of the Bill to enable it to come to a view in good time;
- where Welsh provisions in the Bill fall within the Assembly's legislative competence or modify that competence, make plans to ensure that a Legislative Consent Memorandum and Motion are laid before the Assembly for consideration as required in accordance with the Assembly's Standing Orders.

Bills in Parliament

- if relevant amendments are laid, arrange for tabling of a Legislative Consent Motion and Memorandum at the earliest possible point, usually within two weeks of introduction of the amendments themselves being agreed to (or, in the case of Government amendments, tabled), and inform both the lead UK Government department and the Wales Office;
- ensure briefing and speaking notes on Welsh provisions, and amendments to them, are provided to the UK Bill Team as required for various stages of the Bill progressing through Parliament. Deadlines and other arrangements for providing the briefing and speaking notes should be agreed between the Welsh Government lead official and the UK Bill team;
- brief the Welsh Ministers as required on the progress of the Bill;
- obtain Welsh Ministers' clearance of UK Government amendments, and Opposition amendments which the UK Government is minded to accept in principle, where the amendments fall within or modify the Assembly's legislative competence, or modify Welsh Ministers' functions.

39. Welsh Government Departments must also consider at the earliest possible stage whether they will need to consult on certain proposals, particularly if they would be likely to require a regulatory impact assessment.

40. Lead officials should maintain close contact with the Wales Office, and should seek early agreement with both the UK Bill Team and the Wales Office on the nature of the Welsh provisions to be included in the Bill. Lead officials should ensure that the Wales Office is alerted to any outstanding issues in good time. The aim should be to resolve issues regarding the Welsh provisions of the Bill by the time it is put to the UK Cabinet's Parliamentary Business and Legislation Committee for clearance to introduce it. Welsh Government officials should seek to resolve issues by then, but this can only be achieved if Welsh Government has been given sufficient notice of proposals to enable it to assess them in good time.

Clearance of Bill provisions

41. “Mirror” provisions; different provision for Wales; and even decisions to maintain the “status quo” for Wales in areas for which the Welsh Ministers are responsible, will need Welsh Government Ministerial clearance. Financial implications must be clearly identified: for example it is possible for a Bill to transfer further executive functions to the Welsh Ministers or to confer new functions on them, either of which could have significant financial implications. The regulatory impact of such provisions must also be assessed and presented when seeking clearance.
42. Departments should note that the UK Government will only agree to include provisions in a parliamentary Bill if they meet the conditions set out in paragraph 16 of DGN9. These conditions are that the provisions fit within the scope of the Bill, will not adversely affect the handling or timing of the Bill and that there is no suitable Assembly Bill in which they could be included.
43. UK Government Departments should also notify the Welsh Government and the Wales Office of proposed consequential amendments to legislation which is within the Assembly’s legislative competence normally this should be done through direct liaison between UK Government and Welsh Government Legal Advisers. Such amendments do not require Ministerial consent but should be checked to ensure that the Welsh Government and UK Government have a common understanding of their effect.
44. DGN9 sets out in more detail the various cases where the UK Government would not normally seek to legislate without the agreement of Welsh Ministers or the Assembly

Consent for provisions which modify the Welsh Ministers’ functions

45. The UK Government has agreed that it will seek Welsh Ministers’ consent for any provisions which modify Welsh Ministers’ executive functions where these fall outside the Assembly’s legislative competence (unless the provisions are incidental to or consequential on non-devolved matters, in which case the UK Government will consult the Welsh Ministers).
46. It is expected that consent will be sought via inter-Ministerial correspondence. In accordance with the Assembly’s Standing Orders, the Welsh Ministers should notify the Assembly by means of a Written Statement about provisions in parliamentary Bills which modify the Welsh Ministers’ functions, unless the provisions are incidental to or consequential on non-devolved matters.

Legislative consent motions

47. If the relevant provisions are within or modify the Assembly’s legislative competence, and the Welsh Ministers are content with them, the Welsh Government will lay and promote a Legislative Consent Motion in the Assembly. The Assembly’s Standing Orders set out that, if the proposed provisions are within the Bill at introduction, then a Legislative Consent Memorandum must

normally be laid within two weeks, and a Legislative Consent Motion may also be tabled.

48. In the event that the motion is not approved by the Assembly, the Welsh Government should immediately inform the relevant UK Government department and the Wales Office and then proceed to discuss next steps. The Welsh Government would normally ask the UK Government to amend the relevant provisions of the Bill so that either the Welsh Government is able to support them via a further LCM (subject to the parliamentary timetable) or so that a LCM is not required, i.e. for example, to amend the provisions so that they do not relate to a devolved area.

49. The lead official should inform the UK Bill Manager of the outcome of the debate.

Statutory Instrument Consent Motions

50. Where secondary legislation made by the UK Government amends primary legislation in a way which is within the competence of the National Assembly for Wales, a Statutory Instrument Consent Motion will be required, unless the amendments are incidental to or consequential on non-devolved matters.

51. While parliamentary Bills can be amended during their passage through Parliament if a LCM is not passed by the Assembly, statutory instruments cannot. It is therefore expected that UK Government Departments will contact the Welsh Government in good time in advance of laying a statutory instrument before Parliament for which Assembly consent may be needed. The Statutory Instrument Consent Motion will need to be passed by the Assembly before the UK Parliament considers the instrument in the case of those subject to affirmative parliamentary procedure and this will need to be factored into the UK Government timetable.

Private Members' Bills

52. Where the UK Government has decided to give its backing to a Private Member's Bill, similar considerations will apply as for ordinary Government Bills.

MODIFYING THE ASSEMBLY'S LEGISLATIVE COMPETENCE

53. As set out above, the subjects in relation to which the Assembly may pass laws are set out in Schedule 7 to the 2006 Act. These "subjects" appear under twenty headings which are broadly the areas over which the Welsh Ministers have responsibilities (although the Welsh Ministers have some functions in non-devolved areas).

54. Part 1 of Schedule 7 lists both subjects which are within the Assembly's legislative competence and exceptions to those subjects which are not. There are also 'carve-outs' from some exceptions to enable the Assembly to legislate in a specific area which would otherwise be covered by an exception. Each exception applies to all of the subjects in Part 1 of the Schedule, regardless of the headings

under which they are listed. Therefore any new or amended subjects inserted into Schedule 7 will be affected by all of the existing exceptions; and any new or amended exceptions will apply to all of the existing subjects (unless they are defining exceptions which are fixed only to the specific subject(s) in question).

55. Some areas which are outside the Assembly's competence (such as immigration and defence) are not included as exceptions in Part 1 of Schedule 7 on the basis that they could not be regarded as falling within any of the existing subjects.
56. The Welsh Government, or the UK Government, might identify a need to amend the Assembly's legislative competence and modify Schedule 7. This may be done through an Order in Council under section 109 of the 2006 Act or through provisions in a parliamentary Act.
57. The amendments could increase the Assembly's competence by inserting additional subjects into the Schedule on which the Assembly can legislate, or restrict the Assembly's competence by inserting further exceptions or restrictions into the Schedule. They could also increase or restrict the Assembly's competence by modifying existing subjects or exceptions, though amendments to subjects or exceptions could sometimes be made to clarify the Assembly's competence.
58. If the Assembly's legislative competence is to be modified there is a presumption that a section 109 Order should be used whenever feasible (see paragraph 12 of DGN 17). Amending the Assembly's legislative competence via a parliamentary Act does not provide for a formal role for the Assembly to approve the changes being made to its legislative competence (but see paragraph 65 below). For this reason a section 109 Order is normally used.

Orders under Section 109 of Government of Wales Act 2006 (Section 109 Orders)

59. The Welsh Government or the UK Government can suggest that an Order is required, but need to liaise with each other to agree the principle and drafting before the Order is pursued. The collective agreement (both within the UK Government and the Welsh Government) is required if the Order is to progress successfully through both the Assembly and Parliament.
60. A Section 109 Order must be approved in draft by both the UK Parliament and the Assembly. If there is a need to modify the Assembly's competence by a particular deadline, time for inter-governmental negotiation, consultation with interested parties and parliamentary and Assembly procedure needs to be factored in.

Procedure for Making Section 109 Orders

61. Subject to first reaching agreement at official level on the need for a Section 109 Order, the First Minister (or the Welsh Minister with policy responsibility in the relevant area) would normally write to the Secretary of State for Wales to seek agreement to the changes required, and the consequent modifications needed to

Schedule 7. The letter should be copied to the Secretary of State in the relevant UK Government Department, and to any other Government Departments with a policy interest in the Order.

62. Collective agreement by the Welsh Ministers and UK Ministers is needed for an order to be taken forward. The consent of UK Ministers is obtained via the Secretary of State for Wales and the Secretary of State in the relevant UK Government Department writing to the relevant Cabinet Committee (currently Home Affairs (HA) Committee) to seek clearance.
63. Instructions should be agreed by all parties before the Order is drafted, and should be as clear and straightforward as possible. It is crucial that all parties agree a process for agreeing instructions and drafting the Order, and are clear about roles and deadlines.
64. Draft Orders must be approved by both Houses of Parliament and the Assembly before they are made at a meeting of the Privy Council.

Provisions in parliamentary Bills

65. In exceptional circumstances, the Welsh Government and UK Government may agree to modify the legislative competence of the Assembly by including provisions in parliamentary Bills - for example, if the scope of a Bill covered the subject area in which the UK Government and Welsh Government had agreed legislative competence should be conferred on the Assembly. It would not however be appropriate for the scope of a UK Bill to be widened simply to accommodate a provision modifying the Assembly's legislative competence.
66. The UK Government and the Welsh Government have agreed that the Welsh Ministers should seek the consent of the Assembly when such provisions are included in Bills. Further advice on the principles and processes to follow where parliamentary Bills make provision modifying the Assembly's legislative competence can be found in DGN 17.

CHANGES TO THE WELSH MINISTERS' EXECUTIVE FUNCTIONS

67. Section 109 Orders are used only to modify the legislative competence of the Assembly. Changes to the Welsh Ministers' executive functions are made in a number of other ways, including:
 - Transfer of Functions Orders (TFOs), which are Orders in Council made under Section 58 of the 2006 Act. TFOs are generally used to transfer functions from Ministers of the Crown to the Welsh Ministers, and must be approved by both the Welsh Ministers and the Houses of Parliament before they are made.
 - Acts of the Assembly may confer functions on the Welsh Ministers, or modify their existing functions. As set out in Part 4 of the 2006 Act, they may also remove or modify Minister of the Crown functions if the Secretary of State

consents, if the removal or modification is incidental to or consequential on other provisions of the Assembly Act, or if the function became exercisable by the Minister of the Crown on or after the date when the Assembly Act provisions in the 2006 Act came into force (5 May 2011). In such cases the Act of the Assembly could, for example, remove a function from a Minister of the Crown and confer a similar function on the Welsh Ministers, or require the Minister of the Crown to exercise the function only with the agreement of, or following consultation with, the Welsh Ministers. Acts of the Assembly may also confer or impose a function on a Minister of the Crown with the consent of the Secretary of State.

- Acts of Parliament may confer or impose functions on the Welsh Ministers, or modify or remove their existing functions. The UK Government would normally include provisions having these effects in a parliamentary Bill only with the consent of the Assembly, in areas in which the Assembly has legislative competence, or the Welsh Ministers, in non-devolved areas (unless the changes to the functions of the Welsh Ministers are incidental to, consequential on etc. non-devolved matters, in which case the UK Government would normally only consult with the Welsh Ministers).
- In certain cases, the executive functions of the Welsh Ministers may be changed by making subordinate legislation, such as a Designation Order under section 2(2) of the European Communities Act 1972 and section 59 of the 2006 Act, or an Order (other than a TFO) which amends a parliamentary Act or UK subordinate legislation (such as a Henry VIII Order).

Welsh Government
July 2014

Brussels, 22.07.2014

MK/pb Ares 2690007

Dear Chair Melding,

Thank you for your letter of 16 July 2014 arguing against the total ban on driftnet fishing in EU waters.

I would like to clarify that the proposal is not to implement a "one size fits all" approach neglecting the local specificities. It is rather an answer to a genuine widespread concern on the environmental sustainability and controllability of driftnets across the EU regions. The reason why the Commission decided to propose a full driftnet ban is that it was considered the most appropriate way forward to minimise the impact of driftnets, irrespective of their size, on the marine ecosystem and to reduce as much as possible unwanted catches.

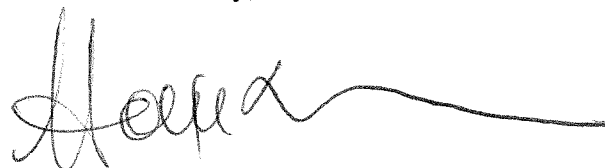
This concern has been underlined by the results of an on-line public consultation, which lasted for about six months from 27 March to 15 September 2013 and, where more than 52% of the respondents, including fishermen's cooperatives, were in favor of a total ban. The consultation had been widely publicized through different means including formal communications to the different Regional Advisory Councils and to all Member States.

Two studies were launched with a view to provide updated information from the field and consultation with stakeholders through case studies including UK fisheries.

Furthermore I have asked my services to arrange a meeting with representatives from the small scale industry that are using driftnet in the UK in order to listen to their arguments about this proposal and to hear about the situation of driftnet vessels in the UK. This meeting should take place in September and fishermen from all parts of the UK are being invited to the meeting, including fishermen from Wales.

Let me finally mention that your input and the experience from Wales are very valuable for us in this legislative process. We are only at the start of the legislative process and the proposal will now be discussed in the Council of Ministers and in the European Parliament. I would like to underline that we are listening carefully to your concerns and individual situations to take them into account in this legislative process.

Yours sincerely,



Mr David Melding AM
Chair
National Assembly for Wales
CLA.Committee@wales.gov.uk



Ein cyf/Our ref: FM/00841/14

David Melding AM
Chair - Constitutional & Legislative Affairs Committee
Ty Hywel
Cardiff Bay
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CF99 1NA

8 August 2014

Dear David,

I am writing in response to your letter of 17 July regarding the draft driftnets regulation.

None of the UK Fisheries Administrations were aware of the proposed regulation ahead of its publication and, while there was a consultation last year, the Commission did not inform the UK Administrations, though it would typically be expected to do so in order to ensure responses from the relevant bodies. Moreover, it appears that several other Member States, also with a great interest in the driftnet fisheries, were similarly unaware of the proposal and, given that they did not respond to the consultation, it is likely that they too were not informed of it.

However, on having sight of the proposal, Welsh Government fisheries officials immediately raised the serious implications it would have on the Welsh fishing industry with Defra, as the lead UK authority, and subsequently contributed in depth to the Explanatory Memorandum that was sent to Parliament on 1 June. On 18 July the Deputy Minister for Agriculture and Fisheries also wrote to George Eustice MP, the Defra Minister for Farming, Food and the Marine Environment, to make our opposition to much of the Commission's proposal quite clear.

The proposal is at the early stage of the legislative process and the Welsh Government is working closely with Defra in the interests of the Welsh fishing industry to make the case for a modification of the proposal to be a more proportionate response to the issues raised by the use of driftnets.

As you will be aware, we broadly welcomed your Committee's report on *Wales' role in the EU decision-making process*, which was generally positive about the way in which we pursue Wales' interests in the EU. As stated in the Government's response to recommendation 8, we carefully considered its implications and were unable to accept the recommendation as there would be significant time and, therefore, resource implications in doing so; this would not be able to be met within existing budgets. The impact would be considerable on those departments with work that is closely aligned to the EU.

The rationale underpinning the response to recommendation 8 remains valid, though we do, of course, review the monitoring of EU policy and legislative proposals.

However, as we stated in the response to the recommendation, your Committee, or individual Assembly Members, could request information about any specific Explanatory Memorandum from the appropriate Minister.

Yours sincerely

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

CARWYN JONES

**Y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol
Constitutional and Legislative Affairs Committee**

**Maria Damanaki
European Commissioner for Maritime Affairs and Fisheries
European Commission
B - 1049 Brussels**

Cynulliad
Cenedlaethol
Cymru
National
Assembly for
Wales



16 July 2014

Dear Commissioner

Draft driftnets regulation COM(2014)265

As Chair of the Constitutional Affairs Committee at the National Assembly for Wales, I am writing to draw to your attention concerns that we have with the proportionality of the proposed ban on use of driftnets set out in the draft regulation COM(2014)265 published on 14 May 2014.

The Committee discussed these draft proposals at its meeting on 30 June 2014 taking into account information provided by the Welsh Government, the UK Government, and reactions to the proposals from Welsh fishing organisations and other stakeholders.

Whilst we understand the concerns that the European Commission has with regard to the existing legislation on driftnets, and whilst we support the overarching aims of the Common Fisheries Policy reform to achieve sustainable fishing practices in EU waters, we do not consider the draft regulation represents a proportionate response to the problems identified. Indeed, there is evidence that the introduction of a blanket-ban on use of all driftnets in EU waters could result in small-scale artisanal fishers, who operate in sustainably certified fisheries in Welsh waters, being forced out of business. We note that UK environment organisations whilst supporting the tighter regulation of driftnets in some fisheries have concluded that a blanket-ban will disproportionately penalise responsible small-scale fishers in the UK who have negligible adverse environmental impact.

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There are approximately 70 vessels operating in in-shore fisheries around the Welsh coast which use driftnets, and these bear no resemblance to the large scale driftnet fisheries in operation in the Mediterranean that is the primary focus of the revised legislation. Furthermore, driftnet operations often represent a high proportion of the income of the Welsh fisheries affected, meaning that some fishing operations in Wales could be forced to go out of business as a result of the introduction of a blanket ban.

The UK Government in its Explanatory memorandum (EM) on the proposals notes that the driftnets used by UK fisheries are short nets of around 200 metres in length and are used to target schooling fish for a short period of time. It also notes that by-catch in driftnets in UK fisheries has not been a problem relative to that associated with other types of gears (e.g. bottom set gill and entanglement nets) and, consequently, questions whether a shift to alternative gears would result in better by-catch rates.

Both the UK and Welsh Governments have described the proposals as a 'blunt instrument', and both reject a complete ban on the use of driftnets in EU waters, which is a view we concur with. We agree with the UK Government that the European Commission should look at how the regionalisation provisions of the Common Fisheries Policy could be used to address the problem, and that mitigation measures should be targeted at non-compliant fisheries.

We look forward to receiving your response to the concerns outlined.

Yours sincerely

A handwritten signature in black ink that reads "David Melding". The signature is written in a cursive style with a long, sweeping underline that extends to the right.

**David Melding AM
Chair**

**Y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol
Constitutional and Legislative Affairs Committee**

**Rt Hon Carwyn Jones AM
First Minister
Welsh Government
5th Floor
Tŷ Hywel
Cardiff Bay**

Cynulliad
Cenedlaethol
Cymru

National
Assembly for
Wales



17 July 2014

Draft driftnets regulation COM(2014)265

I attach for your information a copy of a letter that I sent yesterday to the European Commission regarding the draft driftnets regulation COM(2014)265.

We are surprised that the Welsh Government seemed unaware of this proposal, particularly in view of the impact it will have on Welsh fishing communities.

As you will be aware in our March report *Wales' role in the EU decision-making process* we made the following recommendation:

Recommendation 8: We recommend that the Welsh Government, for all relevant UK Government Explanatory Memoranda on EU policy proposals, issues a statement (or other document) setting out its observations on the policy matters covered.

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In your response, you rejected this recommendation. In our view, the issues raised by this proposal highlight why we believe there is a need for systematic and proactive statements by the Welsh Government on key EU legislation relevant to Wales.

In the circumstances, we would be grateful if you could confirm what action you are taking to review the arrangements you have in place to monitor EU proposals as they emerge from the Commission and as part of this, if you will reconsider your response to recommendation 8 of our report.

Yours sincerely

**David Melding AM
Chair**

Chairs of: Children, Young People and Education Committee
Communities Equality and Local Government Committee
Enterprise and Business Committee
Environment and Sustainability Committee
Health and Social Care Committee
Finance Committee

16 July 2014

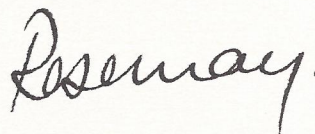
Dear Committee Chair

At this week's meeting, the Business Committee confirmed the timetable for the 2015-16 budget and confirmed 11 November 2014 as the deadline for the Finance Committee to report on the draft budget.

As you may be aware, the Business Committee recently considered the process for budget scrutiny, and as part of those discussions Business Managers agreed at their meeting of 3 June that committees may meet outside the usual timetable during this year's budget scrutiny period.

You will not therefore require Business Committee's specific approval for additional meetings arranged for the purpose of budget scrutiny between 30 September and 11 November 2014, but I would ask that you are mindful of other business when scheduling any additional meetings, and avoid meeting during Plenary.

Yours sincerely



**Rosemary Butler AM, Presiding Officer
Chair, Business Committee**

Croesewir gohebiaeth yn y Gymraeg a'r Saesneg/We welcome correspondence in both English and Welsh

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**WRITTEN STATEMENT
BY
THE WELSH GOVERNMENT**

TITLE **Social Services and Well-being (Wales) Act: Approach to
implementing the subordinate legislation to be made under the Act**

DATE **16 July 2014**

BY **Gwenda Thomas AM, Deputy Minister for Social Services**

The Social Services and Well-being (Wales) Act, which received Royal Assent on 1 May this year, creates a new legal system for social services. As I said in my written statement to the Assembly on 29 January this year, the Act creates a framework that brings together and modernises the law for social services in Wales, increasing the emphasis on preventative action, bringing people closer to decisions about the services that affect them, and addressing the challenges of economic and demographic change.

The new statutory framework for delivering social services will have three parts. The first part, the Act itself, is already in place. The other two parts will consist of regulations and of codes of practice or statutory guidance, which will help supply the detail and help those charged with functions under the Act to understand how they are to carry these out.

Members will have seen, from my written statement of 30 January, details of my policy intent in relation to the major groups of regulation-making powers under the Act. My statement today builds on my previous statements on implementation and provides for Assembly Members an update on my approach to implementation of these two vital parts of the new framework which the Act enables.

I intend for the Act to come into force in April 2016. In order to achieve this, the package of subordinate legislation stemming from the Act is being taken forward as a coordinated delivery programme of work. My officials have been working closely with stakeholders through a series of technical groups to develop and refine the details of our policy for regulations and codes of practice, and will continue to do so. These will be made available for public consultation and laid in the Assembly in two separate parts, or tranches, over the years 2014-15.

The **first tranche** of subordinate legislation will be made available for consultation in November this year. Detailed work has been undertaken in the form of technical and advisory groups, which have provided valuable engagement on the practical operation of these proposals, to inform both the regulations and their associated codes of practice. By consulting on and laying these regulations together we will be able to present a coherent system of assessment, determination of eligibility and care planning, as well as securing the availability of direct payments as one way of meeting needs, and creating a powerful new framework for safeguarding.

The first tranche will cover regulations in relation to the following policy areas:

- Population assessments under part 2 of the Act and partnership working under part 6
- Social enterprises
- Assessments and eligibility
- Direct Payments
- Adult Protection and Support Orders
- National Independent Safeguarding Boards
- Local Safeguarding Boards
- Ordinary residence and disputes about ordinary residence

I particularly want to draw Members' attention to my intention to legislate in relation to population assessment and partnership working in tandem, using these powers to secure that such assessments are undertaken on a regional basis, conforming to the Local Health Board footprint. I would like Members to take this as an early indication of the Welsh Government's continuing commitment to better integration of health and social care in Wales.

Following extensive public consultation I intend that these regulations and associated codes of practice will be laid before the Assembly in May 2015.

The **second tranche** of subordinate legislation will be made available for consultation from May 2015, again supported by stakeholder engagement and the work of technical and advisory groups. This tranche will create a system that secures outcomes for looked after and accommodated children, drives regional collaboration, puts in place a system of charging, financial assessment and paying for care, supports the making of representations and provision of advocacy, and addresses the issues raised by provider failure.

The second tranche will cover the following policy areas:

- Preferred accommodation
- Paying for care, including:
 - Charging
 - Financial assessment
 - Ability to pay
 - Deferred payments

- Charging for preventative services and assistance
- Recovery of charges, interest etc
- Charge over an interest in land
- Transfer of assets to avoid charges
- How looked after children are accommodated & maintained, including:
 - Care and support plans
 - Looked after children
 - Local Authority foster parents
 - Agency arrangements
 - Independent visitors for looked after children
 - Independent reviewing officers
 - Referred cases and review of cases
 - Young people, personal advisers, pathway assessments, charging
 - Pathway assessments and plans
 - Accommodation for restricting liberty
 - Visitors for children
- Partnership arrangements and Partnership boards
- Complaints and assistance to complainants
- Representations relating to looked after children and other children who may have needs for care and support, and assistance in relation to these
- Provision of advocacy services
- Provider failure

I want to draw members' attention particularly to my intentions in relation to looked after children. Here I have asked my officials to work with key stakeholders, including children themselves, to examine the impact of the current statutory framework on young people's outcomes, and develop a new framework which will draw upon and extend the current provisions made under the 1989 Act for looked after and accommodated children, ensuring that the rights and entitlements of this group of vulnerable children and young people continue to be maintained, whilst better outcomes are secured.

Following full public consultation I plan that these regulations and their associated codes of practice will be laid in the Assembly from winter 2015.

My officials will develop full regulatory impact assessments and explanatory memoranda for each of these regulations, to be laid in the Assembly in their respective tranches, and this package of work will be made available for full scrutiny by this Assembly's committees.

Clearly, I recognise that the work of implementing the Act, and through it the new system for social care required by Sustainable Social Services, goes much wider than the making of subordinate legislation, as important as this is. To this end I have three strands of work in place, covering workforce readiness, awareness-raising amongst the wider population, and key regional implementation activity.

On the first of these, the Welsh Government, through its £8.2m Social Care Workforce Development Programme (supplemented by local partners' investment) is supporting the

development and deployment of a training strategy to support implementation, which will be in place before commencement of the Act. I want to emphasise that I expect this strategy to cover all of those involved in the provision of social care, together with their key partners, and be delivered jointly and in collaboration with those partners. This strategy will include awareness-raising, adapting existing training, and developing bespoke additional training to respond to new requirements, thus supporting the sector in ensuring its own readiness for the changes the Act and its regulations are bringing into force.

In addition, recognising the need for careful and clear public communications on Act implementation, a communications plan is being developed to support this work. We are considering the role of service providers in communications to support implementation and will continue to engage fully with the public and our stakeholders to ensure that these messages are clearly communicated and understood.

Finally, I also remain committed to supporting local government and our partners with implementation, through the continuation, in 2014-15, of the £1.5 million Delivering Transformation grant first made available to local authorities in 2013-14. This transitional funding is specifically aimed at enabling local government and its partners to put in place the requirements of the new Act. Strong, consistent regional leadership for implementation of this Act, shared across all partners, is essential for delivery of the transformational change which the Act requires and this funding is directed towards helping local government and its partners work together to achieve this. My officials have recently written to local government and key partners inviting bids against this funding and I look forward to seeing it deployed to better support our shared priority of better services for the people of Wales.

The work I describe will build upon the national consensus that we have for the changes we need to make. All the key aspects of taking *Sustainable Social Services* forward will be undertaken with the close involvement of citizens and strong joint leadership from local government, the NHS and private and third sector providers. I will continue to work with my national Partnership Forum, Leadership Group and Citizens Panel to support this, and secure that people who use services remain at the heart of our programme for change.

Ein cyf/Our ref: MB/FM/3517/14

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

3rd September 2014

Dear David

Inquiry into the Disqualification of Membership from the National Assembly for Wales

May I begin by thanking you and your Committee, both for agreeing to my request that you undertake this Inquiry, and for producing such a full and helpful Report. The Welsh Government will obviously want to give this very careful consideration.

The purpose of this letter is to set out some thoughts, and invite your views, on how we should take this matter forward now. In so doing, I am bearing in mind your Recommendation 15: "...that the disqualification order for the 2016 Assembly general election is drafted, consulted on and made no later than 12 months before the date of that election".

The next stage in the process will presumably be a debate in the Assembly on the Report, prior to which the Welsh Government would be expected to lay a paper setting out our response to the recommendations. The precise timing of that debate should however be for further consideration. As you will know, the Wales Bill is proceeding through Parliament, and received a Second Reading in the House of Lords in July. In the course of the Second Reading debate, Lord Thomas of Gresford said, "A successful candidate in an election ought to have a period in which to resign from any body that would disqualify him from being an Assembly Member—maybe eight days. I shall accordingly seek to amend Section 16 of the Government of Wales Act 2006 to make that position absolutely clear". As matters stand, any amendment to achieve that result would be considered by the House of Lords at Committee stage on 13 (or possibly 15) October. I think it would be sensible if the debate in the Assembly on your Committee's Report took place after that, informed as it would be by the debate on Lord Thomas' amendment. My suggestion, therefore, is that our debate should take place early in November, soon after we return from the Autumn half-term Recess.

Following that, my intention would be to prepare and publish, early in the new year, a draft Order in Council. This would of course need to be the subject of consultation, which would normally be for a period of 12 weeks; that would effectively take us to Easter. We would then bring forward the draft Order in final form for the Assembly's consideration and approval, following which it would be submitted to Her Majesty in Council to be made. If we assume that the Assembly could consider and approve the draft Order either just before or soon after the Whitsun recess, it should be possible to put the Order before the Privy Council in either June or July.

That timetable would not of course quite meet your Committee's recommendation that the Order be made no later than twelve months before the date of the next Assembly general election; this would require the Order being approved by Her Majesty in Council in either April or early May. However, we need to bear in mind that the timings and predictability of meetings of the Privy Council in April and May next year may be problematic, for reasons you will well understand, whereas it is reasonable to assume that matters will have returned to normal by June. It seems to me, therefore, that we should aim to get the draft Order to the Privy Council to be made at its June or July meeting; that would, I think, give parties and potential candidates entirely adequate time to ensure that the sorts of difficulties experienced in 2011 will not be repeated.

I would welcome your comments on this proposed way forward. I am copying this letter to the Minister for Local Government and Government Business.

Yours sincerely

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

CARWYN JONES

Huw Lewis AC / AM
Y Gweinidog Addysg a Sgiliau
Minister for Education and Skills



Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref LF/HL/847/14

David Melding
Chair
Constitutional and Legislative
Affairs Committee
National Assembly for Wales
Cardiff Bay
Cardiff

3 September 2014

Dear David,

Legislative Consent Memorandum Report: Deregulation Bill: Amendments in relation to Farriers and Home School Agreements

I would like to thank the Constitutional and Legislative Affairs Committee for their scrutiny of the Legislative Consent Memorandum on amendments to the UK Deregulation Bill relating to Farriers and Home School Agreements and its report of July 2014.

I note from the report that the Committee considered that the approach taken in respect of provision regarding the Farriers Registration Council is reasonable, but were of the view that there was ample opportunity for the removal of home-school agreements to be delivered by means of an Assembly Bill, rather than dealt with by legislation taken through Parliament.

Whilst in general the Welsh Government follows the principle that primary legislation in devolved areas should be enacted by the Welsh Ministers, it is the case that there are circumstances in which it is sensible and advantageous if provision which otherwise would be within the Assembly's competence is sought for Wales in Parliamentary Bills, with the consent of course of the National Assembly (signified by approval of a Legislative Consent Motion). The First Minister confirmed this as the Welsh Government's position in his letter to you dated 15 November 2011, and also provided examples of situations where it might be appropriate to ask for or agree to provisions in a UK Bill.

In relation to the UK Government's legislative proposal to repeal the requirement for home school agreements, I considered firstly whether it would be right to repeal the requirement for Wales, and secondly whether it would be appropriate to do so through the UK Government's Bill.

On the first point, I am satisfied the proposal to repeal the requirement for home-school agreements is also appropriate for Welsh circumstances.

Currently, all maintained schools have a duty to adopt a home-school agreement and a parental declaration. The governing body must also take reasonable steps to secure that the parental declaration is signed by parents and must from time to time review the HSA. Before adopting the HSA and the parental declaration, or revising that agreement, the governing body must consult parents.

Home-school agreements have been difficult to enforce in practice. The current process of consulting parents, drawing up and monitoring HSAs and obtaining parental signatures is burdensome for schools. They are not enforceable, parents are not legally required to sign them, and there are no sanctions for failing to comply with them. As such the legislation has no practical purpose.

The Welsh Government recognises the positive and significant effect parental involvement has on children's educational attainment, which is why parental engagement is a key theme of our strategy to tackle the link between poverty and educational underachievement. To be effective schools need to identify innovative and creative ways to involve parents and carers in their child's education and to motivate them to support learning at home and to support the school. To assist them we will be issuing guidance and resources to support schools in developing their own strategies. Removing the legislative requirement for home-school agreements would allow schools to work with parents in a way that suits the circumstances of the school, its pupils and their parents rather than through a prescribed mechanism.

On the second point, of whether it would be appropriate to repeal the requirement in the UK Government's Bill, again I came to the conclusion that it would be. While it is difficult to be definitive about the situations in which it is appropriate to use a UK Bill to make provision in a devolved area, the First Minister's letter of November 2011 provided illustrative examples of such situations, such as where the devolved provision in question is minor or technical or non-contentious; or where the provision would also be appropriate for Wales but there is no time to bring forward a similar provision in the Assembly.

In my view, the provision in question is non-contentious, given that this is a repeal of legislation that no longer has practical purpose. There is no substantive new provision about home-school agreements, but simply the removal of the requirement to have them. This will relieve an unnecessary burden on schools, many of which consider that their use is a paper exercise alongside other initiatives to support parental engagement. However, should a school consider the home-school agreement to be a useful tool there is nothing to preclude a school from continuing with it, and the repeal of the requirement to have such an agreement will not disadvantage them, as the requirement was not enforceable in any case.

Bearing this in mind, taking provision in the UK Bill Deregulation Bill enables a pragmatic solution to be reached in a timely fashion, whilst simultaneously respecting the competence of the Assembly through the LCM process. As such I consider it a matter of practical good government for this provision to be included in this UK Bill.

I have specifically considered the Committee's view that there has been ample opportunity to make provision for this repeal in Assembly legislation. In July 2013, when the UK Government was seeking to finalise the content of the Deregulation Bill, the Education (Wales) Bill had just been introduced into the Assembly. As this matter had not been included in the Education Bill on introduction, it was not deemed appropriate to seek to amend that Bill in Stages 2 or 3 to include provision relating to HSA. Even if such amendments have been admissible, which is certainly open to question, to have sought to

amend the Bill in such a way would have meant the responsible Committee had not been able to consider this during their Stage 1 consideration.

Subsequent to July 2013 the Higher Education (Wales) Bill has been introduced, and the First Minister has announced a bill relating to the establishment of Qualifications Wales will be brought forward. Neither were considered appropriate for inclusion of the HSA provisions given the (proposed) content of those Bills.

Whilst we are very keen to ensure that legislation relating to Wales, which is within the legislative competence of the Assembly, is made in Wales using Assembly Bills, we need to balance this with the opportunities presented to us to ensure legislation affecting Wales is made in a timely manner. Therefore it was considered appropriate, on this occasion, to use the Deregulation Bill.

I hope this explanation is helpful to the committee, and I welcome the opportunity to debate the Legislative Consent Motion on this in Plenary on 16 September.

Best Regards
Huw

Huw Lewis AC / AM

Y Gweinidog Addysg a Sgiliau
Minister for Education and Skills



**Legislative Consent Memorandum Report:
Deregulation Bill: Amendments in relation to Farriers and Home-School
Arrangements**

Background

1. On 10 June 2014, the former Minister for Natural Resources and Food laid a supplementary Legislative Consent Memorandum (“LCM”) concerning amendments tabled to the Deregulation Bill (“the Bill”), pursuant to Standing Order 29.2.
2. On 17 June 2014, the Business Committee referred the LCM to the Constitutional and Legislative Affairs Committee for scrutiny, setting a reporting deadline of 11 September 2014.

Deregulation Bill

3. The Bill was introduced in the House of Commons on 23 January 2014 and has now completed its passage through the House of Commons. It had its second reading in the House of Lords on 7 July 2014, having been carried over to the 2014-15 session.
4. The Bill proposes a range of measures in line with the UK Government’s aim to reduce burdens on businesses and public authorities. Its scope includes health and safety, employment law, company and insolvency law, the use of land, housing, transport, communications, the environment, Child Trust Funds, entertainment, criminal justice and economic growth.
5. In July 2013, the UK Government published a draft Deregulation Bill, which was subject to pre-legislative scrutiny by a Joint Committee of both Houses of Parliament.

6. We considered an LCM to the Deregulation Bill on 31 March 2014 and stated in our report, laid before the Assembly on 1 May 2014, that we were content.

7. We also considered a supplementary LCM on 19 May 2014 and laid our report before the Assembly on 19 June 2014.

Provisions for which the Assembly's consent would be required

8. The new provisions in the Bill for which the Assembly's consent would be required are described in detail in the supplementary LCM, namely in paragraphs 5 – 13 in respect of Farriers Registration Council and paragraphs 14- 21 in respect of Home School Arrangements.

Consideration

9. We considered the LCM at our meeting on 30 June 2014.

10. While some information has been provided on the amendments that have given rise to this LCM, we would have preferred to see information provided that would have enabled their progress to be more easily tracked in House of Commons proceedings.

11. We note that in relation to provisions regarding the Farriers Registration Council, they relate to the composition of that body which has responsibility across Great Britain and on that basis the approach is reasonable.

12. In relation to the provisions relating to home school arrangements, we consider that there has been ample opportunity for the removal of home-school arrangements to be delivered by means of a Welsh Bill scrutinised by the Assembly, rather than dealt with by legislation arising in Westminster.

13. We note the LCM includes the following passage that seeks to explain the advantages of utilising the UK Bill rather than Assembly legislation:

“It is the view of the Welsh Government that it is appropriate to deal with these provisions in this UK Bill as it represents the most practicable and proportionate legislative vehicle to enable these provisions to apply in relation to Wales. The proposed amendments are technical and non-contentious. In addition, the inter-connected nature of the relevant Welsh and English administrative systems mean that it is most effective and appropriate for the Bill provisions for both

to be taken forward at the same time in the same legislative instrument.”¹

14. We are not persuaded by this view in relation to the provisions relating to home-school arrangements and are disappointed with the approach the Welsh Government has taken.

15. We believe that this policy change should have been contained within a Welsh Government Bill and subject to scrutiny by the National Assembly.

¹ Paragraph 22

STATEMENT BY THE WELSH GOVERNMENT

TITLE The Legislative Programme

DATE 15 July 2014

BY The Rt. Hon Carwyn Jones AM, First Minister of Wales

I am pleased to announce the final ten bills of this Welsh Government's Legislative Programme.

When I introduced the Legislative Programme at the start of this Assembly I said we would bring forward Bills that would create opportunities for everyone, and deliver our vision of an efficient, effective and accessible Welsh public sector.

I believe that our legislative programme has already significantly contributed towards delivering on that commitment and will continue to do so through the ten bills I am announcing today.

We want our local communities to have the opportunities to influence the way places grow and change and we want to remove the unduly regulatory obstacles that frustrate business growth. To do this we will need a positive enabling planning system that facilitates, rather than frustrates development; a planning system that will help us to deliver the homes, jobs and infrastructure that Wales requires.

To this end, after the summer recess, we will be bringing forward a **Planning Bill** to reform and simplify our current planning system. The Bill will provide the legislation necessary to ensure that planning becomes an enabling tool which is supported by appropriate subordinate legislation, policy and guidance. It will provide for a modernised service delivery framework that will complement our proposed public service reforms.

Education reform has featured prominently in this Government's Legislative programme and we will be introducing the fifth education bill - **The Qualifications (Wales) Bill** at the end of this year. It will establish an independent body (Qualifications Wales) that will be responsible for the regulation and quality assurance of non-degree level qualifications available in Wales.

In addition we will bring forward before next summer the recess the **Additional Learning Needs Bill** which will be the sixth and final education bill of this Government's Legislative Programme.

And in order to pave the way for our planned reform of local authorities in Wales we will be bringing forward a **Local Government Bill** at the beginning of next year. The

Bill will prepare the ground for reforming local authorities in Wales through a series of mergers.

Whilst the merger proposals themselves and other reforms will be provided for in a second Bill to be introduced after the 2016 Assembly elections, the Local Government Bill will enable mergers to take place in a coherent and planned way. It will enable the Welsh Ministers to merge local authorities who wish to do so voluntarily ahead of the main merger and reform programme.

The Bill will enable the Local Democracy and Boundary Commission for Wales and the Independent Remuneration Panel for Wales to start work in respect of proposed new authorities. It will provide a power to ensure authorities co-operate for the purpose of jointly planning and preparing for merger and it will include provision to prevent activities by current or shadow authorities which might bring financial or reputational harm to any new authority.

And to further advance this Government's three strategic priorities for housing: more homes, better homes, and better services we will bring forward in the early part of next year the **Renting Homes Bill**. The Bill will provide a fairer, simpler and more efficient legal foundation for the relationship between landlords and tenants. It will for the first time, provide a legal framework tailored to the needs of supported housing.

The Bill will draw on extensive recommendations produced by the Law Commission who have helped develop our proposals. It will, amongst other things, assist landlords to tackle housing-related anti-social behaviour and domestic abuse; give equal rights to local authority and housing association tenants and ensure every private tenant has a clear written contract.

The Renting Homes Bill will be followed by the introduction of the **Social Services Regulation and Inspection Bill** - the sister bill of the Social Services and Well-being (Wales) Act. Responses to the White Paper consultation – The Future of Regulation and Inspection of Care and Support in Wales, provided a rich basis for developing the policy of the regulation and inspection of care and support in Wales. The two clear underpinning aims of the Bill will be to secure well-being for citizens and improve the quality of care and support they receive.

We recognise that in order to secure Wales' future prosperity, we must value our natural resources and the services they provide. To manage them sustainably to support the opportunities to deliver jobs, and sustainable growth within our transition to a low carbon economy, as well as in tackling key challenges, such as the decline in our biodiversity.

We therefore plan to bring forward next spring an **Environment Bill** to establish a modern and innovative legislative framework for the sustainable management of natural resources. The Bill will establish a framework to prioritise natural resource opportunities and help to reduce complexity and enable improvements in resource efficiency while streamlining and clarifying processes for a number of existing regulatory regimes.

This Government also recognises the value of the historic environment of Wales. A rich resource that can inspire our citizens and visitors, stimulate regeneration and economic growth. But if it is going to continue to provide these many benefits to present and future generations, it must be protected and sustainably managed. We therefore intend to introduce the **Heritage Bill** which will also come forward next spring.

The Heritage Bill will introduce greater transparency and accountability into decisions taken on the historic environment. It will include provisions that seek to give more effective protection to Wales' listed buildings and scheduled ancient monuments by giving the Welsh Government and local planning authorities enhanced powers. The Bill will provide the legislation necessary to ensure the sustainable management of the Welsh historic environment supported by non-legislative policy, advice and guidance.

Members will be aware that over the past year the Welsh Government has continued to pursue legislation as a means for improving and protecting health. In April the Minister for Health and Social Services outlined a series of proposals for addressing specific health concerns in a Public Health White Paper. We were pleased that this exercise attracted a great deal of interest and stimulated lively debate on a number of important issues. The consultation period closed on 24 June and we will be considering the responses over the coming months, with a view to bringing forward a **Public Health Bill** before summer recess next year.

The Wales Bill, which as we all know will confer significant new responsibilities on the Assembly in respect of taxation and borrowing, has now cleared the House of Commons and is under consideration in the House of Lords.

Whilst Parliamentary consideration has not completed, I think it reasonable for the Welsh Government to make preparatory plans. I can inform the Assembly that if the Bill becomes law broadly in its current form, it would be our intention to bring forward legislation in this Assembly term, a **Tax Collection and Management Bill** that will confer the powers of tax collection and management in Wales.

This Bill would establish a corporate body, operationally separate from Welsh Ministers, and vest it with the legal powers of tax collection and management. The legislation would also establish a legal process to ensure and protect taxpayer rights in the full and proper payment of taxes.

This is an historic time for Wales: this will be the first piece of tax legislation that the Assembly has had to consider, and will pave the way for the replacement of UK Stamp Duty Land Tax and Landfill Tax with new, devolved Welsh taxes from 2018.

Llywydd, this government's legislative ambitions do not end here.

I should also like to inform Members that we will be working with the Law Commission on projects which we hope will be included in its 12th Programme of Law Reform, details of which will be announced shortly. I am hopeful that there will be a major piece of work on Planning Law reform, to simplify and codify the law relating to development control, which should lead to legislation in the next Assembly, as well

as work to address the issues around accessibility to Welsh law and the Welsh statute book; again this should be relevant to legislation in the next Assembly.

I commend this legislative statement.

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Agenda Item 5.2

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

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Agenda Item 5.3

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

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