

# Agenda – Constitutional and Legislative Affairs Committee

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Meeting Venue:

Committee Room 1 – Senedd

Meeting date: 17 September 2018

Meeting time: 14.30

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## 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 – 5)

CLA(5)–21–18 – Paper 1 – Statutory Instruments with clear reports

Negative Resolution Instruments

### 2.1 SL(5)238 – The Education (National Curriculum) (Assessment Arrangements for Reading and Numeracy) (Wales) (Amendment) Order 2018

### 2.2 SL(5)244 – The Education Workforce Council (Membership and Appointment) (Wales) (Amendment) Regulations 2018

Affirmative Resolution Instruments

### 2.3 SL(5)245 – The Landfill Disposals Tax (Wales) Act 2017 (Site Restoration Relief) (Amendment) Regulations 2018

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

Negative Resolution Instruments



**3.1 SL(5)237 – The Food and Feed (Miscellaneous Amendments and Revocations) (Wales) Regulations 2018**

(Pages 6 – 45)

CLA(5)–21–18 – Paper 2 – Report

CLA(5)–21–18 – Paper 3 – Regulations

CLA(5)–21–18 – Paper 4 – Explanatory Memorandum

**3.2 SL(5)239 – The Education (Student Loans) (Repayment) (Amendment) (No.3) Regulations 2018**

(Pages 46 – 59)

CLA(5)–21–18 – Paper 5 – Report

CLA(5)–21–18 – Paper 6 – Regulations

CLA(5)–21–18 – Paper 7 – Explanatory Memorandum

**3.3 SL(5)240 – The Education (Student Support) (Wales) (Amendment) Regulations 2018**

(Pages 60 – 79)

CLA(5)–21–18 – Paper 8 – Report

CLA(5)–21–18 – Paper 9 – Regulations

CLA(5)–21–18 – Paper 10 – Explanatory Memorandum

**3.4 SL(5)248 – The Food and Rural Affairs (Miscellaneous Revocations) Regulations 2018**

(Pages 80 – 87)

CLA(5)–21–18 – Paper 11 – Report

CLA(5)–21–18 – Paper 12 – Regulations

CLA(5)–21–18 – Paper 13 – Explanatory Memorandum

**4 Instruments that raise issues to be reported to the Assembly under Standing Order 27**

**4.1 SL(5)246 – Code of Practice for the Welfare of Dogs**

(Pages 88 – 114)

CLA(5)–21–18 – Paper 14 – Report

CLA(5)–21–18 – Paper 15 – Code of Practice

CLA(5)–21–18 – Paper 16 – Explanatory Memorandum

## **4.2 SL(5)247 – Code of Practice for the Welfare of Horses**

(Pages 115 – 151)

CLA(5)–21–18 – Paper 17 – Report

CLA(5)–21–18 – Paper 18 – Code of Practice

CLA(5)–21–18 – Paper 19 – Explanatory Memorandum

## **5 Instruments that raise no reporting issues under Standing Order 21.2 or 21.3 but have implications as a result of the UK exiting the EU**

### **5.1 SL(5)241 – The Education (Student Finance) (Miscellaneous Amendments) (Wales) Regulations 2018**

(Pages 152 – 153)

CLA(5)–21–18 – Paper 20 – Report

### **5.2 SL(5)242 – The Cancellation of Student Loans for Living Costs Liability (Wales) Regulations 2018**

(Pages 154 – 155)

CLA(5)–21–18 – Paper 21 – Report

### **5.3 SL(5)251 – The Materials and Articles in Contact with Food (Wales) (Amendment) Regulations 2018**

(Page 156)

CLA(5)–21–18 – Paper 22 – Report

## **6 Statutory Instruments requiring Assembly consent (Statutory Instrument Consent Memorandums)**

### **6.1 SICM(5)3 – Environment, Food and Rural Affairs (Miscellaneous Amendments and Revocations) Regulations 2018**

(Pages 157 – 160)

CLA(5)–21–18 – Paper 23 – Statutory Instrument Consent Memorandum

CLA(5)–21–18 – Paper 24 – Letter from the Cabinet Secretary for Energy, Environment and Rural Affairs

## **7 Papers to note**

### **7.1 Letter to the Llywydd from the Minister for Children, Older People and Social Care regarding the Childcare Funding (Wales) Bill**

(Pages 161 – 164)

**CLA(5)–21–18 – Paper 25** – Letter to the Llywydd from the Minister for Children, Older People and Social Care, 10 July 2018

### **7.2 Letter to the Leader of the House regarding European Union (Withdrawal) Act 2018 – regulations made under Schedule 4**

(Pages 165 – 166)

**CLA(5)–21–18 – Paper 26** – Letter to the Leader of the House, 11 July 2018

### **7.3 Letter from the Leader of the House and Chief Whip regarding regulations made under the European Union (Withdrawal) Act 2018**

(Pages 167 – 168)

**CLA(5)–21–18 – Paper 27** – Letter from the Leader of the House, 20 July 2018

### **7.4 Letter from the Leader of the House and Chief Whip regarding regulations made under the European Union (Withdrawal) Act 2018**

(Pages 169 – 171)

**CLA(5)–21–18 – Paper 28** – Letter from the Leader of the House and Chief Whip, 28 August 2018

### **7.5 Correspondence with the Cabinet Secretary for Local Government and Public Services regarding Concordat with the Ministry for Justice and the Welsh Government**

(Pages 172 – 174)

**CLA(5)–21–18 – Paper 29** – Letter to the Cabinet Secretary for Local Government and Public Services, 11 July 2018

**CLA(5)–21–18 – Paper 30** – Letter from the Cabinet Secretary for Local Government and Public Services, 14 August 2018

**7.6 Letter from the Chair of the External Affairs and Additional Legislation Committee: Brexit Transition**

(Pages 175 – 178)

**CLA(5)–21–18 – Paper 31** – Letter from the Chair of the External Affairs and Additional Legislation Committee, 20 July 2018

**7.7 Letter from the Cabinet Secretary for Education to the Children, Young People and Education Committee: Additional Learning Needs Transformation**

(Pages 179 – 181)

**CLA(5)–21–18 – Paper 32** – Letter from the Cabinet Secretary for Education, 17 July 2018

**7.8 Letter from the Llywydd to Committee Chairs: Senedd@**

(Page 182)

**CLA(5)–21–18 – Paper 33** – Letter from the Llywydd, 18 July 2018

**7.9 Welsh Government Written Statement and Supplementary Evidence to the Commission on Justice in Wales**

(Page 183)

**CLA(5)–21–18 – Paper 34** – Welsh Government Written Statement and supplementary evidence, 31 August 2018

**7.10 The Royal Society of Edinburgh – Advice paper August 2018: Scottish Parliament Finance and Constitution Committee Common UK Frameworks**

(Pages 184 – 191)

**CLA(5)–21–18 – Paper 35** – The Royal Society of Edinburgh – Advice paper August 2018

**7.11 Statements: Introduction of UK Agriculture Bill**

(Pages 192 – 195)

**CLA(5)–21–18 – Paper 36** – Welsh Government Written Statement: Introduction of UK Agriculture Bill

**CLA(5)–21–18 – Paper 37** – Joint statement by UK and Welsh Governments: Agricultural framework progress update

- 7.12 Welsh Government response to the Committee's Report: Scrutiny of Regulations made under the European Withdrawal Act 2018: Operational Matters**  
(Pages 196 – 202)  
CLA(5)–21–18 – Paper 38 – Welsh Government Response to the Committee's Report
- 8 Motion under Standing Order 17.42 to resolve to exclude the public from the meeting for the following business:**
- 9 Draft Protocol with Welsh Government – Scrutiny of regulations made under the European Union (Withdrawal) Act 2018**  
(Pages 203 – 209)  
CLA(5)–21–18 – Paper 39 – Draft Protocol
- 10 Statutory Instruments made by UK Ministers requiring Assembly Consent: practice in light of Brexit**  
(Pages 210 – 213)  
CLA(5)–21–18 – Paper 40 – Statutory Instruments made by UK Ministers requiring Assembly Consent
- 11 Legislating for the Withdrawal Agreement between the UK and the EU: Update**  
(Pages 214 – 220)  
CLA(5)–21–18– Paper 41 – Update
- 12 House of Commons Public Administration and Constitutional Affairs Committee Report – Summary**  
(Pages 221 – 226)  
CLA(5)–21 – 18 – Paper 42 – Summary
- 13 Forward Work Programme**  
(Pages 227 – 233)

**CLA(5)-21-18 - Paper 43 - Forward Work Programme**

## Statutory Instruments with Clear Reports

17 September 2018

SL(5)238 – The Education (National Curriculum)  
(Assessment Arrangements for Reading and Numeracy)  
(Wales) (Amendment)

Order 2018

### Procedure: Negative

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Section 108 of the Education Act 2002 provides a power for the Welsh Ministers to prescribe by way of an Order assessment arrangements of the National Curriculum.

The Education (National Curriculum) (Assessment Arrangements for Reading and Numeracy) (Wales) Order 2013 (“the 2013 Order”) gives legal effect to the assessment arrangements for reading and numeracy for pupils who attend schools maintained by a local authority (other than any established in a hospital) in Wales. In particular the 2013 Order provides that the head teacher must send the results of the reading and numeracy assessments to either the National Foundation for Educational Research (“the NFER”) or the Welsh Ministers.

The NFER no longer collects the reading and numeracy assessment results. The assessment results must in future be sent only to the Welsh Ministers. Accordingly this Order amends the 2013 Order so as to remove any reference to the NFER (article 2(a) and (e)).

From the coming into force of this Order a pupil will be able to sit an on-line version of the assessments. The on-line versions of the assessments will be marked automatically by computer software and the results will automatically be submitted to the Welsh Ministers by computer software. In those cases the duty on the head teacher to mark the assessments in accordance with the NT mark scheme (defined in article 2(1) of the 2013





Order) and submit the assessment marks to the Welsh Ministers is not appropriate. Accordingly, article 2(b), (c) and (d) of this Order dis-applies those duties for those pupils taking the on-line version of the tests.

**Parent Act:** Education Act 2002

**Date Made:** 03 July 2018

**Date Laid:** 04 July 2018

**Coming into force date:** 01 September 2018



# SL(5)244 – The Education Workforce Council (Membership and Appointment) (Wales) (Amendment) Regulations 2018

## Procedure: Negative

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Part 2 of the Education (Wales) Act 2014 (“the 2014 Act”) confers functions on the Education Workforce Council (“the Council”) in relation to persons who are required to register in the register the Council maintains in accordance with section 9 of that Act (“Registered Persons”). The categories of Registered Persons are set out in Table 1 at paragraph 1 of Schedule 2 to the 2014 Act.

Schedule 1 to the 2014 Act provides that the Council will have 14 members appointed by the Welsh Ministers. Seven of those members must be appointed from nominees of organisations set out in Regulations (“Nominating Bodies”). The list of Nominating Bodies is set out in Schedule 2 to the Education Workforce Council (Membership and Appointment) (Wales) Regulations 2014 (“the 2014 Regulations”).

These Regulations amend Part 1 of Schedule 2 to the 2014 Regulations so as to omit paragraph 1 (entry for the National Union of Teachers (Cymru)) and paragraph 7 (entry for the Association of Teachers and Lecturers). Those Unions have now merged to create a new union called the National Education Union. Therefore, to reflect that merger the National Education Union is added to the list of bodies set out in Part 1 of Schedule 2 to the 2014 Regulations (regulation 2(a)).

The categories of Registered Persons were amended by the Education Workforce Council (Registration of Youth Workers, Youth Support Workers and Work Based Learning Practitioners) Order 2016 so as to include youth workers, youth support workers, and work based learner practitioners (“New Categories”).

These Regulations amend Schedule 2 to the 2014 Regulations so as to allow bodies that represent the New Categories of Registered Persons to nominate



persons to become members of the Council. Accordingly these Regulations add to the list of Nominating Bodies the following (regulation 2(b))—

- (a) Council for Wales of Voluntary Youth Services Cyngor Cymreig y Gwasanaethau Ieuenctid Gwirfoddol;
- (b) Wales Principal Youth Officers' Group;
- (c) National Training Federation for Wales Ltd; and
- (d) Education Training Standards Wales.

**Parent Act:** Education (Wales) Act 2014

**Date Made:** 17 July 2018

**Date Laid:** 19 July 2018

**Coming into force date:** 08 August 2018



# SL(5)245 – The Landfill Disposals Tax (Wales) Act 2017 (Site Restoration Relief) (Amendment) Regulations 2018

## **Procedure: Affirmative**

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These Regulations amend section 29(1)(a) of the Landfill Disposals Tax (Wales) Act 2017.

The amendment made by these Regulations enables the site restoration relief to be applied to the disposal of material consisting entirely of top-soil. The amendment will have effect in relation to taxable disposals made on or after the date the regulations come into force.

**Parent Act:** Landfill Disposals Tax (Wales) Act 2017

**Date Made:**

**Date Laid:**

**Coming into force date:**



# Agenda Item 3.1

## SL(5)237 – The Food and Feed (Miscellaneous Amendments and Revocations) (Wales) Regulations 2018

### Background and Purpose

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These Regulations make amendments in relation to Wales to a number of pieces of secondary legislation relating to food and feed.

The Regulations:

- Amend the Food Hygiene (Wales) Regulations 2006 to draw attention to the new benchmark levels on acrylamide in particular foods set out in Regulation (EU) No 2017/2158, with which businesses must seek to comply (Regulation 11);
- Amend the Fruit Juices and Fruit Nectars (Wales) Regulations 2013 to implement Commission Delegated Regulation (EU) No 1040/2014 concerning plant proteins from wheat, peas and potatoes to be used for the clarification of products to which the 2013 Regulations apply (Regulation 25); and
- Make various other miscellaneous amendments to food and feed-related statutory instruments to, among other things, correct out of date references to domestic legislation and EU instruments, revoke expired or redundant provisions and statutory instruments and correct minor errors.

### Procedure

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Negative.

### Technical Scrutiny

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

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

Regulation 22(3), which amended Regulation 14(1) of The Materials and Articles in Contact with Food (Wales) Regulations 2012/2705, makes reference to transitional provisions contained in “Article 6” of Commission Regulation (EU) 2018/831. In fact, those transitional provisions appear in Article 2 of that Regulation.

However, this error was subsequently corrected by Regulation 4 of The Materials and Articles in Contact with Food (Wales) (Amendment) Regulations 2018/913, which came into force on 6 September 2018.

### Merits Scrutiny

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



## Implications arising from exiting the European Union

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These Regulations amend various statutory instruments which implement and enforce EU obligations in respect of food and feed law, and therefore these Regulations will form part of retained EU law after exit day.

The Intergovernmental Agreement on the European Union (Withdrawal) Bill and the Establishment of Common Frameworks states that various elements of food and feed safety and hygiene law, and the controls that verify compliance with food and feed law (official controls), food compositional standards and food labelling are all policy areas likely to be subject to section 12 regulations under the EU (Withdrawal) Act 2018. Therefore, the law covered by these Regulations is likely to be an area of EU law that is frozen while common frameworks are put in place.

## Government Response

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No government response is required.

### **Legal Advisers**

**Constitutional and Legislative Affairs Committee**

**10 September 2018**



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

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**2018 No. 806 (W. 162)**

**AGRICULTURE, WALES**

**FOOD, WALES**

**The Food and Feed (Miscellaneous  
Amendments and Revocations)  
(Wales) Regulations 2018**

**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations make amendments in relation to Wales to a number of pieces of secondary legislation relating to food and feed.

Regulation 11 amends the Food Hygiene (Wales) Regulations 2006 (S.I. 2006/32 (W. 5)) to amend the definition of Regulation (EC) 852/2004 on the hygiene of foodstuffs (OJ No L 139, 30.4.2004, p. 1) so as to require that Regulation to be read with new Commission Regulation (EU) No 2017/2158 establishing mitigation measures and benchmark levels for the reduction of the presence of acrylamide in food (OJ No L 304, 21.11.2017, p. 24).

Regulation 25 amends the Fruit Juices and Fruit Nectars (Wales) Regulations 2013 (S.I. 2013/2750 (W. 267)) to implement Commission Delegated Regulation (EU) No 1040/2014 amending Council Directive 2001/112/EC relating to fruit juices and certain similar products intended for human consumption to adapt its Annex I to technical progress (OJ No L 288, 2.10.2014, p. 1). This allows plant proteins from wheat, peas and potatoes to be used for the clarification of products to which the Fruit Juices and Fruit Nectars (Wales) Regulations 2013 apply.

These Regulations make other miscellaneous minor amendments to legislation relating to food and feed, in particular amending out of date references to domestic legislation and to EU instruments.

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.



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

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**2018 No. 806 (W. 162)**

**AGRICULTURE, WALES**

**FOOD, WALES**

**The Food and Feed (Miscellaneous  
Amendments and Revocations)  
(Wales) Regulations 2018**

*Made* 2 July 2018

*Laid before the National Assembly  
for Wales* 4 July 2018

*Coming into force* 26 July 2018

**CONTENTS**

**PART 1**

Introduction

1. Title, application and commencement

**PART 2**

Amendments to food and feed-related subordinate  
legislation

2. The Food (Lot Marking) Regulations 1996
3. The Foods Intended for Use in Energy Restricted Diets for Weight Reduction Regulations 1997
4. The Bread and Flour Regulations 1998
5. The Medical Food (Wales) Regulations 2000
6. The Coffee Extracts and Chicory Extracts (Wales) Regulations 2001
7. The Cocoa and Chocolate Products (Wales) Regulations 2003
8. The Specified Sugar Products (Wales) Regulations 2003

9. The Processed Cereal-based Food and Baby Foods for Infants and Young Children (Wales) Regulations 2004
10. The Genetically Modified Food (Wales) Regulations 2004
11. The Food Hygiene (Wales) Regulations 2006
12. The Official Controls (Animals, Feed and Food) (Wales) Regulations 2007
13. The Addition of Vitamins, Minerals and Other Substances (Wales) Regulations 2007
14. The Fishery Products (Official Controls Charges) (Wales) Regulations 2007
15. The Quick-frozen Foodstuffs (Wales) Regulations 2007
16. The Specified Products from China (Restriction on First Placing on the Market) (Wales) Regulations 2008
17. The Products of Animal Origin (Disease Control) (Wales) Regulations 2008
18. The Official Feed and Food Controls (Wales) Regulations 2009
19. The Meat (Official Controls Charges) (Wales) Regulations 2009
20. The Food Irradiation (Wales) Regulations 2009
21. The Plastic Kitchenware (Conditions on Imports from China) (Wales) Regulations 2011
22. The Materials and Articles in Contact with Food (Wales) Regulations 2012
23. The Contaminants in Food (Wales) Regulations 2013
24. The Food Additives, Flavourings, Enzymes and Extraction Solvents (Wales) Regulations 2013
25. The Fruit Juices and Fruit Nectars (Wales) Regulations 2013
26. The Products Containing Meat etc. (Wales) Regulations 2014
27. The Animal Feed (Composition, Marketing and Use) (Wales) Regulations 2016
28. The Animal Feed (Hygiene, Sampling etc. and Enforcement) (Wales) Regulations 2016

### PART 3

#### Revocations

29. Revocations

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- SCHEDULE 1 — Schedule substituted for Schedule 3 to the Food Irradiation (Wales) Regulations 2009
- SCHEDULE 2 — Schedule substituted for Schedule 4 to the Food Irradiation (Wales) Regulations 2009
- SCHEDULE 3 — Regulations Revoked

The Welsh Ministers make the following Regulations in exercise of the powers conferred on them by—

- (a) except regulations 4, 26 and 29, to the extent that regulation 29 as read with Schedule 3 revokes the Beef Bones (Amendment) (Wales) Regulations 1999 and the Food Safety (General Food Hygiene) (Butchers' Shops) (Amendment) (Wales) Regulations 2000, section 2(2) of the European Communities Act 1972 ("the 1972 Act")**(1)**;
- (b) in relation to regulations 8(4)(b), 11(6)(a), 13(2), 21 and 26, paragraph 1A of Schedule 2 to the 1972 Act**(2)**;
- (c) in relation to regulations 4, 26 and 29, to the extent that regulation 29 as read with Schedule 3 revokes the Beef Bones (Amendment) (Wales) Regulations 1999 and the Food Safety (General Food Hygiene) (Butchers' Shops) (Amendment) (Wales) Regulations 2000, sections 16(1)(a) and 48(1)(c) of the Food Safety Act 1990**(3)**.

The Welsh Ministers have been designated for the purposes of section 2(2) of the 1972 Act in relation to—

- (a) the control and regulation of the deliberate release, placing on the market and

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**(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 Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c. 7).

**(2)** Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 and was amended by Part 1 of the Schedule to the European Union (Amendment) Act 2008 and S.I. 2007/1388.

**(3)** 1990 c. 16. Sections 16(1)(a) and 48(1) were amended by paragraph 8 of Schedule 5 to the Food Standards Act 1999 (c. 28).

- transboundary movements of genetically modified organisms<sup>(1)</sup>;
- (b) measures in respect of food (including drink) including the primary production of food and measures relating to feed produced for or fed to food-producing animals<sup>(2)</sup>;
- (c) measures in the veterinary and phytosanitary fields for the protection of public health<sup>(3)</sup>;
- (d) measures in relation to the common agricultural policy of the European Union<sup>(4)</sup>.

As set out above, these Regulations make provision for a purpose mentioned in section 2(2) of the 1972 Act and it appears to the Welsh Ministers that it is expedient for particular references to the specified Annexes to the following EU instruments to be construed as references to those Annexes as amended from time to time—

- (a) Annex I or II to Regulation (EC) No 1925/2006 of the European Parliament and of the Council on the addition of vitamins and minerals and of certain other substances to foods<sup>(5)</sup>;
- (b) the Annexes to Regulation (EC) No 1333/2008 of the European Parliament and of the Council on food additives<sup>(6)</sup>;
- (c) Annex I to Directive 2009/32/EC of the European Parliament and of the Council on the approximation of the laws of the Member States on extraction solvents used in the production of foodstuffs and food ingredients (Recast)<sup>(7)</sup>;

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(1) S.I. 2003/2901. The functions conferred on the National Assembly for Wales by this designation are transferred to the Welsh Ministers by virtue of section 162 of, and paragraphs 28 and 30 of Schedule 11 to, the Government of Wales Act 2006 (c. 32).

(2) S.I. 2005/1971. The functions conferred on the National Assembly for Wales by this designation are transferred to the Welsh Ministers by virtue of section 162 of, and paragraphs 28 and 30 of Schedule 11 to, the Government of Wales Act 2006.

(3) S.I. 2008/1792.

(4) S.I. 2010/2690.

(5) OJ No L 404, 30.12.2006, p. 26, as last amended by Commission Regulation (EU) 2017/1203 (OJ No L 173, 6.7.2017, p. 9).

(6) OJ No L 354, 31.12.2008, p. 16, as last amended by Commission Regulation (EU) 2018/682 (OJ No L 116, 7.5.2018, p. 5).

(7) OJ No L 141, 6.6.2009, p. 3, as last amended by Commission Directive (EU) 2016/1855 (OJ No L 284, 20.10.2016, p. 19).

- (d) Annex I to Commission Regulation (EU) No 10/2011 on plastic materials and articles intended to come into contact with food<sup>(1)</sup>;
- (e) the Annex to Commission Regulation (EU) No 579/2014<sup>(2)</sup>.

So far as these Regulations are made in exercise of powers under the Food Safety Act 1990, in accordance with section 48(4A)<sup>(3)</sup> of the Food Safety Act 1990, the Welsh Ministers have had regard to relevant advice given by the Food Standards Agency before making these Regulations.

There has been open and transparent public consultation during the preparation and evaluation of these Regulations as required by Article 9 of Regulation (EC) No 178/2002 of the European Parliament and of the Council laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety<sup>(4)</sup>.

## PART 1

### Introduction

#### **Title, application and commencement**

**1.**—(1) The title of these Regulations is the Food and Feed (Miscellaneous Amendments and Revocations) (Wales) Regulations 2018.

(2) These Regulations apply in relation to Wales.

(3) These Regulations come into force on 26 July 2018.

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- (1) OJ No L 12, 15.1.2011, p. 1, as last amended by Commission Regulation (EU) 2018/831 (OJ No L 140, 6.6.2018, p. 35).
  - (2) OJ No L 160, 29.5.2014, p. 14, as last amended by Commission Regulation (EU) No 2016/238 (OJ No L 45, 20.2.2016, p. 1).
  - (3) Section 48(4A) was inserted by paragraph 21 of Schedule 5 to the Food Standards Act 1999.
  - (4) OJ No L 31, 1.2.2002, p. 1, as last amended by Commission Regulation (EU) 2017/228 (OJ No L 35, 10.2.2017, p. 10).

## PART 2

### Amendments to food and feed-related subordinate legislation

#### **The Food (Lot Marking) Regulations 1996**

2. In regulation 4 of the Food (Lot Marking) Regulations 1996<sup>(1)</sup>, omit paragraph (f).

#### **The Foods Intended for Use in Energy Restricted Diets for Weight Reduction Regulations 1997**

3. In regulation 3(f) of the Foods Intended for Use in Energy Restricted Diets for Weight Reduction Regulations 1997<sup>(2)</sup>, for “2(1)(a)” substitute “2(1)”.

#### **The Bread and Flour Regulations 1998**

4.—(1) The Bread and Flour Regulations 1998<sup>(3)</sup> are amended as follows.

(2) In regulation 2(1)—

- (a) omit the definition of “flour treatment agent”;
- (b) in the definition of “food additive”, for “the Miscellaneous Food Additives Regulations 1995” substitute “Article 3(2)(a) of Regulation (EC) No 1333/2008 of the European Parliament and of the Council on food additives<sup>(4)</sup>”.

#### **The Medical Food (Wales) Regulations 2000**

5. In regulation 2 of the Medical Food (Wales) Regulations 2000<sup>(5)</sup>, for the definition of “the Directive” substitute—

““the Directive” (“y Gyfarwydddeb”) means Commission Directive 1999/21/EC on dietary foods for special medical purposes <sup>(6)</sup>, as last amended by Commission Directive 2013/26/EU<sup>(7)</sup>”.

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- (1) S.I. 1996/1502, to which there are amendments not relevant to these Regulations.
  - (2) S.I. 1997/2182, amended by S.I. 2016/639 (W. 175); there are other amending instruments but none is relevant to these Regulations.
  - (3) S.I. 1998/141, amended by S.I. 1999/1136 and S.I. 2014/2303 (W. 227); there are other amending instruments but none is relevant to these Regulations.
  - (4) OJ No L 354, 31.12.2008, p. 16, as last amended by Commission Regulation (EU) 2018/682 (OJ No L 116, 7.5.2018, p. 5).
  - (5) S.I. 2000/1866 (W. 125), amended by S.I. 2007/3573 (W. 316) and S.I. 2008/2602 (W. 228); there are other amending instruments but none is relevant to these Regulations.
  - (6) OJ No L 91, 7.4.1999, p. 29.
  - (7) OJ No L 158, 10.6.2013, p. 376.

### **The Coffee Extracts and Chicory Extracts (Wales) Regulations 2001**

**6.**—(1) The Coffee Extracts and Chicory Extracts (Wales) Regulations 2001<sup>(1)</sup> are amended as follows.

(2) In regulation 7(3), for the words from “paragraphs 1 and 2” to “human consumption” substitute “Annex 3 to Regulation (EC) No 882/2004 of the European Parliament and of the Council on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules<sup>(2)</sup>”.

(3) Omit regulation 8.

### **The Cocoa and Chocolate Products (Wales) Regulations 2003**

**7.**—(1) The Cocoa and Chocolate Products (Wales) Regulations 2003<sup>(3)</sup> are amended as follows.

(2) In regulation 2(1), omit the definitions of “EEA Agreement” and “EEA State”.

(3) In regulation 7(2)(a), for “the 1996 Regulations”, substitute “Article 9(1)(b) of Regulation (EU) No 1169/2011<sup>(4)</sup>”.

(4) Omit regulation 12.

### **The Specified Sugar Products (Wales) Regulations 2003**

**8.**—(1) The Specified Sugar Products (Wales) Regulations 2003<sup>(5)</sup> are amended as follows.

(2) In regulation 2, omit the definitions of “EEA Agreement” and “EEA State”.

(3) Omit regulation 11.

(4) In Schedule 1—

(a) in the table—

(i) in entry 5, in column 2, in sub-paragraph (c), for “paragraph 4” substitute “paragraph 3”;

(ii) in entry 11, in column 2, for “paragraph (2)” substitute “paragraph 3”;

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(1) S.I. 2001/1440 (W. 102), to which there are amendments not relevant to these Regulations.

(2) OJ No L 165, 30.4.2004, p. 1, as last amended by Commission Regulation (EU) 2018/455 (OJ No L 77, 20.3.2018, p. 4).

(3) S.I. 2003/3037 (W. 285), amended by S.I. 2005/3254 (W. 247) and S.I. 2014/2303 (W. 227).

(4) OJ No L 304, 22.11.2011, p. 18, as last amended by Regulation (EU) 2015/2283 of the European Parliament and of the Council (OJ No L 327, 11.12.2015, p. 1) and as corrected by the Corrigenda set out in OJ No L 247, 13.9.2012, p. 17 and OJ No L 266, 30.9.2016, p. 7.

(5) S.I. 2003/3047 (W. 290), amended by S.I. 2005/3254 (W. 247); there are other amending instruments but none is relevant to these Regulations.

(b) in note 7—

- (i) for “Directive 2009/32/EC of the European Parliament and of the Council on the approximation of the laws of the Member States on extraction solvents used in the production of foodstuffs and food ingredients (Recast)” substitute “Directive 2009/32/EC of the European Parliament and of the Council on the approximation of the laws of the Member States on extraction solvents used in the production of foodstuffs and food ingredients (Recast) as Annex I to which is amended from time to time(1)”;
- (ii) for “Regulation (EC) No. 1333/2008 of the European Parliament and of the Council on food additives” substitute “Regulation (EC) No. 1333/2008 of the European Parliament and of the Council on food additives as the Annexes to which are amended from time to time(2)”.

**The Processed Cereal-based Foods and Baby Foods for Infants and Young Children (Wales) Regulations 2004**

9. In regulation 2(1) of the Processed Cereal-based Foods and Baby Foods for Infants and Young Children (Wales) Regulations 2004(3), omit the definitions of “EEA Agreement” and “EEA State”.

**The Genetically Modified Food (Wales) Regulations 2004**

10. In the Genetically Modified Food (Wales) Regulations 2004(4), omit regulation 9.

**The Food Hygiene (Wales) Regulations 2006**

11.—(1) The Food Hygiene (Wales) Regulations 2006(5) are amended as follows.

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- (1) OJ No L 141, 6.6.2009, p. 3, as last amended by Commission Directive (EU) 2016/1855 (OJ No L 284, 20.10.2016, p. 19).
  - (2) OJ No L 354, 31.12.2008, p. 16, as last amended by Commission Regulation (EU) 2018/682 (OJ No L 116, 7.5.2018, p. 5).
  - (3) S.I. 2004/314 (W. 32), amended by S.I. 2005/3254 (W. 247); there are other amending instruments but none is relevant to these Regulations.
  - (4) S.I. 2004/3220 (W. 276), to which there are amendments not relevant to these Regulations.
  - (5) S.I. 2006/31 (W. 5), amended by S.I. 2010/893 (W. 92), S.I. 2012/1765 (W. 225), S.I. 2013/3007 (W. 298), S.I. 2013/3049 (W. 308) and S.I. 2014/1858 (W. 192); there are other amending instruments but none is relevant to these Regulations.



(2) In regulation 2(1), in the definition beginning with “Decision 2006/766”—

- (a) omit ““Regulation 809/2011” (*“Rheoliad 809/2011”*)”;
- (b) for “, “Regulation 16/2012” (*“Rheoliad 16/2012”*), “Regulation 28/2012” (*“Rheoliad 28/2012”*), “Regulation 702/2013” (*“Rheoliad 702/2013”*) and “Regulation 1079/2013” (*“Rheoliad 1079/2013”*)” substitute “and “Regulation 16/2012” (*“Rheoliad 16/2012”*)”.

(3) For regulation 32 substitute—

**“Restriction on the sale of raw milk intended for direct human consumption**

**32.** Schedule 6 (restrictions on the sale of raw milk intended for direct human consumption) has effect.”

(4) Omit regulation 33.

(5) In Schedule 1—

- (a) in the definition of “Regulation 852/2004” for “and with Commission Regulation (EU) No 210/2013 on the approval of establishments producing sprouts pursuant to Regulation (EC) No 852/2004 of the European Parliament and of the Council” substitute “, Commission Regulation (EU) No 210/2013 on the approval of establishments producing sprouts pursuant to Regulation (EC) No 852/2004 of the European Parliament and of the Council<sup>(1)</sup> and with Commission Regulation (EU) No 2017/2158 establishing mitigation measures and benchmark levels for the reduction of the presence of acrylamide in food<sup>(2)</sup>”;
- (b) in the definition of “Regulation 853/2004”, for “, Regulation 1020/2008 and Regulation 1079/2013 (*Rheoliad 1079/2013*)” substitute “and Regulation 1020/2008”;
- (c) in the definition of “Regulation 854/2004”, for “, Regulation 1021/2008 and Regulation 1079/2013 (*Rheoliad 1079/2013*)” substitute “and Regulation 1021/2008”;
- (d) in the definition of “Regulation 882/2004”, for “, Regulation 669/2009 and Regulation 702/2013 (*Rheoliad 702/2013*)” substitute “and Regulation 669/2009”;
- (e) for the definition of “Regulation 2073/2005” substitute—

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(1) OJ No L 68, 12.3.2013, p. 24.

(2) OJ No L 304, 21.11.2017, p. 24.

““Regulation 2073/2005” (*“Rheoliad 2073/2005”*) means Commission Regulation (EC) No. 2073/2005 on microbiological criteria for foodstuffs<sup>(1)</sup> as last amended by Commission Regulation (EU) 2017/1495 amending Regulation (EC) No 2073/2005 as regards *Campylobacter* in broiler carcasses<sup>(2)</sup>”;

- (f) for the definition of “Regulation 2074/2005” substitute—

““Regulation 2074/2005” (*“Rheoliad 2074/2005”*) means Commission Regulation (EC) No. 2074/2005 laying down implementing measures for certain products under Regulation (EC) No. 853/2004 of the European Parliament and of the Council and for the organisation of official controls under Regulation (EC) No. 854/2004 of the European Parliament and of the Council and Regulation (EC) No. 882/2004 of the European Parliament and of the Council, derogating from Regulation (EC) No. 852/2004 of the European Parliament and of the Council and amending Regulations (EC) No. 853/2004 and (EC) No. 854/2004<sup>(3)</sup>, as last amended by Commission Regulation (EU) 2017/1973<sup>(4)</sup>”;

- (g) omit the definitions of “Regulation 809/2011”, “Regulation 28/2012”, “Regulation 702/2013” and “Regulation 1079/2013”.

- (6) In Schedule 3—

- (a) in paragraph 2(2), for “Annex to Commission Regulation (EU) No. 579/2014” substitute “Annex to Commission Regulation (EU) No. 579/2014<sup>(5)</sup> as amended from time to time”;

- (b) for paragraph 14 substitute—

**“14.** For the purposes of this Schedule any words or expressions

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(1) OJ No L 338, 22.12.2005, p. 1, as corrected by the Corrigenda set out in OJ No L 278, 10.10.2006, p. 32, OJ No L 283, 14.10.2006, p. 62, OJ No L 68, 13.3.2015, p. 90, OJ No L 195, 20.7.2016, p.82 and OJ No L 195, 20.7.2016, p. 83.

(2) OJ No L 218, 24.8.2017, p. 1.

(3) OJ No L 338, 22.12.2005, p. 27, as corrected by the Corrigendum set out in OJ No L 214, 9.8.2013, p. 11.

(4) Commission Regulation (EU) 2017/1973 amending Regulation (EC) No 2074/2005 as regards official controls on fishery products caught by vessels flying the flag of a Member State and introduced into Union after being transferred in third countries and establishing a model health certificate for those products (OJ No L 281, 31.10.2017, p. 21).

(5) OJ No L 160, 29.5.2014, p. 14, as last amended by Commission Regulation (EU) No 2016/238 (OJ No L 45, 20.2.2016, p. 1).

used both in this Schedule and in Commission Regulation (EU) No 579/2014 granting derogation from certain provisions of Annex II to Regulation (EC) No 852/2004 of the European Parliament and of the Council as regards the transport of liquid oils and fats by sea<sup>(1)</sup> or Commission Directive 98/28/EC granting a derogation from certain provisions of Directive 93/43/EEC on the hygiene of foodstuffs as regards the transport by sea of bulk raw sugar<sup>(2)</sup> will bear the same meanings as they respectively have in that Regulation or Directive.”

(7) In Schedule 3A, in the definition of “Community TSE Regulation”, for the words from “Regulation (EC) No. 999/2001” to “conferred on the Commission” substitute “Regulation (EC) No. 999/2001 of the European Parliament and of the Council laying down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies<sup>(3)</sup>, as last amended by Commission Regulation (EU) 2017/893<sup>(4)</sup>”.

(8) In Schedule 4—

(a) in paragraph 3—

(i) in sub-paragraph (f), for “Council Regulation 1906/90 applies”, substitute “Commission Regulation 543/2008 and Regulation 1308/2013 apply”;

(ii) in sub-paragraph (g), for “Council Regulation 1907/90 applies”, substitute “Commission Regulation 589/2008 and Regulation 1308/2013 apply”;

(b) in paragraph 8—

(i) omit the definitions of “Council Regulation 1906/90” and “Council Regulation 1907/90”;

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(1) OJ No L 160, 29.5.2014, p. 14, as last amended by Commission Regulation (EU) 2016/238 (OJ No L 45, 20.2.2016, p. 1).

(2) OJ No L 140, 12.5.1998, p. 10. References in this Directive to the repealed Directive 93/43/EEC are to be construed as references to Regulation (EC) 852/2004 on the hygiene of foodstuffs (OJ No L 139, 30.4.2004, p. 1) (see Article 17(2) of Regulation (EC) 852/2004).

(3) OJ No L 147, 31.5.2001, p. 1.

(4) Commission Regulation (EU) 2017/893 amending Annexes I and IV to Regulation (EC) No 999/2001 of the European Parliament and of the Council and Annexes X, XIV and XV to Commission Regulation (EU) No 142/2011 as regards the provisions on processed animal protein (OJ No L 138, 25.05.2017, p. 92). Parts of the amendments made by this Commission Regulation apply from 1 January 2018, which is after the date on which the amendments made by the later Commission Regulation (EU) 2017/1972 (OJ No L 281, 31.10.2017, p. 14) apply.

(ii) in the appropriate place, insert—

- (aa) ““Commission Regulation 543/2008” (“*Rheoliad y Comisiwn 543/2008*”) means Commission Regulation (EC) No 543/2008 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 as regards the marketing standards for poultrymeat(1);”;
- (bb) ““Commission Regulation 589/2008” (“*Rheoliad y Comisiwn 589/2008*”) means Commission Regulation (EC) No 589/2008 laying down detailed rules for implementing Council Regulation (EC) No 1234/2007 as regards marketing standards for eggs(2);”;
- (cc) ““Regulation 1308/2013” (“*Rheoliad 1308/2013*”) means Regulation (EU) No 1308/2013 of the European Parliament and of the Council establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007(3);”.

(9) Omit Schedule 7.

**The Official Controls (Animals, Feed and Food)  
(Wales) Regulations 2007**

**12.**—(1) The Official Controls (Animals, Feed and Food) (Wales) Regulations 2007(4) are amended as follows.

(2) In regulation 2—

- (a) in paragraph (1)—

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(1) OJ No L 157, 17.6.2008, p. 46, as last amended by Commission Regulation (EU) No 519/2013 (OJ No L 158, 10.6.2013, p. 74). References in Commission Regulation 543/2008 to the repealed Council Regulation 1234/2007 are to be construed as references to Regulation 1308/2013 (see Article 230(2) of Regulation 1308/2013).

(2) OJ No L 163, 24.6.2008, p. 6, as last amended by Commission Delegated Regulation (EU) 2017/2168 (OJ No L 306, 22.11.2017, p. 6). References in Commission Regulation 589/2008 to the repealed Council Regulation 1234/2007 are to be construed as references to Regulation 1308/2013 (see Article 230(2) of Regulation 1308/2013).

(3) OJ No L 347, 20.12.2013, p. 671, as last amended by Regulation (EU) 2017/2393 of the European Parliament and of the Council (OJ No L 350, 29.12.2017, p. 15).

(4) S.I. 2007/196 (W. 15), to which there are amendments not relevant to these Regulations.

- (i) for the definition of “the 2006 Regulations” substitute—
  - ““the 2009 Regulations” (*“Rheoliadau 2009”*) means the Official Feed and Food Controls (Wales) Regulations 2009(1);”;
- (ii) in the definition of “Regulation 882/2004”, omit paragraph (c);
- (b) in paragraph (3)—
  - (i) in sub-paragraph (a), for “the 2006 Regulations” substitute “the 2009 Regulations”;
  - (ii) in sub-paragraph (b), for “the Veterinary Medicines Regulations 2006” substitute “the Veterinary Medicines Regulations 2013(2)”.
- (3) In regulation 9—
  - (a) in each place it occurs, for “the 2006 Regulations” substitute “the 2009 Regulations”;
  - (b) in paragraph (3)—
    - (i) for “41 to 43” substitute “45 to 47”;
    - (ii) for “45 and 46” substitute “49 and 50”.
- (4) Omit regulation 20.

**The Addition of Vitamins, Minerals and Other Substances (Wales) Regulations 2007**

13.—(1) The Addition of Vitamins, Minerals and Other Substances (Wales) Regulations 2007(3) are amended as follows.

(2) In regulation 2(1), for the definition of “the EC Regulation” substitute—

““the EC Regulation” (*“y Rheoliad CE”*) means Regulation (EC) No. 1925/2006 of the European Parliament and of the Council on the addition of vitamins and minerals and of certain other substances to foods, as Annex I or II to which is amended from time to time(4).”

(3) In regulation 4(1), for “Subject to the transitional measures contained in Article 18 (relating to foods placed on the market before 1 July 2007), any” substitute “Any”.

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(1) S.I. 2009/3376 (W. 298).  
 (2) S.I. 2013/2033.  
 (3) S.I. 2007/1984 (W. 165), amended by S.I. 2010/2069 (W. 191); there are other amending instruments but none is relevant to these Regulations.  
 (4) OJ No L 404, 30.12.2006, p. 26, as last amended by Commission Regulation (EU) 2017/1203 (OJ No L 173, 6.7.2017, p. 9).

**The Fishery Products (Official Controls Charges) (Wales) Regulations 2007**

**14.**—(1) The Fishery Products (Official Controls Charges) (Wales) Regulations 2007(1) are amended as follows.

(2) In regulation 2—

(a) in paragraph (1)—

(i) in the definition beginning with “Directive 2004/41”—

(aa) for “, “Regulation 2075/2005” (“*Rheoliad 2075/2005*”) substitute “and “Regulation 2015/1375” (“*Rheoliad 2015/1375*”);

(bb) omit “and “Regulation 2076/2005” (“*Rheoliad 2076/2005*”);

(ii) in the definition of “third country import”, for “a charge is payable under regulation 54 of the Products of Animal Origin (Third Country Imports) (Wales) Regulations 2007” substitute “Part 3 of the Trade in Animals and Related Products (Wales) Regulations 2011(2) applies”;

(b) in paragraph (2)(a), omit “or 7”.

(3) In the Schedule—

(a) in the definition of “Regulation 853/2004”, for “, Regulation 2074/2005 and Regulation 2076/2005” substitute “and Regulation 2074/2005”;

(b) for the definition of “Regulation 854/2004”, substitute—

““Regulation 854/2004” (“*Rheoliad 854/2004*”) means Regulation (EC) No. 854/2004 of the European Parliament and of the Council laying down specific rules for the organisation of official controls on products of animal origin intended for human consumption(3) as read with Directive 2004/41, Regulation 2074/2005 and Regulation 2015/1375;”;

(c) in the definition of “Regulation 882/2004”, omit “and Regulation 2076/2005”;

(d) for the definition of “Regulation 2074/2005”, substitute—

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(1) S.I. 2007/3462 (W. 307), to which there are amendments not relevant to these Regulations.  
 (2) S.I. 2011/2379 (W. 252).  
 (3) OJ No L 139, 30.4.2004, p. 206, as last amended by Commission Regulation (EU) 2015/2285 (OJ No L 323, 9.12.2015, p. 2).

““Regulation 2074/2005” (“*Rheoliad 2074/2005*”) means Commission Regulation (EC) No. 2074/2005 laying down implementing measures for certain products under Regulation (EC) No. 853/2004 of the European Parliament and of the Council and for the organisation of official controls under Regulation (EC) No. 854/2004 of the European Parliament and of the Council and Regulation (EC) No. 882/2004 of the European Parliament and of the Council, derogating from Regulation (EC) No. 852/2004 of the European Parliament and of the Council and amending Regulations (EC) No. 853/2004 and (EC) No. 854/2004(1);”

- (e) for the definition of “Regulation 2075/2005”, substitute—

““Regulation 2015/1375” (“*Rheoliad 2015/1375*”) means Commission Implementing Regulation (EU) 2015/1375 laying down specific rules on official controls for *Trichinella* in meat(2).”;

- (f) omit the definition of “Regulation 2076/2005”.

#### **The Quick-frozen Foodstuffs (Wales) Regulations 2007**

**15.**—(1) The Quick-frozen Foodstuffs (Wales) Regulations 2007(3) are amended as follows.

- (2) In regulation 2—

- (a) in paragraph (1)—

- (i) for the definition of “Directive 89/108” substitute—

““Directive 89/108” (“*Cyfarwyddeb 89/108*”) means Council Directive 89/108/EEC on the approximation of the laws of Member States relating to quick-frozen foodstuffs for human consumption(4);”;

- (ii) for the definition of “food authority” substitute—

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- (1) OJ No L 338, 22.12.2005, p. 27, as corrected by the Corrigendum set out in OJ No L 214, 9.8.2013, p. 11 and as last amended by Commission Regulation (EU) 2017/1973 amending Regulation (EC) No 2074/2005 as regards official controls on fishery products caught by vessels flying the flag of a Member State and introduced into Union after being transferred in third countries and establishing a model health certificate for those products (OJ No L 281, 31.10.2017, p. 21).
- (2) OJ No L 212, 11.8.2015, p. 7.
- (3) S.I. 2007/389 (W. 40), to which there are amendments not relevant to these Regulations.
- (4) OJ No L 40, 11.2.1989, p. 34, as last amended by Council Directive 2013/20/EU (OJ No L 158, 10.6.2013, p. 234).

““food authority” (*“awdurdod bwyd”*) has the meaning it bears by virtue of section 5(1A) of the Act;”;

- (b) in paragraph (3)—
  - (i) in sub-paragraph (a), omit “or 7”;
  - (ii) at the end of sub-paragraph (a), insert “or”;
  - (iii) at the end of sub-paragraph (b), omit “or”;
  - (iv) omit sub-paragraph (c).
- (3) In regulation 9, omit paragraph (3).
- (4) Omit Schedule 3.

#### **The Specified Products from China (Restriction on First Placing on the Market) (Wales) Regulations 2008**

**16.** In the Specified Products from China (Restriction on First Placing on the Market) (Wales) Regulations 2008(1), omit regulation 8.

#### **The Products of Animal Origin (Disease Control) (Wales) Regulations 2008**

**17.**—(1) The Products of Animal Origin (Disease Control) (Wales) Regulations 2008(2) are amended as follows.

- (2) In Schedule 3—
  - (a) in paragraph 1(a), omit the words from “or article 4” to “legible”;
  - (b) in paragraph 3, omit sub-paragraph (a) (together with the final “or”).

#### **The Official Feed and Food Controls (Wales) Regulations 2009**

**18.**—(1) The Official Feed and Food Controls (Wales) Regulations 2009(3) are amended as follows.

(2) In regulation 2(1), in the definition beginning with “Directive 2004/41”, for “, “Regulation 211/2013” (*“Rheoliad 211/2013”*) and “Regulation 702/2013” (*“Rheoliad 702/2013”*)” substitute “ and “Regulation 211/2013” (*“Rheoliad 211/2013”*)”.

(3) In regulation 22, in the definition of “product”, for “Commission Decision 2007/275/EC concerning

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- (1) S.I. 2008/1080 (W. 114), amended by S.I. 2013/1653 (W. 154); there are other amending instruments but none is relevant to these Regulations.
  - (2) S.I. 2008/1275 (W. 132), to which there are amendments not relevant to these Regulations.
  - (3) S.I. 2009/3376 (W. 298), amended by S.I. 2014/2714 (W. 271); there are other amending instruments but none is relevant to these Regulations.



lists of animals and products to be subject to controls at border inspection posts under Council Directives 91/496/EEC and 97/78/EC” substitute “Commission Decision 2007/275/EC concerning lists of animals and products to be subject to controls at border inspection posts under Council Directives 91/496/EEC and 97/78/EC(1)”.

(4) In Schedule 1—

(a) in the definition of “Regulation 882/2004”, for “, Regulation 669/2009 and Regulation 702/2013 (“*Rheoliad 702/2013*”)” substitute “and Regulation 669/2009”;

(b) omit the definition of “Regulation 702/2013”.

(5) In Schedule 3, in the definition of “relevant food law”, in paragraph (a)—

(a) in sub-paragraph (iii), for “Council Regulation (EC) No. 509/2006 on agricultural products and foodstuffs as traditional specialities guaranteed” substitute “Regulation (EU) No. 1151/2012 of the European Parliament and of the Council on quality schemes for agricultural products and foodstuffs(2)”;

(b) in sub-paragraph (iv), for “Council Regulation (EC) No. 510/2006 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs” substitute “Regulation (EU) No. 1151/2012 of the European Parliament and of the Council on quality schemes for agricultural products and foodstuffs”;

(c) for sub-paragraph (vi) substitute—

“(vi) the regulation of beef and veal labelling under the Beef and Veal Labelling (Wales) Regulations 2011(3),”;

(d) for sub-paragraph (vii) substitute—

“(vii) the regulation of the import of and trade in products of animal origin under the Trade in Animals and Related Products (Wales) Regulations 2011(4), with the exception of the execution and enforcement of regulation 32(3)(b) of those Regulations by the Agency,”.

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(1) OJ No L 116, 4.5.2007, p. 9, as last amended by Commission Implementing Decision (EU) 2016/1196 (OJ No L 197, 22.7.2016, p. 10).

(2) OJ No L 343, 14.12.2012, p. 1, as corrected by the Corrigendum set out in OJ No L 55, 27.2.2013, p. 27.

(3) S.I. 2011/991 (W. 145), to which there are amendments not relevant to these Regulations.

(4) S.I. 2011/2379 (W. 252), to which there are amendments not relevant to these Regulations.

**The Meat (Official Controls Charges) (Wales) Regulations 2009**

**19.**—(1) The Meat (Official Controls Charges) (Wales) Regulations 2009(1) are amended as follows.

(2) In regulation 2(1), in the definition beginning with “Directive 2004/41”, for “, “Regulation 2075/2005” (“*Rheoliad 2075/2005*”) and “Regulation 2076/2005” (“*Rheoliad 2076/2005*”) substitute “and “Regulation 2015/1375” (“*Rheoliad 2015/1375*”)”.

(3) In Schedule 1—

- (a) in the definition of “Regulation 853/2004”, for “, Regulation 2074/2005 and Regulation 2076/2005” substitute “and Regulation 2074/2005”;
- (b) in the definition of “Regulation 854/2004”, for “, Regulation 2075/2005 and Regulation 2076/2005” substitute “and Regulation 2015/1375”;
- (c) in the definition of “Regulation 882/2004”, omit “and Regulation 2076/2005”;
- (d) for the definition of “Regulation 2075/2005”, substitute—
  - ““Regulation 2015/1375” (“*Rheoliad 2015/1375*”) means Commission Implementing Regulation (EU) 2015/1375 laying down specific rules on official controls for *Trichinella* in meat(2).”;
- (e) omit the definition of “Regulation 2076/2005”.

**The Food Irradiation (Wales) Regulations 2009**

**20.**—(1) The Food Irradiation (Wales) Regulations 2009(3) are amended as follows.

(2) For Schedule 3, substitute the Schedule set out in Schedule 1 to these Regulations.

(3) For Schedule 4, substitute the Schedule set out in Schedule 2 to these Regulations.

**The Plastic Kitchenware (Conditions on Imports from China) (Wales) Regulations 2011**

**21.** In regulation 8(2)(d)(ii) of the Plastic Kitchenware (Conditions on Imports from China) (Wales) Regulations 2011(4), for “Commission

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(1) S.I. 2009/1557 (W. 152), amended by S.I. 2014/2714 (W. 271); there are other amending instruments but none is relevant to these Regulations.

(2) OJ No L 212, 11.8.2015, p. 7.

(3) S.I. 2009/1795 (W. 162), amended by S.I. 2010/2289 (W. 201); there are other amending instruments but none is relevant to these Regulations.

(4) S.I. 2011/1605 (W. 186).

Regulation (EU) No. 10/2011 on plastic materials and articles intended to come into contact with food” substitute “Commission Regulation (EU) No. 10/2011 on plastic materials and articles intended to come into contact with food<sup>(1)</sup> as Annex I to which is amended from time to time”.

### **The Materials and Articles in Contact with Food (Wales) Regulations 2012**

**22.**—(1) The Materials and Articles in Contact with Food (Wales) Regulations 2012<sup>(2)</sup> are amended as follows.

(2) In regulation 13, for “In this Part and in Schedule 1 any reference” substitute “Except in regulation 14(1), any reference in this Part and in Schedule 1”.

(3) In regulation 14(1), for “Article 22(4) and (5) and Article 23,” substitute “Article 2 of Commission Regulation (EU) No 1282/2011<sup>(3)</sup>, Article 2 of Commission Regulation (EU) No 1183/2012<sup>(4)</sup>, Article 2 of Commission Regulation (EU) No 202/2014<sup>(5)</sup>, Article 2 of Commission Regulation

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- (1) OJ No L 12, 15.1.2011, p. 1, as last amended by Commission Regulation (EU) 2018/831 (OJ No L 140, 6.6.2018, p. 35).
- (2) S.I. 2012/2705 (W. 291), to which there are amendments not relevant to these Regulations.
- (3) Commission Regulation (EU) No 1282/2011 amending and correcting Commission Regulation (EU) No 10/2011 on plastic materials and articles intended to come into contact with food (OJ No L 328, 10.12.2011, p. 22). Article 2 provides that plastic materials and articles which were lawfully placed on the market before 1 January 2012 and which did not comply with Regulation 1282/2011 (which amended Annex I to Regulation 10/2011) may continue to be placed on the market until 1 January 2013 and may remain on the market after that date until the exhaustion of stocks.
- (4) Commission Regulation (EU) No 1183/2012 amending and correcting Regulation (EU) No 10/2011 on plastic materials and articles intended to come into contact with food (OJ No L 338, 12.12.2012, p. 11). Article 2 provides that plastic materials and articles which were lawfully placed on the market before 1 January 2013 and which did not comply with Regulation 1183/2012 (which amended Annex I to Regulation 10/2011) may continue to be placed on the market until 1 January 2014 and may remain on the market after that date until the exhaustion of stocks.
- (5) Commission Regulation (EU) No 202/2014 amending Regulation (EU) No 10/2011 on plastic materials and articles intended to come into contact with food (OJ No L 62, 4.3.2014, p. 13). Article 2 provides that plastic materials and articles which were lawfully placed on the market before 24 March 2014 and which did not comply with Regulation 202/2014 (which amended Annex I to Regulation 10/2011) may continue to be placed on the market until 24 March 2015 and may remain on the market after that date until the exhaustion of stocks.

(EU) 2015/174(1), Article 2 of Commission Regulation (EU) 2016/1416(2), Article 2 of Commission Regulation (EU) 2017/752(3), Article 2 of Commission Regulation (EU) 2018/79(4) and Article 6 of Commission Regulation (EU) 2018/831(5),”.

(4) In regulation 16(2), for “Subject to Article 6(1), (2) and (4) (transitional provisions), no” substitute “No”.

(5) Omit regulations 28 and 29.

### **The Contaminants in Food (Wales) Regulations 2013**

**23.**—(1) The Contaminants in Food (Wales) Regulations 2013(6) are amended as follows.

(2) In regulation 2—

(a) in paragraph (1), omit the definitions of “Directive 76/621”, “Directive 80/891”,

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- (1) Commission Regulation (EU) 2015/174 amending and correcting Regulation (EU) No 10/2011 on plastic materials and articles intended to come into contact with food (OJ No L 30, 6.2.2015, p. 2). Article 2 provides that plastic materials and articles complying with requirements of Regulation 10/2011 as applicable before 26 February 2015 may be placed on the market until 26 February 2016 and may remain on the market after that date until the exhaustion of stocks.
- (2) Commission Regulation (EU) 2016/1416 amending and correcting Regulation (EU) No 10/2011 on plastic materials and articles intended to come into contact with food (OJ No L 230, 25.8.2016, p. 22). Article 2 provides that plastic materials and articles complying with Regulation 10/2011 as applicable before the entry into force of Regulation 2016/1416 on 14 September 2016 may be placed on the market until 14 September 2017 and may remain on the market after that date until the exhaustion of stocks.
- (3) Commission Regulation (EU) 2017/752 amending and correcting Regulation (EU) No 10/2011 on plastic materials and articles intended to come into contact with food (OJ No L 113, 29.4.2017, p. 18). Article 2 provides that plastic materials and articles complying with Regulation 10/2011 as applicable before the entry into force of Regulation 2017/752 on 19 May 2017 may be placed on the market until 19 May 2018 and may remain on the market after that date until the exhaustion of stocks.
- (4) Commission Regulation (EU) 2018/79 amending Regulation (EU) No 10/2011 on plastic materials and articles intended to come into contact with food (OJ No L 14, 19.1.2018, p. 31). Article 2 provides that plastic materials and articles complying with Regulation 10/2011 as applicable before the entry into force of Regulation 2018/79 on 8 February 2018 may be placed on the market until 8 February 2019 and may remain on the market after that date until the exhaustion of stocks.
- (5) Commission Regulation (EU) 2018/831 amending Regulation (EU) No 10/2011 on plastic materials and articles intended to come into contact with food (OJ No L 140, 6.6.2018, p. 35). Article 6 provides that plastic materials and articles complying with Regulation 10/2011 as applicable before the entry into force of Regulation 2018/831 on 26 June 2018 may be placed on the market until 26 June 2019 and may remain on the market after that date until the exhaustion of stocks.
- (6) S.I. 2013/2493 (W. 242), to which there are amendments not relevant to these Regulations.

- “Regulation 629/2008” and “Regulation 165/2010”;
- (b) in paragraph (2)—
    - (i) omit “Directive 76/621, Directive 80/891,”;
    - (ii) omit “Directive or”;
  - (c) in paragraph (3)—
    - (i) omit “Directive 76/621, Directive 80/891,”;
    - (ii) omit “Directives or”;
  - (d) in paragraph (4)(a), omit “or 7”.
- (3) Omit regulations 3 and 4.
- (4) In regulation 5—
- (a) for paragraph (1) substitute—

“(1) A person who contravenes or fails to comply with any of the EU provisions specified in paragraph (2) is guilty of an offence.”;
  - (b) after paragraph (2) insert—

“(3) The level of erucic acid in a food must be determined according to sampling methods, and methods of analysis that meet the performance criteria, set out in the Annex to Commission Regulation (EU) 2015/705 laying down methods of sampling and performance criteria for the methods of analysis for the official control of the levels of erucic acid in foodstuffs and repealing Commission Directive 80/891/EEC(1).”
- (5) In regulation 6, omit “regulation 4(3) or”.
- (6) In regulation 8—
- (a) in paragraph (1)(c)(i), omit “4(3) or”;
  - (b) in paragraph (2), in the application and modification of section 9 of the Food Safety Act 1990, omit “4(1) or”.

### **The Food Additives, Flavourings, Enzymes and Extraction Solvents (Wales) Regulations 2013**

**24.** In regulation 8(1)(b) of the Food Additives, Flavourings, Enzymes and Extraction Solvents (Wales) Regulations 2013(2), for “(1), (3) or (4)” substitute “(1)”.

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(1) OJ No L 113, 1.5.2015, p. 29.

(2) S.I. 2013/2591 (W. 255), to which there is an amendment not relevant to these Regulations.

### **The Fruit Juices and Fruit Nectars (Wales) Regulations 2013**

**25.**—(1) The Fruit Juices and Fruit Nectars (Wales) Regulations 2013<sup>(1)</sup> are amended as follows.

- (2) Omit regulation 22.
- (3) In Schedule 7, in Part 1—
  - (a) in paragraph 1, for “juice” substitute “product”;
  - (b) in paragraph 2, in the words before subparagraph (a), for “juices” substitute “products”.
- (4) In Schedule 9, after paragraph 9 insert—

“**10.** Plant proteins for clarification from—

  - (a) wheat,
  - (b) peas,
  - (c) potatoes, or
  - (d) any combination of them.”

### **The Products Containing Meat etc. (Wales) Regulations 2014**

**26.** In Schedule 1 to the Products Containing Meat etc. (Wales) Regulations 2014<sup>(2)</sup>, in the definition of “curing salt”, in paragraph (c), for “Regulation (EC) No 1333/2008 of the European Parliament and of the Council on food additives” substitute “Regulation (EC) No 1333/2008 of the European Parliament and of the Council on food additives<sup>(3)</sup> as the Annexes to which are amended from time to time”.

### **The Animal Feed (Composition, Marketing and Use) (Wales) Regulations 2016**

**27.** In regulation 12 of the Animal Feed (Composition, Marketing and Use) (Wales) Regulations 2016<sup>(4)</sup>, for “Subject to the transitional provisions contained in Article 32, a” substitute “A”.

### **The Animal Feed (Hygiene, Sampling etc. and Enforcement) (Wales) Regulations 2016**

**28.**—(1) The Animal Feed (Hygiene, Sampling etc. and Enforcement) (Wales) Regulations 2016<sup>(5)</sup> are amended as follows.

- 
- (1) S.I. 2013/2750 (W. 267), to which there is an amendment not relevant to these Regulations.
  - (2) S.I. 2014/3087 (W. 308).
  - (3) OJ No L 354, 31.12.2008, p. 16, as last amended by Commission Regulation (EU) 2018/682 (OJ No L 116, 7.5.2018, p. 5).
  - (4) S.I. 2016/386 (W. 120).
  - (5) S.I. 2016/387 (W. 121), to which there is an amendment not relevant to these Regulations.

(2) In regulation 2(1)—

(a) for the definition of “Regulation 882/2004” substitute—

““Regulation 882/2004” (*Rheoliad 882/2004*) means Regulation (EC) No 882/2004 of the European Parliament and of the Council on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules(1);”;

(b) for the definition of “Regulation 767/2009” substitute—

““Regulation 767/2009” (*Rheoliad 767/2009*) means Regulation (EC) No 767/2009 of the European Parliament and of the Council on the placing on the market and use of feed, amending European Parliament and Council Regulation (EC) No 1831/2003 and repealing Council Directive 79/373/EEC, Commission Directive 80/511/EEC, Council Directives 82/471/EEC, 83/228/EEC, 93/74/EEC, 93/113/EC and 96/25/EC and Commission Decision 2004/217/EC(2);”.

(3) In regulation 4(2)(a), for “2(e)” substitute “2(f)”.

## PART 3

### Revocations

**29.** The Regulations listed in Schedule 3 are revoked.

*Vaughan Gething*

Cabinet Secretary for Health and Social Services, one  
of the Welsh Ministers

2 July 2018

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(1) OJ No L 165, 30.4.2004, p. 1, as last amended by Commission Regulation (EU) 2018/455 (OJ No L 77, 20.3.2018, p. 4).

(2) OJ No L 229, 1.9.2009, p. 1, as last amended by Commission Regulation (EU) 2017/2279 (OJ No L 328, 12.12.2017, p. 3).

**SCHEDULE 1** Regulation 20(2)  
**SCHEDULE SUBSTITUTED FOR**  
**SCHEDULE 3 TO THE FOOD**  
**IRRADIATION (WALES)**  
**REGULATIONS 2009**

“**SCHEDULE 3** Regulations 3(1)  
 and 5(1)(b)(i)

**LIST OF APPROVED**  
**FACILITIES IN MEMBER**  
**STATES**

<i>Official reference number</i>	<i>Name and address</i>
2110/91/0004	Sterigenics SA Zoning Industriel 6220 Fleurus Belgium
01/23.05.2008	Bulgamma, Sopharma Ltd Iliensko Shosse 16 Sofia Bulgaria
2/26.10.2010	GITAVA Ltd ‘Kalina’ Town of Stamboliyski Hristo Botev str. Municipality Stamboliyski Plovdiv district Bulgaria
IR-02-CZ	Bioster a.s. Tejny 621 664 71 Veverská Bítýška Czech Republic
SN 01	Synergy Health Radeberg GmbH Juri—Gagarin Strasse 15 01454 Radeberg Germany
BY FS 01/2001	Synergy Health Allershausen GmbH Kesselbodenstrasse 7 85391 Allershausen Germany
NRW-GM 01 and NRW- GM 02	BGS Beta-Gamma- Service GmbH & Co. KG Fritz-Kotz-Str.16 51674 Wiehl



	Germany
D-BW-X-01	Beta-Gamma-Service GmbH & Co. KG John-Deere-Strasse 3 76646 Bruchsal Germany
2835	Scandinavian Clinics Estonia OÜ Kurvi tee 406a, Alliku kula, 76403 Saue vald, Harjumaa Estonia
5.00001/CU	Ionmed Esterilización, SA C/Rocinante, Parc.50 (Polg. Ind. Tarancón) 16400 Tarancón (Cuenca) Spain
5.00002/B	Aerogamma S.L. Carretera Granollers a Cardeneu, Km. 3.5 08520 Les Franqueses del Vallés (Barcelona) Spain
5.00005/SO	Mevion Technology, S.L. Avda. De España, 1 Pol. Industrial Emiliano Revilla, 42110 Ólvega (Soria) Spain
13055 F	Synergy Health Rue Jean Queillau Marché des Arnavaux 13014 Marseille Cedex 14 France
72 264 F	Ionisos SA Zone industrielle de l'Aubrée 72300 Sablé-sur-Sarthe France
85 182 F	Ionisos SA Zone industrielle Montifaud 85700 Pouzauges France
01 142 F	Ionisos SA Zone Industrielle les Chartinières 01120 Dagneux France
10 093 F	Ionisos SA

	Zone Industrielle 10500 Chaumesnil France
541-02/03-IRB16-1	Institut Ruder Bošković, Bijenička 54, 10 000 Zagreb, Croatia
EU-AIF-04-2002	AGROSTER Besugárzó Zártkörűen Működő Részvénytársaság Budapest Jászberényi út 5 1106 Hungary
RAD 1/04 IT	Gammarad Italia SPA Via Marzabotto 4 Minerbio (BO) Italy
GZB/VVB-991393 Ede	Synergy Health Morsestraat 3 6716AH Ede Netherlands
GZB/VVB-991393 Etten- Leur	Synergy Health Soevereinsstraat 2 4879 NN Etten-Leur Netherlands
GIS-HZ-4434-W.- 2/MR/03	Institute of Applied Radiation Chemistry Technical University of Lodz 15 Wróblewskiego Str. 39-590 Łódź Poland
GIS-HZ-4434-W.- 3/MR/03	Institute of Nuclear Chemistry and Technology 16 Dorodna Str. 03-195 Warsaw Poland
RG016/2008	Multipurpose Irradiation Facility IRASM Technological Irradiations Department Horia Hulubei National Institute for Research and Development of Physics and Nuclear Engineering Atomiștilor Str. No. 407 PO Box MG-6 Măgurele, Ilfov County Romania
EW/04	Synergy Health

	Moray Road Elgin Industrial Estate Swindon Wiltshire SN2 8XS United Kingdom”.
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**SCHEDULE 2** Regulation 20(3)  
**SCHEDULE SUBSTITUTED FOR  
SCHEDULE 4 TO THE FOOD  
IRRADIATION (WALES)  
REGULATIONS 2009**

“**SCHEDULE 4** Regulation 5(1)(b)(ii)  
**LIST OF FACILITIES IN  
COUNTRIES OUTSIDE THE  
EUROPEAN UNION**

<i>Official reference number</i>	<i>Name and address</i>
EU-AIF 01-2002	HEPRO Cape (Pty) Ltd 6 Ferrule Avenue Montague Gardens Milnerton 7441 Western Cape Republic of South Africa
EU-AIF 02-2002	Gammaster South Africa (Pty) Ltd PO Box 3219 5 Waterpas Street Isando Extension 3 Kempton Park 1620 Johannesburg Republic of South Africa
EU-AIF 03-2002	Gamwave (Pty) Ltd PO Box 26406 Isipingo Beach Durban 4115 Kwazulu-Natal Republic of South Africa
EU-AIF 05-2004	Gamma-Pak As Yünsa Yolu N: 4 0SB Cerkezköy/TEKIRDAG TR-59500 Turkey
EU-AIF 06-2004	Studer Ag Werk Hard Hogenweidstrasse 2 Däniken

	CH-4658 Switzerland
EU-AIF 07-2006	Thai Irradiation Centre Thailand Institute of Nuclear Technology (Public Organisation) 37 Moo 3, TECHNOPOLIS Klong 5, Klong Luang Pathumthani 12120 Thailand
EU-AIF 08-2006	Synergy Health (Thailand) Ltd 700/465 Amata Nakorn Industrial Moo 7, Tambon Donhuaroh, Amphur Muang, Chonburi 20000 Thailand
EU-AIF 09-2010	Board of Radiation and Isotope Technology Department of Atomic Energy BRIT/BARC Vashi Complex Sector 20, Vashi Navi Mumbai – 400 705 (Maharashtra) India
EU-AIF 10-2010	Board of Radiation and Isotope Technology ISOMED Bhabha Atomic Research Centre South Site Gate, Refinery Road Next to TATA Power Station, Trombay Mumbai – 400 085 (Maharashtra) India
EU-AIF 11-2010	Microtrol Sterilisation Services Pvt. Ltd Plot No. 14 Bommasandra- Jigani Link Road Industrial Area KIADB, Off Hosur Road Hennagarra Post Bengalooru – 562 106 (Karnataka) India”.

**SCHEDULE 3** Regulation 29  
**REGULATIONS REVOKED**

<i>Title</i>	<i>SI Number</i>
The Beef Bones (Amendment) (Wales) Regulations 1999	1999/3464 (W. 52)
The Dairy Products (Hygiene) (Charges) (Amendment) (Wales) Regulations 2000	2000/1738 (W. 121)
The Colours in Food (Amendment) (Wales) Regulations 2000	2000/1799 (W. 124)
The Meat Products (Hygiene) (Amendment) (Wales) Regulations 2000	2000/1885 (W. 131)
The Meat (Disease Control) (Wales) Regulations 2000	2000/2257 (W. 150)
The Food Safety (General Food Hygiene) (Butchers' Shops) (Amendment) (Wales) Regulations 2000	2000/3341 (W. 219)
The Fresh Meat (Beef Controls) (No.2) (Amendment) (Wales) Regulations 2000	2000/3388 (W. 225)
The Meat (Hygiene and Inspection) (Charges) (Amendment) (Wales) Regulations 2001	2001/1302 (W. 79)
The Foot-and-Mouth Disease (Marking of Meat and Meat Products) (Wales) Regulations 2001	2001/1508 (W. 105)
The Products of Animal Origin (Import and Export) (Amendment) (Wales) Regulations 2001	2001/1660 (W. 119)
The Infant Formula and Follow-on Formula (Amendment) (Wales) Regulations 2001	2001/1690 (W. 120)
The Foot-and-Mouth Disease (Marking of Meat, Minced Meat and Meat Preparations) (Wales) Regulations 2001	2001/1740 (W. 123)
The Miscellaneous Food Additives (Amendment) (Wales) Regulations 2001	2001/1787 (W. 128)
The Foot-and-Mouth Disease (Marking of Meat, Meat Products, Minced Meat and Meat Preparations) (Wales) Regulations 2001	2001/1802 (W. 131)
The Meat (Enhanced Enforcement Powers) (Wales) Regulations 2001	2001/2198 (W. 158)
The Foot-and-Mouth Disease (Marking of Meat, Meat Products, Minced Meat and Meat Preparations) (Wales) (No. 2) Regulations 2001	2001/2627 (W. 216)
The Sweeteners in Food (Amendment) (Wales) Regulations 2001	2001/2679 (W. 220)
The Meat (Hygiene and Inspection) (Charges) (Amendment) (No.2) (Wales) Regulations 2001	2001/3831 (W. 317)
The Poultry Meat, Farmed Game Bird	2002/47

Meat and Rabbit Meat (Hygiene and Inspection) (Amendment) (Wales) Regulations 2002	(W. 6)
The Foot-and-Mouth Disease (Marking of Meat, Meat Preparations and Meat Products) (Wales) Regulations 2002	2002/129 (W. 17)
The Miscellaneous Food Additives (Amendment) (Wales) Regulations 2002	2002/329 (W. 42)
The Sweeteners in Food (Amendment) (Wales) Regulations 2002	2002/330 (W. 43)
The Animals and Animal Products (Import and Export) (England and Wales) (Amendment) (Wales) Regulations 2002	2002/430 (W. 52)
The Meat (Hazard Analysis and Critical Control Point) (Wales) Regulations 2002	2002/1476 (W. 148)
The Food (Peanuts from China) (Emergency Control) (Amendment) (Wales) Regulations 2002	2002/1728 (W. 162)
The Food and Animal Feedingstuffs (Products of Animal Origin from China) (Emergency Control) (Wales) Regulations 2002	2002/1798 (W. 173)
The Products of Animal Origin (Third Country Imports) (Wales) (Amendment) Regulations 2002	2002/3011 (W. 283)
The Miscellaneous Food Additives (Amendment) (Wales) Regulations 2003	2003/945 (W. 126)
The Sweeteners in Food (Amendment) (Wales) Regulations 2003	2003/1713 (W. 181)
The Natural Mineral Water, Spring Water and Bottled Drinking Water (Amendment) (Wales) Regulations 2003	2003/3042 (W. 287)
The Food (Emergency Control) (Miscellaneous Amendments) (Wales) Regulations 2004	2004/245 (W. 24)
The Infant Formula and Follow-on Formula (Amendment) (Wales) Regulations 2004	2004/313 (W. 31)
The Miscellaneous Food Additives (Amendment) (Wales) Regulations 2004	2004/554 (W. 57)
The Food for Particular Nutritional Uses (Addition of Substances for Specific Nutritional Purposes) (Wales) (Amendment) Regulations 2004	2004/1012 (W. 109)
The Food (Jelly Confectionery) (Emergency Control) (Wales) (Amendment) Regulations 2004	2004/1262 (W. 134)
The Natural Mineral Water, Spring Water and Bottled Drinking Water (Amendment) (Wales) Regulations 2004	2004/1509 (W. 158)
The Food (Emergency Control) (Wales) (Miscellaneous Amendments) (No. 2) Regulations 2004	2004/1804 (W. 192)
The Miscellaneous Food Additives	2005/259

(Amendment) (Wales) Regulations 2005	(W. 25)
The Food Safety (General Food Hygiene) (Amendment) (Wales) Regulations 2005	2005/363 (W. 30)
The Sweeteners in Food (Amendment) (Wales) Regulations 2005	2005/1156 (W. 73)
The Poultry Meat, Farmed Game Bird Meat and Rabbit Meat (Hygiene and Inspection) (Amendment) (Wales) Regulations 2005	2005/1310 (W. 92)
The Miscellaneous Food Additives (Amendment) (No.2) (Wales) Regulations 2005	2005/1311 (W. 93)
The Colours in Food (Amendment) (Wales) Regulations 2005	2005/1628 (W. 122)
The Food Labelling (Amendment) (Wales) (No. 2) (Amendment) Regulations 2005	2005/3236 (W. 241)
The Products of Animal Origin (Third Country Imports) (Wales) (Amendment) Regulations 2006	2006/767 (W. 74)
The Animals and Animal Products (Import and Export) (Wales) (Amendment) Regulations 2006	2006/2128 (W. 198)
The Rice Products (Restriction on First Placing on the Market) (Wales) (Amendment) Regulations 2006	2006/2969 (W. 268)
The Food for Particular Nutritional Uses (Addition of Substances for Specific Nutritional Purposes) (Wales) (Amendment) Regulations 2007	2007/116 (W. 7)
The Colours in Food (Amendment) (Wales) Regulations 2007	2007/579 (W. 51)
The Products of Animal Origin (Third Country Imports) (Wales) (Amendment) Regulations 2007	2007/1710 (W. 148)
The Bovine Products (Restriction on Placing on the Market) (Wales) (No. 2) (Amendment) Regulations 2007	2007/1835 (W. 159)
The Miscellaneous Food Additives and the Sweeteners in Food (Amendment) (Wales) Regulations 2008	2008/138 (W. 20)
The Animals and Animal Products (Import and Export) (Wales) (Amendment) Regulations 2009	2009/390 (W. 40)
The Products of Animal Origin (Third Country Imports) (Wales) (Amendment) Regulations 2009	2009/392 (W. 41)
The Products of Animal Origin (Third Country Imports) (Wales) (Amendment) (No. 2) Regulations 2009	2009/1088 (W. 96)
The Purity Criteria for Colours, Sweeteners and Miscellaneous Food Additives (Wales) Regulations 2009	2009/1092 (W. 97)
The Purity Criteria for Colours, Sweeteners and Miscellaneous Food	2009/2201 (W. 186)

Additives (Wales) (Amendment) Regulations 2009	
The Materials and Articles in Contact with Food (Wales) (Amendment) Regulations 2009	2009/3105 (W. 271)
The Contaminants in Food (Wales) (Amendment) Regulations 2009	2009/2939 (W. 256)
The Food Additives (Wales) Regulations 2009	2009/3378 (W. 300)
The Food Labelling (Nutrition Information) (Wales) (Amendment) Regulations 2010	2010/1069 (W. 100)
The Flavourings in Food (Wales) Regulations 2010	2010/2922 (W. 243)

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## **Explanatory Memorandum to the Food and Feed (Miscellaneous Amendments and Revocations) (Wales) Regulations 2018**

This Explanatory Memorandum has been prepared by the Food Standards Agency and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

### **Member's Declaration**

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Food and Feed (Miscellaneous Amendments and Revocations) (Wales) Regulations 2018

### **Vaughan Gething AM**

Cabinet Secretary for Health and Social Services

4 July 2018

## **Explanatory Memorandum to the Food and Feed (Miscellaneous Amendments and Revocations) (Wales) Regulations 2018**

### **1. Description**

The Regulations address a number of issues identified during an analysis of all food and feed legislation for which the Food Standards Agency has policy responsibility in Wales and all food nutrition legislation applying in Wales. These issues arise independently of the UK's proposed exit from the EU and the issues are being addressed now, in advance of the UK's exit from the EU, to ensure the accuracy and currency of the statute book in Wales in relation to food and feed before the UK exits the EU.

The Regulations amend various food and feed-related statutory instruments to, among other things, correct out of date references to domestic legislation and EU instruments, revoke expired or redundant provisions and SIs and correct other minor errors.

### **2. Matters of Special Interest to the Constitutional Affairs Committee**

None.

### **3. Legislative Background**

The Welsh Ministers have the required powers to make these Regulations under sections 16(1) and 48(1) of the Food Safety Act 1990 and section 2(2) of, and paragraph 1A of Schedule 2 to, the European Communities Act 1972.

The powers given by the Food Safety Act 1990, which were vested in UK Government Ministers prior to devolution, were transferred to the National Assembly for Wales in 1999 by the National Assembly for Wales (Transfer of Functions) Order 1999 (SI 1999/672) and were subsequently transferred to the Welsh Ministers by paragraph 30 of Schedule 11 to the Government of Wales Act 2006 ("GoWA").

The Regulations will be made by statutory instrument subject to the negative resolution procedure.

### **4. Purpose and Intended Effect of the Legislation**

The Food and Feed (Miscellaneous Amendments and Revocations) (Wales) Regulations 2018 will:

- I. Provide for the enforcement in Wales of an amendment made to Directive 2001/112/EC relating to fruit juices and similar products by Commission Delegated Regulation (EU) No 1040/2014.

The amendment allows plant proteins from wheat, peas or potatoes to be used to clarify fruit juices. The amendment to the Directive is directly applicable and came into force automatically in Wales in October 2014.

The Regulations amend the Fruit Juices and Fruit Nectars (Wales) Regulations 2013 to make clear to stakeholders that the list of authorised treatments has been extended in this way;

- II. Amend the Food Hygiene (Wales) Regulations 2006 to draw businesses' attention to Regulation (EU) No 2017/2158 on acrylamide.

Regulation (EU) No 2017/2158 is made under Article 4(3) of Regulation (EC) 852/2004 and sets benchmark levels for acrylamide in particular foods, with which businesses must seek to comply.

The substantive obligation on businesses remains in Article 4 of Regulation (EC) 852/2004 (to adopt procedures necessary to meet targets, including the acrylamide benchmark levels). The requirement is already enforced in Wales by the Food Hygiene (Wales) Regulations 2006. The Food and Feed (Miscellaneous Amendments and Revocations) (Wales) Regulations 2018 amend the definition of Regulation (EC) 852/2004 in the 2006 Regulations in order to draw businesses' attention to the new benchmark levels on acrylamide.

- III. Make other miscellaneous amendments and revocations to several Statutory Instruments (SIs) in order to:
  - I. fix or remove out of date references to domestic and EU legislation;
  - II. insert ambulatory references to EU legislation where necessary and appropriate;
  - III. revoke expired transitional measures;
  - IV. revoke redundant provisions and whole SIs where necessary; and
  - V. correct other minor errors.

## **5. Consultation**

The Food Standards Agency ran an eight-week consultation from 1 March to 30 April 2018. There were no responses to the consultation in Wales.

## **6. Regulatory Impact Assessment**

A Regulatory Impact Assessment has not been prepared to accompany these Regulations as there are no changes to the current controls and therefore no identified costs to consumers, businesses or enforcement authorities associated with implementation of these Regulations.

# Agenda Item 3.2

## SL(5)239 – The Education (Student Loans) (Repayment) (Amendment) (No.3) Regulations 2018

### Background and Purpose

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The Education (Student Loans) (Repayment) Regulations 2009 (the 2009 Regulations) make provision for the repayment of student loans and postgraduate degree loans in England and Wales.

These composite Regulations made by the Secretary of State and the Welsh Ministers amend the 2009 Regulations, and make provision for the repayment of postgraduate doctoral degree loans made by the Welsh Ministers under Part 4 of the Education (Postgraduate Doctoral Degree Loans) (Wales) Regulations 2018.

### Procedure

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Negative (composite).

### Technical Scrutiny

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One reporting point is identified for reporting under Standing Order 21.2(ix), because this instrument has been made in English only.

The Explanatory Memorandum to the Regulations states as follows:

*...This composite statutory instrument is subject to the negative resolution procedure in the National Assembly for Wales and in the UK Parliament. Given the composite nature of the regulations and that no routine Parliamentary processes exist by which to lay bilingual regulations before Parliament, these Regulations will exceptionally be made in English only...*

### Merits Scrutiny

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

### Implications arising from exiting the European Union

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

### Government Response

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No government response is required.

### Legal Advisers

**Constitutional and Legislative Affairs Committee**

**September 2018**



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STATUTORY INSTRUMENTS

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**2018 No. 810**

**EDUCATION**

**The Education (Student Loans) (Repayment) (Amendment) (No. 3) Regulations 2018**

<i>Made</i>	- - - -	<i>2nd July 2018</i>
<i>Laid before Parliament</i>		<i>6th July 2018</i>
<i>Laid before the National Assembly for Wales</i>		<i>6th July 2018</i>
<i>Coming into force</i>	- -	<i>28th July 2018</i>

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 22 and 42 of the Teaching and Higher Education Act 1998(a) and sections 5 and 6 of the Sale of Student Loans Act 2008(b).

The Welsh Ministers make these Regulations in exercise of the powers conferred on the Secretary of State by sections 22 and 42 of the Teaching and Higher Education Act 1998, now exercisable by them(c), and by sections 5 and 6 of the Sale of Student Loans Act 2008.

**Citation and commencement**

**1.** These Regulations may be cited as the Education (Student Loans) (Repayment) (Amendment) (No. 3) Regulations 2018 and come into force on 28th July 2018.

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- (a) 1998 c.30: Section 22 was amended by section 146(2) of, and Schedule 11 to, the Learning Skills Act 2000 (c.21); paragraph 236 of Part 2 of Schedule 6 to the Income Tax (Earnings and Pensions) Act 2003 (c.1); section 147(3) of the Finance Act 2003 (c.14); sections 42(1) and 43(2) and (3) of, and Schedule 7 to, the Higher Education Act 2004 (c.8); section 257(2) of the Apprenticeships, Skills, Children and Learning Act 2009 (c.22); section 76(1) and (2)(a) of the Education Act 2011 (c.21); S.I. 2013/1881; and section 86(2) to (7) (not yet in force) and section 88(2) to (5) of the Higher Education and Research Act 2017 (c.29). Section 43(1) of the Teaching and Higher Education Act 1998 defines “prescribed” and “regulations”.
  - (b) 2008 c.10.
  - (c) The functions of the Secretary of State under section 22 as regards Wales were transferred to the National Assembly for Wales by section 44 of the Higher Education Act 2004 (c.8), except for those functions under section 22(2)(a), (c), (j) and (k), (3)(e) and (f), and (5). Functions under subsections (2)(a), (c) and (k) are exercisable by the Secretary of State concurrently with the National Assembly for Wales. The section 22 functions which were transferred to, or became exercisable by, the National Assembly for Wales were subsequently transferred to the Welsh Ministers by section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006 (c.32). The functions of the Secretary of State under section 42 of the Teaching and Higher Education Act 1998 as regards Wales were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672). The section 42 functions which were transferred to the National Assembly for Wales were subsequently transferred to the Welsh Ministers by section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006 (c.32).

## **Amendment of the Education (Student Loans) (Repayment) Regulations 2009**

2. The Education (Student Loans) (Repayment) Regulations 2009(a) are amended in accordance with regulations 3 to 7.

### **Amendment of regulation 3**

3.—(1) Regulation 3 (interpretation) is amended as follows.

(2) In paragraph (1)—

(a) for the definition of “the 2017 Postgraduate Wales Regulations”(b), substitute —  
 ““the 2017 Master’s Degree Wales Regulations” means the Education (Postgraduate Master’s Degree Loans) (Wales) Regulations 2017(c);”;

(b) after the definition of “the 2018 Doctoral Degree Regulations”(d), insert—  
 ““the 2018 Doctoral Degree Wales Regulations” means the Education (Postgraduate Doctoral Degree Loans) (Wales) Regulations 2018(e);”;

(c) in the definition of “postgraduate degree loan”(f) —  
 (i) for paragraph (a)(ii), substitute —  
 “(ii) a postgraduate master’s degree loan pursuant to Part 4 of the 2017 Master’s Degree Wales Regulations;”;

(ii) in paragraph (a)(iii), at the end for “, and” substitute “; or”;

(iii) after paragraph (a)(iii), insert —  
 “(iv) a postgraduate doctoral degree loan pursuant to Part 4 of the 2018 Doctoral Degree Wales Regulations, and”;

(iv) in paragraph (b), for “the 2017 Postgraduate Wales Regulations or the 2018 Doctoral Degree Regulations”, substitute —

“the 2017 Master’s Degree Wales Regulations, the 2018 Doctoral Degree Regulations or the 2018 Doctoral Degree Wales Regulations”;

(d) in the definition of “student loan”(g), in paragraph (b)(i) and (ii), for “the 2017 Postgraduate Wales Regulations”, substitute —

“the 2017 Master’s Degree Wales Regulations or the 2018 Doctoral Degree Wales Regulations”;

(3) in paragraph (2)(h), for “the 2017 Postgraduate Wales Regulations or the 2018 Doctoral Degree Regulations”, substitute —

“the 2017 Master’s Degree Wales Regulations, the 2018 Doctoral Degree Regulations or the 2018 Doctoral Degree Wales Regulations”.

### **Amendment of regulation 5**

4. In regulation 5(i) (Wales), in paragraphs (1) and (2) omit “master’s”.

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- (a) S.I. 2009/470, amended by S.I. 2010/661, S.I. 2010/1010, S.I. 2011/784, S.I. 2012/836, S.I. 2012/1309, S.I. 2013/388, S.I. 2013/591, S.I. 2013/607, S.I. 2013/1881, S.I. 2014/651, S.I. 2017/831, S.I. 2018/284, and S.I. 2018/599.  
 (b) The definition of “the 2017 Postgraduate Wales Regulations” was inserted by S.I. 2017/831.  
 (c) S.I. 2017/523, amended by S.I. 2017/712 and S.I. 2018/277.  
 (d) The definition of “the 2018 Doctoral Degree Regulations” was inserted by S.I. 2018/599.  
 (e) S.I. 2018/656.  
 (f) The definition of “postgraduate degree loan”, inserted by S.I. 2018/599, replaced the definition of “postgraduate master’s degree loan” that was previously inserted by S.I. 2017/831.  
 (g) The definition of “student loan” was substituted by S.I. 2017/831 and then by S.I. 2018/599.  
 (h) Paragraph (2) was inserted by S.I. 2012/1309 and then amended by S.I. 2013/607, S.I. 2017/831, and S.I. 2018/599.  
 (i) Regulation 5 was amended by S.I. 2017/831.

### **Amendment of regulation 7**

**5.** In regulation 7(1)(a) (application to transferred loans in England and Wales)—

- (a) in the definition of “postgraduate degree loan”(b)—
  - (i) for paragraph (a)(ii), substitute —  
“(ii) a postgraduate master’s degree loan pursuant to the 2017 Master’s Degree Wales Regulations;”;
  - (ii) in paragraph (a)(iii), at the end for “and” substitute “or”;
  - (iii) after paragraph (a)(iii), insert —  
“(iv) a postgraduate doctoral degree loan pursuant to the 2018 Doctoral Degree Wales Regulations, and”;
  - (iv) in paragraph (b), for “the 2017 Postgraduate Wales Regulations or the 2018 Doctoral Degree Regulations”, substitute —  
“the 2017 Master’s Degree Wales Regulations, the 2018 Doctoral Degree Regulations or the 2018 Doctoral Degree Wales Regulations”;
- (b) in the definition of “student loan”(c), in paragraphs (a) and (b), for “the 2017 Postgraduate Wales Regulations or the 2018 Doctoral Degree Regulations”, substitute —  
“the 2017 Master’s Degree Wales Regulations, the 2018 Doctoral Degree Regulations or the 2018 Doctoral Degree Wales Regulations”.

### **Amendment of regulation 15**

**6.** In regulation 15(2ZA)(d) (timing of repayments: general) —

- (a) in sub-paragraph (a), for “the 2017 Postgraduate Wales Regulations”, substitute “the 2017 Master’s Degree Wales Regulations”;
- (b) in sub-paragraph (b)(i), after “Part 1 of the 2018 Doctoral Degree Regulations”, insert “or Part 4 of the 2018 Doctoral Degree Wales Regulations”.

### **Amendment of regulation 21B**

**7.** In regulation 21B(2)(e) (interest rate on postgraduate degree loans) —

- (a) for sub-paragraph (b), substitute “(b) regulation 13 of the 2017 Master’s Degree Wales Regulations;”;
- (b) in sub-paragraph (c), at the end insert “; or”;
- (c) after sub-paragraph (c), insert “(d) regulation 13 of the 2018 Doctoral Degree Wales Regulations”.

2nd July 2018

*Sam Gyimah*  
Minister of State  
Department for Education

27th June 2018

*Kirsty Williams*  
Cabinet Secretary for Education, one of the Welsh Ministers

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- (a) Regulation 7(1) was amended by S.I. 2017/831.
  - (b) S.I. 2009/470, amended by S.I. 2010/661, S.I. 2010/1010, S.I. 2011/784, S.I. 2012/836, S.I. 2012/1309, S.I. 2013/388, S.I. 2013/591, S.I. 2013/607, S.I. 2013/1881, S.I. 2014/651, S.I. 2017/831, S.I. 2018/284, and S.I. 2018/599.
  - (c) The definition of “student loan” was substituted by S.I. 2017/831 and then by S.I. 2018/599.
  - (d) Paragraph (2ZA) was inserted by S.I. 2017/831 and then substituted by S.I. 2018/599.
  - (e) Regulation 21B was inserted by S.I. 2017/831 and then amended, with paragraph 2 substituted, by S.I. 2018/599.



## **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

The Education (Student Loans) (Repayment) Regulations 2009 (“the 2009 Repayment Regulations”) make provision for the repayment of student loans and postgraduate degree loans in England and Wales.

These composite Regulations made by the Secretary of State and the Welsh Ministers amend the 2009 Repayment Regulations, and make provision for the repayment of postgraduate doctoral degree loans (“the loans”) made by the Welsh Ministers under Part 4 of the Education (Postgraduate Doctoral Degree Loans) (Wales) Regulations 2018 (“the 2018 Doctoral Degree Wales Regulations”).

Regulations 3, 4 and 5 amend, respectively, regulations 3, 5 and 7 of the 2009 Repayment Regulations so that the loans are repaid as postgraduate degree loans under those Regulations. Regulations 6 and 7 amend, respectively, regulations 15 and 21B of the 2009 Repayment Regulations to provide for when loan repayments become due. Repayments become due at the start of the tax year that next follows either the borrower’s ceasing to be eligible for a loan or, if earlier, the fourth anniversary of the course start date. In any event, the borrower is not required to make repayments before 6 April 2019. Interest at retail price index +3 % will accrue on a loan from the date that the first payment is made in respect of that loan under the 2018 Doctoral Degree Wales Regulations.

The Department for Education has not produced an impact assessment for this instrument as no, or no significant, impact on the private, voluntary or public sectors is foreseen.

The Welsh Ministers’ Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to the exercise of the Welsh Ministers’ functions in these Regulations. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained from the Higher Education Division, Welsh Government, Cathays Park, Cardiff, CF10 3NQ.

## **EXPLANATORY MEMORANDUM TO THE EDUCATION (STUDENT LOANS) (REPAYMENT) (AMENDMENT) (No. 3) REGULATIONS 2018**

The Explanatory Memorandum has been prepared by the Higher Education Division and is laid before the National Assembly for Wales under Standing Order 27.1.

### **Cabinet Secretary's declaration**

In my view this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Education (Student Loans) (Repayment) (Amendment) (No. 3) Regulations 2018. I am satisfied that the benefits justify the likely costs.

Kirsty Williams AM  
Cabinet Secretary for Education  
6 July 2018

## **Description**

The Education (Student Loans) (Repayment) (Amendment) (No. 3) Regulations 2018 ('the Regulations') provide the repayment mechanisms to allow Welsh borrowers of doctoral loans to repay loans in respect of academic years beginning on or after 1 August 2018.

## **Matters of special interest to the Constitutional and Legislative Affairs Committee**

The Education (Student Loans) (Repayment) (Amendment) (No. 3) Regulations 2018 ("the 2018 Regulations") further amend the Education (Student Loans) (Repayment) Regulations 2009 (SI 2009/470) ("the 2009 Regulations") as amended. The 2009 Regulations were made as composite regulations by the Welsh Ministers (in relation to Wales) and the Secretary of State and they govern repayments of student loans by borrowers who have taken out income-contingent loans for courses which began on or after September 1998. The 2009 Regulations contain provisions (not devolved to the Welsh Ministers) which are made by the Secretary of State in relation to England and Wales which concern the tax system operated by Her Majesty's Revenue and Customs. Some other provisions are made by the Welsh Ministers in relation to Wales and the Secretary of State in relation to England.

This composite statutory instrument is subject to the negative resolution procedure in the National Assembly for Wales and in the UK Parliament. Given the composite nature of the regulations and that no routine Parliamentary processes exist by which to lay bilingual regulations before Parliament, these Regulations will exceptionally be made in English only.

## **Legislative background**

The relevant legal powers to make these Regulations are set out in sections 22 and 42 of the Teaching and Higher Education Act 1998.

The functions of the Secretary of State under section 22 of the Teaching and Higher Education Act 1998 as regards to Wales were transferred to the National Assembly for Wales by section 44 of the Higher Education Act 2004, except for those functions under section 22(2)(a), (c), (j) and (k), 3(e) and (f) and (5). Functions under sub-sections 22(2)(a), (c) and (k) are exercisable by Welsh Ministers concurrently with the Secretary of State in relation to Wales. The functions in sections 22(2)(j), 22(3)(e) and (f) and section 22(5) remain

Secretary of State functions in relation to Wales. The functions so transferred and which became exercisable concurrently subsequently became functions of the Welsh Ministers by virtue of section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006.

This instrument will follow the negative resolution procedure.

### **Purpose and intended effect of the legislation**

Loans are made available to support eligible students ordinarily resident in Wales undertaking designated courses of higher education. The 2009 Regulations provide for the repayment of those loans to Her Majesty's Treasury. The terms of the repayment are set in order to balance the need for adequate returns to the taxpayer while ensuring loans are not a disincentive to undertaking higher education. The 2009 Regulations make provision for the repayment of student loans and postgraduate degree loans in England and Wales.

Support in the form of loans is now available for those wishing to study doctoral programmes. The changes described below will ensure that loan repayments for doctoral loans are affordable for those repaying them, while providing a reasonable return to the taxpayer. These composite Regulations made by the Secretary of State and Welsh Ministers amend the 2009 Regulations, to make provision for the repayment of postgraduate doctoral degree loans provided by Welsh Ministers, under Regulation 13 of the Education (Postgraduate Doctoral Degree Loans) (Wales) Regulations 2018.

A summary of the changes is set out below.

The 2018 Regulations set an income threshold for repayment, below which borrowers are not required to make repayments of their loans. Borrowers earning above that repayment threshold are required to make repayments of a set percentage of the portion of their income that falls above that threshold. The repayment terms for doctoral study are the same as those which apply to the repayment of postgraduate Master's loans. Borrowers will not be required to repay their loan until their income reaches the minimum threshold of £21,000 per year, with the interest rate on the loan balance currently set at 3% + RPI. Repayments will be 6% of an individual's income over £21,000. The borrower is not required to make repayments for doctoral loans before 6 April 2019. Repayments will be made concurrently with repayments on certain other loan balances, including undergraduate debt.

The 2018 Regulations amend the 2009 Regulations so that doctoral loans are repaid as postgraduate degree loans under those Regulations. Part 3 and 4 of the 2009 Regulations only apply to the loans if the Welsh Ministers determine that loan repayments are to be made through the tax system and give notice of this to the Secretary of State. If parts 3 and 4 are not applied by Welsh Ministers, those regulations in part 2 which also relate to repayments through the tax system will also cease to apply.

A further amendment is required to the 2009 Regulations so that loan repayments become due at the start of the tax year commencing on 6 April after the borrower ceases to be eligible for a loan under the Education (Postgraduate Doctoral Degree Loans) (Wales) Regulations 2018 or, if earlier, the start of the tax year commencing on 6 April after the fourth anniversary of the course start date. Interest at RPI +3 % will accrue on a loan from the date that the first payment is made in respect of that loan under the Education (Postgraduate Doctoral Degree Loans) (Wales) Regulations 2018.

## **CONSULTATION**

There is no statutory requirement to consult on these Regulations. The doctoral policy which included full details on the repayment arrangements was consulted on between 8 December 2017 and 2 March 2018 (*Support for doctoral study, WG33258*). A wide range of stakeholders were invited to respond to the consultation. A summary of the responses is being prepared and will be published on the Welsh Government website once complete.

Responses to the consultation did not identify any significant concerns and as a result the policy remains largely unchanged from the original policy proposed in the consultation for the 2018/19 academic year.

## **REGULATORY IMPACT ASSESSMENT**

### **Options**

Two options have been considered. In order to deliver a system of support for doctoral loans in 2018/19 the Welsh Government is constrained by the need to operate a single unified repayment system for England and Wales by Her Majesty's Customs and Revenue. Consideration must also be given to the financial constraints imposed upon the Welsh Government when loan funding was made available for doctoral loans, which includes the acceptance of the terms and conditions of repayment provided for by the Regulations. There are, therefore, no further policy options realistically available at this time.

#### **Option 1: Do nothing**

The first option is to do nothing. In this case, the Regulations are not made and the repayment of loans made to support doctoral study would be on the basis of the terms provided for by the 2009 Regulations that apply to loans other than those made to support postgraduate Master's study.

#### **Option 2: Make the Regulations**

By amending the Regulations the Welsh Ministers will ensure that repayment of postgraduate doctoral loans is consistent with the policy established for the repayment of postgraduate Master's loans, implementing a consistent approach to the repayment of postgraduate loans. This policy is the same as that established by the UK government for the repayment of doctoral loans by students ordinarily resident in England.

The difference between the proposed doctoral repayments policy provided for in the Regulations and existing repayments policy (for post-2012 loans) is as follows.

	Postgraduate doctoral	Postgraduate Master's	Other student debt
Repayment rate	6%	6%	9%
Income threshold	£21,000	£21,000	£25,000
Interest rate during study	RPI +3%	RPI +3%	RPI +3%
Interest rate upon completion of study	RPI + 3%	RPI + 3%	Between RPI and RPI + 3%, depending upon income

Doctoral loan debt will be added to any postgraduate Master's debt to establish a single balance. This balance will be paid back concurrently with any other student debt.

### **Costs and benefits**

#### **Option 1: Do nothing**

If Regulations are not amended then the repayment terms for postgraduate doctoral loans would default to those applicable to other student debt. This will mean repayments start at a higher income threshold, reducing the return to the taxpayer. Further, the loan balance would be added to any existing student debt, including any incurred by way of loans for undergraduate study. This would then be repaid as a single balance, reducing the likelihood that the loan will be repaid. This risks providing the taxpayer with a significantly lower value for money and will result in a lower return.

On the other hand, as students would pay back a single balance, then they would benefit by the increased likelihood of not repaying their loan.

#### **Option 2: Do the minimum – make the Regulations**

##### **Cost**

Doctoral students, like postgraduate students, are known to earn more than those with undergraduate degrees alone<sup>1</sup>. Requiring them to pay back at a lower income threshold, that is, sooner, than those with undergraduate debt is

<sup>1</sup> <https://www.vitae.ac.uk/vitae-publications/reports/what-do-researchers-do-early-career-progression-2013.pdf/view>

commensurate with their higher average income. By lowering the repayment rate from 9% of income above the repayment threshold for undergraduate debt to 6% for postgraduate debt, affordability is given due regard, which is especially important given that many borrowers will have both undergraduate and postgraduate debt. The cumulative repayment rate is 15%. Making the Regulations therefore ensures that an adequate return is made to the taxpayer, at terms which are not a significant disincentive to those undertaking a postgraduate degree.

Making the Regulations also establishes a consistent policy for the repayment of postgraduate loans. The terms are those to be offered to students ordinarily resident in England, ensuring the same treatment.

### **Participation rates**

Take up of loans is expected to be relatively low. Around 200 new doctoral students are expected to be eligible for a loan in 2018/19, based on the latest population and existing funding routes. It is not known how many additional doctoral students will enrol as a result of the regulations being made or will take up the offer of the loan.

Forecasts for the introduction of postgraduate Master's loans in the 2017/18 academic year assumed a 10% increase in participation. It is too early to draw any conclusion regarding the accuracy of this assumption and the context for the introduction of doctoral loans is not comparable with that for any other type of student loan previously introduced. This is because arrangements already (and will continue to) exist for the funding of the most competitive doctoral students and research projects. There is, therefore, no basis for an estimate of the scale of increase, nor how much of any increase will be realised in the first year of provision.

### **Benefits and student debt**

There are clear economic returns for those with a higher degree as graduates are more likely to be in employment, than those with just an undergraduate degree. Statistics on UK graduates from higher education demonstrate a clear advantage to doctorate leavers, compared with other postgraduate leavers, with respect to employment and average salaries. Eighty-six percent of 2015/16 doctoral leavers were in employment (UK or overseas), compared with 81% of other postgraduates, six months after graduation. This difference largely reflects the higher proportion of other postgraduate leavers that go on to further study, rather than employment. More than 60% of 2015/16 doctoral



graduates employed full-time were earning an annual salary of at least £30,000, compared with less than 50% of other postgraduate leavers, six months after graduation. Previous research has suggested an overall earnings premium of 9% for doctoral graduates, compared to those with a Masters degree.<sup>2</sup>

If the Regulations are made then there will be a consistent approach across Wales and England for doctoral loan borrowers. Repayment of the loan is income contingent and ensures that only those that can afford to repay do so. This will directly benefit borrowers, particularly those on a low income, as a number of students may never enter repayment at all.

### **Financial costs**

The estimated value of loan provision in the 2018-19 financial year is £0.8m, but there is considerable uncertainty around potential demand and take-up. This figure is based on the estimated eligibility within the latest population; any increase in participation resulting from the availability of loans may increase the value of provision. For example, a 10% increase (in line with the forecasting assumption for the introduction of postgraduate Master's loans) would result in an estimated cost of £0.9m in 2018-19. A RAB charge in the region of 35%, reflecting forecast non-repayment of doctoral loans, has been estimated. There is uncertainty around the RAB charge, relating to the number, characteristics and future earning potential of potential doctoral loan borrowers. The estimate provided would result in a 2018-19 financial year RAB cost of £0.3m, when applied to the estimated value of loan.

Costs will increase year on year while a full cohort eligible for doctoral loans phases in. A full cohort will take up to eight years to phase in (2025-26), and it is unclear whether demand will increase during that time. Based on the current estimated eligible population, a full cohort would require around £6m of loan cover, with an associated RAB cost of around £2m. These estimates could, however, be subject to marked change during the intervening time, as real data on demand and loan repayments become available.

An Equality Impact Assessment has been completed and is available on request from [hepolicy@gov.wales](mailto:hepolicy@gov.wales)

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<sup>2</sup> <https://www.vitae.ac.uk/vitae-publications/reports/what-do-researchers-do-early-career-progression-2013.pdf/view>

## **COMPETITION ASSESSMENT**

There is no wider impact on the competitiveness of business, charities or the voluntary sector in making these Regulations. An impact assessment has not been produced for this instrument by English counterparts as no, or no significant, impact on the private, voluntary or public sectors is foreseen.

## **POST IMPLEMENTATION ASSESSMENT**

The regulations governing the student support system are subject to periodic review by the Welsh Government and its delivery partners.

## **SUMMARY**

The making of these Regulations is necessary to establish the basis for the repayment of doctoral loans for student support.

# Agenda Item 3.3

## SL(5)240 – The Education (Student Support) (Wales) (Amendment) Regulations 2018

### Background and Purpose

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The Education (Student Support) (Wales) Regulations 2018 (“the 2018 Regulations”) provide for financial support for students taking designated higher education courses which begin on or after 1 August 2018. The 2018 Regulations also provide support for courses which begin before 1 August 2018 and are subsequently converted from full-time to part-time or part-time to full-time on or after 1 August 2018.

These Regulations amend the 2018 Regulations.

Regulation 3 amends regulation 46(3)(c) of the 2018 Regulations so that where a student’s household income exceeds £18,370 but is less than £59,200, the maximum amount of maintenance grant payable is reduced by £1 for every £5.750 of household income exceeding £18,370 where the student is living away from home, studying somewhere other than London.

Regulation 4 substitutes new regulation 56 for regulation 56 of the 2018 Regulations. The new regulation makes provision for the calculation of the amount of maintenance loan payable to full-time students who qualify for a special support payment under regulation 50 of the 2018 Regulations.

Regulation 5 inserts a new paragraph into regulation 58 of the 2018 Regulations as a consequence of regulation 6. Regulation 6 provides for a new regulation to be inserted into the 2018 Regulations as regulation 58A. Regulation 58A makes provision for the calculation of maintenance loan payable to part-time students who qualify for a special support payment under regulation 50 of the 2018 Regulations.

Regulations 7, 8, 9 and 10 amend, respectively, regulations 81, 93, 94 and 95 of the 2018 Regulations which deal with the calculation of maintenance loan entitlement where a student qualifies for support but at a point during the academic year is absent from the course or their period of eligibility ends or is terminated..

### Procedure

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Negative.

### Technical Scrutiny

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

### Merits Scrutiny

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

#### **1. Standing Order 21.3(ii) - that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Assembly**

The 2018 Regulations originally included a simple formula for working out the amount by which a student grant or loan is reduced when, for example, a student is in prison or is otherwise absent from a higher education course.



These Regulations amend the 2018 Regulations by deleting the formula and replacing it with the words “the amount is reduced by the number of days during the academic year that the eligible student is a prisoner / absent from their course”.

Given that the 2018 Regulations only recently came into force (12 March 2018), we would welcome from the Welsh Government: (a) clarification as to why it was necessary to remove the formula from the 2018 Regulations, and (b) confirmation that the amendment does not change policy in any way.

## Implications arising from exiting the European Union

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

## Government Response

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Given that the 2018 Regulations only recently came into force (12 March 2018), we would welcome from the Welsh Government: (a) clarification as to why it was necessary to remove the formula from the 2018 Regulations, and (b) confirmation that the amendment does not change policy in any way.

The formula was unnecessary and the amendment provides for a straightforward explanation of the simple way that funding entitlement is re-calculated when a student becomes a prisoner. This approach has been taken throughout Part 9 of the Regulations.

The amendment does not change policy.

**Legal Advisers**

**Constitutional and Legislative Affairs Committee**

**31 August 2018**



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

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**2018 No. 813 (W. 164)**

**EDUCATION, WALES**

**The Education (Student Support)  
(Wales) (Amendment) Regulations  
2018**

**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

The Education (Student Support) (Wales) Regulations 2018 (“the 2018 Regulations”) provide for financial support for students taking designated higher education courses which begin on or after 1 August 2018. The 2018 Regulations also provide support for courses which begin before 1 August 2018 and are subsequently converted from full-time to part-time or part-time to full-time on or after 1 August 2018.

These Regulations amend the 2018 Regulations.

Regulation 3 amends regulation 46(3)(c) of the 2018 Regulations so that where a student’s household income exceeds £18,370 but is less than £59,200, the maximum amount of maintenance grant payable is reduced by £1 for every £5.750 of household income exceeding £18,370 where the student is living away from home, studying somewhere other than London.

Regulation 4 substitutes new regulation 56 for regulation 56 of the 2018 Regulations. The new regulation makes provision for the calculation of the amount of maintenance loan payable to full-time students who qualify for a special support payment under regulation 50 of the 2018 Regulations.

Regulation 5 inserts a new paragraph into regulation 58 of the 2018 Regulations as a consequence of regulation 6. Regulation 6 provides for a new regulation to be inserted into the 2018 Regulations as regulation 58A. Regulation 58A makes provision for the calculation of maintenance loan payable to part-time students who qualify for a special support payment under regulation 50 of the 2018 Regulations.

Regulations 7, 8, 9 and 10 amend, respectively, regulations 81, 93, 94 and 95 of the 2018 Regulations which deal with the calculation of maintenance loan

entitlement where a student qualifies for support but at a point during the academic year is absent from the course or their period of eligibility ends or is terminated.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained from the Higher Education Division, Welsh Government, Cathays Park, Cardiff CF10 3NQ.

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

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**2018 No. 813 (W. 164)**

**EDUCATION, WALES**

**The Education (Student Support)  
(Wales) (Amendment) Regulations  
2018**

*Made* 3 July 2018

*Laid before the National Assembly for Wales*  
6 July 2018

*Coming into force* 1 August 2018

The Welsh Ministers, in exercise of powers conferred on the Secretary of State under sections 22 and 42(6) of the Teaching and Higher Education Act 1998<sup>(1)</sup> and now exercisable by them<sup>(2)</sup>, make the following Regulations:

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- (1) 1998 c. 30; section 22 was amended by the Learning and Skills Act 2000 (c. 21), section 146 and Schedule 11; the Income Tax (Earnings and Pensions) Act 2003 (c. 1), Schedule 6; the Finance Act 2003 (c. 14), section 147; the Higher Education Act 2004 (c. 8), sections 42 and 43 and Schedule 7; the Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), section 257; the Education Act 2011 (c. 21), section 76; S.I. 2013/1881; and the Higher Education and Research Act 2017 (c. 29), section 88. See section 43(1) of the Teaching and Higher Education Act 1998 for the definition of “prescribed” and “regulations”.
- (2) The Secretary of State’s functions in section 22(2)(a) to (i) and (k) were transferred to the National Assembly for Wales so far as they relate to making provision in relation to Wales by section 44 of Higher Education Act 2004 (c. 8), with subsections (a), (c) and (k) being exercised concurrently with the Secretary of State. The Secretary of State’s functions in section 42 were transferred, in so far as exercisable in relation to Wales, to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999, article 2, Schedule 1 (S.I. 1999/672). The functions of the National Assembly for Wales were transferred to the Welsh Ministers under paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c. 32).

## PART 1

### TITLE AND COMMENCEMENT

#### **Title and commencement**

**1.**—(1) The title of these Regulations is the Education (Student Support) (Wales) (Amendment) Regulations 2018.

(2) These Regulations come into force on 1 August 2018.

## PART 2

### AMENDMENTS TO THE EDUCATION (STUDENT SUPPORT) (WALES) REGULATIONS 2018

#### **Amendments to the Education (Student Support) (Wales) Regulations 2018**

**2.** The Education (Student Support) (Wales) Regulations 2018<sup>(1)</sup> are amended in accordance with regulations 3 to 10.

**3.** In regulation 46(3)(c), after “household income” insert “exceeding £18,370”.

**4.** For regulation 56 substitute—

#### **“Amount of maintenance loan: full-time students who qualify for special support payment**

**56.**—(1) Where a full-time student qualifies for a special support payment under regulation 50, the amount of maintenance loan payable to the student is calculated in accordance with paragraph (2).

(2) The amount of maintenance loan payable is calculated by applying the following steps—

#### *Step 1*

Identify the amount of—

- (a) maintenance grant payable to the student under regulation 46, and
- (b) base grant payable to the student under regulation 45.

#### *Step 2*

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(1) S.I. 2018/191 (W. 42), amended by S.I. 2018/802 (W. 161).



Identify the amount of base grant and maintenance grant to be treated as a special support payment under regulation 50.

*Step 3*

Identify the applicable amount of living support for the student by reference to Table 8, where—

- (a) Column 1 specifies the academic year in relation to which the amounts of living support in Column 3 apply;
- (b) Column 2 specifies the location in which the student is living (see paragraph 3 of Schedule 1);
- (c) Column 3 specifies the applicable amounts of living support for the corresponding entries in Columns 1 and 2.

**Table 8**

<i>Column 1 Academic year</i>	<i>Column 2 Location of student</i>	<i>Column 3 Applicable amount of living support for special support student</i>
Beginning on or after 2018	Living at home	£7,650
	Living away from home, studying in London	£11,250
	Living away from home, studying elsewhere	£9,000

*Step 4*

Whichever is the greater of—

- (a) the amount identified at Step 3, or
- (b) the amounts of grant identified at Step 1 plus the minimum amount of maintenance loan payable to the student as specified by reference to Table 8A,

is the maximum amount of living support available to the student.

*Step 5*

Calculate the notional maximum amount of maintenance loan by deducting the amount of special support payment identified at Step 2

from the maximum amount of living support identified at Step 4.

*Step 6*

Deduct the amount of any maintenance grant payable to the student that is not treated as special support payment from the notional maximum amount of maintenance loan calculated at Step 5.

The result is the amount of maintenance loan payable to the student.

(3) In Table 8A—

- (a) Column 1 specifies the academic year in relation to which the minimum amounts of maintenance loan in Column 3 apply;
- (b) Column 2 specifies the location in which the student is living (see paragraph 3 of Schedule 1);
- (c) Column 3 specifies the minimum amounts of maintenance loan payable for the corresponding entries in Columns 1 and 2.

**Table 8A**

<i>Column 1 Academic year</i>	<i>Column 2 Location of student</i>	<i>Column 3 Minimum amount of maintenance loan payable</i>
Beginning on or after 2018	Living at home	£3,325
	Living away from home, studying in London	£5,125
	Living away from home, studying elsewhere	£4,000

(4) In this regulation, “living support” is the collective term for special support payment, maintenance grant and maintenance loan.”

5. In regulation 58 (amount of maintenance loan: part-time students), at the end insert—

“(3) This regulation is subject to regulation 58A.”

6. After regulation 58 insert—

**“Amount of maintenance loan: part-time students who qualify for special support payment**

“58A.—(1) Where a part-time student qualifies for a special support payment under regulation 50, the amount of maintenance loan payable to the student is calculated in accordance with paragraph (2).

(2) The amount of maintenance loan is calculated by applying the following steps—

*Step 1*

Identify the amount of base grant and maintenance grant payable to the student which is to be treated as a special support payment under regulation 50.

*Step 2*

Calculate the applicable amount of living support for the student by reference to Table 10A, where Column 2 of the table specifies the amount of living support that applies in relation to the academic year specified in Column 1.

**Table 10A**

<i>Column 1</i>	<i>Column 2</i>
Academic year	Amount of living support for part-time student where special support payable
Beginning on or after 2018	£6,650 multiplied by intensity of study

*Step 3*

Deduct the amount of special support payment identified at Step 1 from the applicable amount of living support identified at Step 2.

The result is the amount of maintenance loan payable to the student.

(3) In this regulation, “living support” is the collective term for special support payment, maintenance grant and maintenance loan.”

7. In regulation 81(2) (qualifying for grants or maintenance loan during the academic year), for subparagraph (a) substitute—

“(a) will only, in the case of a grant, be in respect of the remaining days of the academic year, and, in the case of a maintenance loan, only be in respect of the remaining term days of the academic year, in either case beginning with the day the relevant event occurs, and”

**8.** In regulation 93 (support reduced for periods spent in prison), for paragraph (2) substitute—

(2) Where this regulation applies, the amount of grant or maintenance loan payable is reduced by the number of days during the academic year that the eligible student is a prisoner.”

**9.** In regulation 94 (support reduced for other periods of absence), for paragraph (2) substitute—

(2) Where this regulation applies, the amount of grant or maintenance loan is reduced by the number of days during the academic year the eligible student is absent from their course.”

**10.** In regulation 95 (payments when period of eligibility ends or is terminated), for paragraph (1) substitute—

“(1) Where an eligible student’s period of eligibility has ended or has been terminated, any amount of grant or maintenance loan payable in respect of an academic year is reduced by the number of days in the academic year when eligibility has ended or terminated.”

*Kirsty Williams*

Cabinet Secretary for Education, one of the Welsh Ministers

3 July 2018

## **EXPLANATORY MEMORANDUM TO THE EDUCATION (STUDENT SUPPORT) (AMENDMENT) (WALES) REGULATIONS 2018**

The Explanatory Memorandum has been prepared by the Higher Education Division and is laid before the National Assembly for Wales under Standing Order 27.1.

### **Cabinet Secretary's declaration**

In my view this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Education (Student Support) (Wales) (Amendment) Regulations 2018. I am satisfied that the benefits justify the likely costs.

Kirsty Williams AM  
Cabinet Secretary for Education

6 July 2018

## **Description**

The Education (Student Support) (Wales) (Amendment) Regulations 2018 ('the Regulations') make amendments to the Education (Student Support) (Wales) Regulations 2018 ('the 2018 Regulations').

## **Matters of special interest to the Constitutional and Legislative Affairs Committee**

None.

## **Legislative background**

Section 22 of the Teaching and Higher Education Act 1998 ('the 1998 Act') provides the Welsh Ministers with the power to make regulations authorising or requiring the payment of financial support to students studying courses of higher or further education designated by or under those regulations. In particular, this power enables the Welsh Ministers to prescribe amount of financial support (grant or loan) and categories of attendance on higher education courses. This provision, together with sections 42(6) and 43(1) of the 1998 Act, provides the Welsh Ministers with the power to make the Regulations.

Section 44 of the Higher Education Act 2004 ('the 2004 Act') provided for the transfer to the National Assembly for Wales of the functions of the Secretary of State under section 22 of the 1998 Act (except insofar as they relate to the making of any provision authorised by subsections (2)(a), (c), (j) or (k), (3)(e) or (f) or (5) of section 22). Section 44 of the 2004 Act also provided for the functions of the Secretary of State in section 22(2)(a), (c) and (k) to be exercisable concurrently with the National Assembly for Wales.

The functions of the Secretary of State under sections 42(6) and 43(1) of the 1998 Act were transferred, so far as exercisable in relation to Wales, to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672).

The functions of the National Assembly for Wales were transferred to the Welsh Ministers by virtue of section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006 (c.32).

Each year, a number of functions of the Welsh Ministers in regulations made under section 22 of the 1998 Act are delegated to the Student Loans Company under section 23 of the 1998 Act.

This instrument will follow the Negative Resolution procedure.

### **Purpose and intended effect of the legislation**

The Welsh Ministers make regulations annually to provide the basis for the system of financial support for students who are ordinarily resident in Wales and taking designated courses of higher education.

The 2018 Regulations provide for financial support for students taking designated higher education courses which begin on or after 1 August 2018. The 2018 Regulations also provide support for courses which begin before 1 August 2018 and are subsequently converted from full-time to part-time or part-time to full-time on or after 1 August 2018.

The 2018 Regulations introduced a number of changes to student support for students commencing their studies in the 2018/19 academic year. These changes were made as a result of the *Independent review of higher education funding and student finance arrangements* ('the Diamond review'). In addition, the 2018 Regulations represent a comprehensive redraft and simplification of the previous student support regulations.

An amendment is required to reframe the calculation of special support payments to resolve an unintended consequence of the interaction between the 2018 Regulations and the Universal Credit Regulations 2013 related to the financial assessment of a student for the purposes of Universal Credit. The calculation is presented as a series of steps and a worked example is below.

Assume a student living at home, studying full-time, with household income of £35,000. The Steps of regulation 4 provide for the following:

Step 1. Maintenance grant payable under regulation 46 is £3,488. Base grant payable under regulation 45 is £1,000.

Step 2. The amount of base grant and maintenance grant to be treated as a special support payment under regulation 50 is £4,488.

Step 3. The applicable amount of living support is £7,650.

Step 4. Amount (a) is £7,650. Amount (b) is £4,488 + £3,325 = £7,813. The greater amount is £7,813 and is the maximum amount of living support.

Step 5. The notional maximum amount of maintenance loan is £7,813 - £4,488 = £3,325.

Step 6. The maintenance loan payable to the student is £3,325 - £0 = £3,325.

So, the student will receive a special support payment of £4,488 and a maintenance loan of £3,325, which is a total amount of support of £7,813.

Amendments have also been made relating to the calculation of maintenance grants and loans when a student's eligibility changes within an academic year if the student becomes an eligible student, when a student becomes a prisoner, is otherwise absent from the course, or ceases to be an eligible student.

## **IMPLEMENTATION**

The Regulations enable the Welsh Government's delivery partner (the Student Loans Company) to implement necessary changes to the operation of the system of student support for 2018.

## **CONSULTATION**

There is no statutory requirement to consult on the Regulations. The 2018 Regulations were developed as a response to the Diamond review. This included a wide-ranging and sustained programme of engagement with stakeholders over more than two years which substantially shaped the policy for student support and its implementation, both of which underpin the 2018 Regulations.

A consultation on a number of the recommendations made in the Diamond review was undertaken during 2016 and into 2017 (Student support funding for students ordinarily resident in Wales, WG30133)<sup>1</sup>.

Further engagement was undertaken late in 2017, in the form of a Student Finance Wales Information Notice (SFWIN)<sup>2</sup>.

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<sup>1</sup> <https://beta.gov.wales/support-funding-students-resident-wales>

<sup>2</sup> <https://www.studentfinancewales.co.uk/media/196984/sfwin-04-2017-changes-to-student-support-in-ay201819.pdf>



## **REGULATORY IMPACT ASSESSMENT**

The policy underpinning the 2018 Regulations was developed as a direct response to the Diamond review, which addressed the areas of widening access, supporting the skill needs of Wales, strengthening part-time and postgraduate provision, and ensuring long-term financial sustainability. The Diamond review considered a range of options for student support, settling on a set of changes recommended to the Cabinet Secretary for Education, recommendations that were largely accepted.

The 2018 Regulations made provision for those changes. The Regulatory Impact Assessment<sup>3</sup> which accompanied the laying of the 2018 Regulations with the National Assembly for Wales is a comprehensive overview of the impact of those regulations. The Regulatory Impact Assessment ('RIA') which accompanied the 2018 Regulations provides the appropriate impact analysis for these Regulations, which make amendments that fall within the scope of the RIA, and which is supplemented here with additional detail.

### **Options**

Two options were considered.

#### *Option 1 – do nothing*

In the event of the Regulations not being made the principal implication is that the policy changes recommended as part of the Diamond review would not be fully implemented and that the Student Loans Company would not properly be able to operate the student support system in Wales for the academic year beginning in August 2018.

#### *Option 2 – make the regulations*

Making the Regulations ensures that the Diamond review recommendations are fully implemented. In turn, this contributes to ensuring that the changes to widening access, supporting the skill needs of Wales, strengthening part-time and postgraduate provision, and financial sustainability have proper effect.

### **Costs and benefits**

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<sup>3</sup> <http://senedd.assembly.wales/documents/s72450/SL5189%20-%20EM%20The%20Education%20Student%20Support%20Wales%20Regulations%202018.pdf>

### *Option 1 – do nothing*

There would be neither additional cost nor benefit; however certain aspects of the 2018 Regulations would not operate as intended.

### *Option 2 – make the regulations*

By making the Regulations the Welsh Ministers ensure that the Welsh student support system has an appropriate underpinning legal framework and that policy operates as intended. The Regulations reflect policy developed as a result of the Diamond review. The Regulatory Impact Assessment which accompanied the 2018 Regulations describes the costs and benefits which accrue. Additional cost analysis is detailed table 1 and summarised in the following paragraphs.

The amendments to regulations 56 of the 2018 Regulations and the inclusion of a new regulation 58A mean that the amount of student support that the Department of Work and Pensions will assess as the unearned income of a student who is entitled to Universal Credit will accord with the Welsh Ministers' policy intent. There is no cost to Welsh Government associated with this change as the amendments only change the way the calculation method is presented, not the amounts of support payable to students.

Students affected by regulations 81 and 93–95, those whose eligibility for student support is affected in an academic year, will be assessed for support in a fair and equitable manner based upon the number of days they attend a course.

Regulation 7 amends regulation 81(2) of the 2018 Regulations. Regulation 81 provides for students who become eligible to receive student support based upon the time remaining in the academic year.

Regulations 93–95 of the 2018 Regulations are amended by regulations 8, 9 and 10. Regulation 93 provides for a recalculation of support when a student becomes a prisoner, regulation 94 for recalculation when a student is absent from a course, and regulation 95 provides for a recalculation when a student's period of eligibility ends or is terminated.

All else equal, regulation 7 will increase the cost of providing student support, regulations 8 and 9 will have minor cost implications, and regulation 10 may decrease the cost of providing support. The change in the total cost of providing student support that these changes represent are not material and

are expected to fall within the margin of inherent uncertainty associated with forecasting the costs of providing student support.

**Table 1 – Cost analysis**

<b>Amendment</b>	<b>Impact</b>
<p>The amendments to regulation 56 of the 2018 Regulations and the inclusion of a new regulation 58A mean that the amount of student support that the Department of Work and Pensions will assess as the unearned income of a student who is entitled to Universal Credit will accord with the Welsh Ministers' policy intent.</p>	<p>There is no cost to Welsh Government associated with this change as the amendments only change the way the calculation method is presented, not the amounts of support payable to students.</p>
<p>Students who become eligible to receive student support will be assessed based upon the number of days remaining in the academic year (regulation 7).</p>	<p>It is not possible to predict how many students will become eligible for support during the year, or at what point in the year they might become eligible. As students would currently be assessed based on the number of quarters rather than days remaining, this amendment could in theory result in immaterial additional costs, depending on the number and timing of students becoming eligible.</p>
<p>Recalculation of support when a student becomes a prisoner will be assessed based upon the number of days remaining in the academic year (regulation 8).</p>	<p>It is not possible to predict how many students will become prisoners during the year, or at what point in the year. Numbers will be very small (if any). There is no cost associated with this amendment as the regulation has been made more permissive, but it does not alter the calculation that will be applied to determine entitlement.</p>
<p>Recalculation of support when a student is absent from a course will be assessed based upon the number of days</p>	<p>It is not possible to predict how many students will be absent from a course, or at what point in the year. There is no cost</p>

<p>remaining in the academic year (regulation 9).</p>	<p>associated with this amendment as the regulation has been made more permissive, but it does not alter the calculation that will be applied to determine entitlement.</p>
<p>Recalculation when a student's period of eligibility ends or is terminated will be assessed based upon the number of days remaining in the academic year (regulation 10).</p>	<p>It is not possible to predict how many students' eligibility will end, or at what point in the year. As students would currently be assessed based on the number of payment periods rather than days remaining, this amendment could in theory result in a negligible reduction in costs, depending on the number and timing of students becoming ineligible.</p>

## **COMPETITION ASSESSMENT**

The making of the Regulations has no impact on the competitiveness of businesses, charities or the voluntary sector.

## **POST-IMPLEMENTATION ASSESSMENT**

The regulations governing the student support system are usually revised annually and are continually subject to detailed review, both by policy officials and delivery partners in their practical implementation of the regulations. An evaluation plan for the Welsh Government response to the Diamond review has been developed. This will monitor, among other things, numbers, participation and retention of higher education students.

## **SUMMARY**

The making of these Regulations is necessary to prevent unintended consequences arising from certain the provisions of the 2018 Regulations, and accordingly to confirm the intended basis for the higher education student support system for students ordinarily resident in Wales and EU students studying in Wales in the 2018/19 academic year.

# Agenda Item 3.4

## SL(5)248 – The Food and Rural Affairs (Miscellaneous Revocations) Regulations 2018

### Background and Purpose

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These Regulations revoke a number of instruments relating to countryside access and dairy produce quotas in England and Wales.

The Explanatory Memorandum states “Following the “Working Smarter” report in Wales, the Welsh Ministers agreed to provide a measured and appropriate regulatory framework for farmers in Wales and this included a red tape review of existing legislation. As part of this, the Welsh Ministers agreed to work with DEFRA to revoke, where appropriate, legislation with cross territorial application to Wales and England where that legislation has become redundant or otherwise obsolete.”

### Procedure

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Negative, composite.

### Technical Scrutiny

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

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

These Regulations have been made as a composite instrument, meaning that these Regulations have been: (a) made by both the Welsh Ministers and the Secretary of State, and (b) laid before both the National Assembly for Wales and the UK Parliament.

We note that Explanatory Memoranda to composite instruments usually refer to the lack of a Welsh version of the instrument (often by reference to an explanation such as “As this composite instrument is subject to approval by the National Assembly for Wales and by the UK Parliament, it is not considered reasonably practicable for this instrument to be made or laid bilingually”). However, there is no such reference in the Explanatory Memorandum to these Regulations.

### Merits Scrutiny

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

### Implications arising from exiting the European Union

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

### Government Response

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No government response is required.

#### **Legal Advisers**

**Constitutional and Legislative Affairs Committee**

**31 July 2018**



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STATUTORY INSTRUMENTS

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**2018 No. 908**

**AGRICULTURE, ENGLAND AND WALES**

**FOOD, ENGLAND AND WALES**

**The Food and Rural Affairs (Miscellaneous Revocations)  
Regulations 2018**

<i>Made</i>	- - - -	<i>23rd July 2018</i>
<i>Laid before Parliament</i>		<i>27th July 2018</i>
<i>Laid before the National Assembly for Wales</i>		<i>27th July 2018</i>
<i>Coming into force</i>		
<i>regulation 1 and 2</i>		<i>1st October 2018</i>
<i>remainder</i>		<i>31st March 2019</i>

The Secretary of State in relation to England, and the Welsh Ministers in relation to Wales, make these Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(a).

The Secretary of State in relation to England, with the consent of the Treasury, also makes these Regulations in exercise of the powers conferred by section 56(1) of the Finance Act 1973(b).

The Secretary of State and the Welsh Ministers have been designated(c) for the purposes of section 2(2) of the European Communities Act 1972 in relation to the common agricultural policy of the European Union.

**Citation, commencement and extent**

1.—(1) These Regulations may be cited as the Food and Rural Affairs (Miscellaneous Revocations) Regulations 2018.

(2) These Regulations come into force on 1st October 2018, except for regulation 3 which comes into force on 31st March 2019.

(3) These Regulations extend to England and Wales.

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(a) 1972 c. 68. Section 2(2) was amended by the Legislative and Regulatory Reform Act 2006 (c. 51), section 27(1)(a) and by the European Union (Amendment) Act 2008 (c. 7), Schedule, Part 1.  
(b) 1973 c. 51. Section 56(1) was amended by S.I. 2011/1043.  
(c) The Secretary of State was designated by S.I. 1972/1811, to which there are amendments not relevant to these Regulations. The Welsh Ministers were designated by S.I. 2010/2690.



## Revocation of regulations relating to countryside access

2. The following are revoked—

- (a) the Countryside Access Regulations 1994(a);
- (b) the Countryside Access (Amendment) Regulations 1996(b);
- (c) the Countryside Access (Amendment) Regulations 1999(c).

## Revocation of regulations relating to dairy produce quotas

3. The following are revoked—

- (a) the Dairy Produce Quotas (General Provisions) Regulations 2002(d);
- (b) the Dairy Produce Quotas (Wales) (Amendment) Regulations 2004(e);
- (c) the Dairy Produce Quotas Regulations 2005(f);
- (d) the Dairy Produce Quotas (Wales) Regulations 2005(g);
- (e) the Dairy Produce Quotas (Amendment) Regulations 2006(h);
- (f) the Dairy Produce Quotas (Wales) (Amendment) Regulations 2006(i);
- (g) the Dairy Produce Quotas (Amendment) Regulations 2007(j);
- (h) the Dairy Produce (Miscellaneous Provisions) Regulations 2007(k);
- (i) the Dairy Produce Quotas (Wales) (Amendment) Regulations 2007(l);
- (j) the Dairy Produce Quotas (General Provisions) (Amendment) Regulations 2008(m);
- (k) the Dairy Produce Quotas (Amendment) Regulations 2008(n);
- (l) the Dairy Produce Quotas (Wales) (Amendment) Regulations 2008(o).

23rd July 2018

*George Eustice*  
Minister of State  
Department for Environment, Food and Rural Affairs

22nd July 2018

*Lesley Griffiths*  
Cabinet Secretary for Energy, Planning and Rural Affairs, one of the Welsh  
Minister

We consent

*Andrew Stephenson*

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- (a) S.I. 1994/2349, amended by S.I. 1996/3111, 1999/416, 1174, 2197, and 2011/1043, and revoked in relation to England by S.I. 2015/639.
  - (b) S.I. 1996/3111, revoked in relation to England by S.I. 2015/639.
  - (c) S.I. 1999/1174.
  - (d) S.I. 2002/458, amended by S.I. 2007/477, 2008/438 and 2011/1043.
  - (e) S.I. 2004/911 (W. 94).
  - (f) S.I. 2005/465, amended by S.I. 2006/120, 2805, 2007/106, 2008/439, 2011/1043 and 2018/378.
  - (g) S.I. 2005/537 (W. 47), amended by S.I. 2006/762 (W. 72), 2007/844 (W. 76), 2008/685 (W. 72) and 2011/1043.
  - (h) S.I. 2006/120.
  - (i) S.I. 2006/762 (W. 72).
  - (j) S.I. 2007/106, amended by S.I. 2008/439.
  - (k) S.I. 2007/477, amended by S.I. 2008/438.
  - (l) S.I. 2007/844 (W. 76), amended by S.I. 2008/685 (W. 72).
  - (m) S.I. 2008/438.
  - (n) S.I. 2008/439.
  - (o) S.I. 2008/685 (W. 72).

19th July 2018

*Rebecca Harris*  
Two of the Lords Commissioners of Her Majesty's Treasury

**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations revoke a number of instruments relating to countryside access and dairy produce quotas.

Regulation 2 revokes three instruments relating to countryside access, which are spent or otherwise superseded. Two of those instruments are revoked only in relation to Wales, having previously been revoked in relation to England.

Regulation 3 revokes eleven instruments relating to dairy produce quotas on 31st March 2019. The Dairy Produce Quotas (General Provisions) Regulations 2002 (S.I. 2002/458) contain general provisions concerning dairy produce quotas in the United Kingdom and are revoked in relation to England and Wales. The other instruments contain provision relating to dairy produce quotas on English or Welsh holdings and are capable of having cross border effect as the holdings of producers in England and Wales may comprise land in other parts of the United Kingdom. The instruments are revoked in relation to England or Wales, respectively.

An impact assessment has not been produced for this instrument as no impact on the private, voluntary or public sector is foreseen.

An Explanatory Memorandum is available, in relation to England, alongside the instrument at [www.legislation.gov.uk](http://www.legislation.gov.uk), and in relation to Wales, from the Economy, Skills and Natural Resources Department of the Welsh Government.

## **Explanatory Memorandum to the Food and Rural Affairs (Miscellaneous Revocation) Regulations 2018.**

This Explanatory Memorandum has been prepared by the Department for Economy, Skills and Natural Resources and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

### **Cabinet Secretary's Declaration**

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Food and Rural Affairs (Miscellaneous Revocation) Regulations 2018.

LESLEY GRIFFITHS AM  
Cabinet Secretary for Energy, Planning and Rural Affairs

22 July 2018

## **1. Description**

This Order revokes nine pieces of legislation relating to food or rural affairs in Wales which are redundant or have been superseded.

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

The Regulations have been made on a composite basis to maintain the clarity, accessibility and transparency of the statute book for those required to comply with its provisions through the legislation being revoked in Wales and England.

In making these Regulations, the Welsh Ministers exercise powers which were exercised by the National Assembly for Wales and then the Welsh Ministers when making the regulations made by them and being revoked in relation to Wales, namely powers under section 2(2) of the European Communities Act 1972. For the purposes of section 2(2), the Welsh Ministers are designated in relation to the Common Agriculture Policy by virtue of article 3(1) of the European Communities (Designation) (No 5) Order 2010.

In making these Regulations, the Secretary of State exercises powers which were exercised by the Secretary of State when making the Regulations being revoked in relation to England namely powers under section 2(2) of the European Communities Act 1972 and, with the consent of the Treasury, section 56(1) of the Finance Act 1973. The Secretary of State has been designated for the purposes of section 2(2) of the European Communities Act 1972 in relation to the common agricultural policy by the European Communities (Designation) Order 1972 (S.I. 1972/1811).

## **3. Legislative background**

The Welsh Ministers make the Food and Rural Affairs (Miscellaneous Revocation) Regulations 2018 in relation to Wales pursuant to powers in section 2(2) European Communities Act 1972. For the purposes of section 2(2), the Welsh Ministers are designated in relation to the Common Agriculture Policy by virtue of article 3(1) of the European Communities (Designation) (No 5) Order 2010.

The Food and Rural Affairs (Miscellaneous Revocation) Regulations 2018 follow the negative procedure.

## **4. Purpose & intended effect of the legislation**

A part of the UK Government's "Red Tape Challenge" is a programme to revoke redundant legislation. The purpose of the exercise is to reduce the number of statutory rules and regulations in force, especially those that are obsolete and redundant. Some of the legislation that the UK Government proposes to revoke was made prior to devolution. The legislation therefore applies to Wales and the powers to make, amend, or revoke it in relation to Wales has, in many cases, transferred to the Welsh Ministers.

Following the "Working Smarter" report in Wales, the Welsh Ministers agreed to provide a measured and appropriate regulatory framework for farmers in Wales

and this included a red tape review of existing legislation. As part of this, the Welsh Ministers agreed to work with DEFRA to revoke, where appropriate, legislation with cross territorial application to Wales and England where that legislation has become redundant or otherwise obsolete.

The Food and Rural Affairs (Miscellaneous Revocation) Regulations 2018 revokes three instruments relating to countryside access in Wales which are now redundant or have been superseded. It will also revoke six instruments related to dairy produce quotas in Wales, which will take effect on 31 March 2019 at which point they will be deemed to be redundant. A full list of the legislation to be revoked, in relation to Wales by the Regulations is set out below:

<b>Title</b>	<b>Description</b>	<b>Reason for revocation</b>
The Countryside Access Regulations 1994	Implement in part Council Regulation (EEC) No. 2078/92 on agricultural production methods compatible with the requirements for the protection of the environment and maintenance of the countryside.	This legislation is now redundant.
The Countryside Access (Amendment) Regulations 1996	Amend the Countryside Access Regulations 1994 which implement in part a zonal programme approved by the European Commission under Article 7 of Council Regulation (EEC) No. 2078/92 on agricultural production methods compatible with the requirements of the protection of the environment and the maintenance of the countryside and make provision to implement Commission Regulation (EC) No 746/96 laying down detailed rules on the application of the Agri-environment Regulation.	This legislation is now redundant.
The Countryside Access (Amendment) Regulations 1999	Amend the Countryside Access Regulations 1994 which implement in part a zonal programme approved by the European Commission under Article 7 of Council Regulation (EEC) No. 2078/92 on agricultural production methods compatible with the requirements of the protection of the environment and the maintenance of the countryside by making provision about the closing date for applications for aid in relation to land	This legislation is now redundant.

	in Wales.	
The Dairy Produce Quotas (General Provisions) Regulations 2002	Contains provisions concerning dairy produce quotas which, for which separate territorial enactments extending to England, Wales, Scotland and Northern Ireland respectively would not be apt.	The EU Milk Quota regime ceased operating in 2015.
The Dairy Produce Quotas (Wales) (Amendment) Regulations 2004	Amend the Dairy Produce Quotas (Wales) Regulations 2002.	The EU Milk Quota regime ceased operating in 2015
The Dairy Produce Quotas (Wales) Regulations 2005	Revoke and replace the Dairy Produce Quotas (Wales) Regulations 2002 as amended by the Dairy Produce Quotas (Wales) (Amendment) Regulations 2004.	The EU Milk Quota regime ceased operating in 2015.
The Dairy Produce Quotas (Wales) (Amendment) Regulations 2006	Amend the Dairy Produce Quotas (Wales) Regulations 2005.	The EU Milk Quota regime ceased operating in 2015.
The Dairy Produce Quotas (Wales) (Amendment) Regulations 2007	Amend the Dairy Produce Quotas (Wales) Regulations 2005.	The EU Milk Quota regime ceased operating in 2015.
The Dairy Produce Quotas (Wales) (Amendment) Regulations 2008	Amend the Dairy Produce Quotas (Wales) Regulations 2005.	The EU Milk Quota regime ceased operating in 2015.

## 5. Consultation

No consultation has been carried out for the Regulations.

## 6. Regulatory Impact Assessment (RIA)

An RIA has not been conducted because the subordinate legislation imposes no costs or no savings. There is no impact on business, charities or voluntary bodies and there is no impact on the public sector.

# Agenda Item 4.1

## SL(5)246 – Code of Practice for the Welfare of Dogs

### Background and Purpose

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This Code of Practice is issued under section 14 of the Animal Welfare Act 2006 (the “Act”). This Code applies in Wales only, is issued by the Welsh Ministers and comes into force on 12 November 2018. It applies to all dogs for which a person is responsible.

It replaces the existing Code of Practice on the Welfare of Dogs issued by the Welsh Government in October 2008.

The Welsh Government undertook a review of the existing Code and consulted upon it in the autumn of 2017.

Appendix 1 to the Code refers to the relevant legislation. When it quotes from legislation made using the traditional gender specific (male pronouns) drafting style, it does so strictly, but only for strict accuracy. Similarly, legislation made in English only is not translated into Welsh.

### Procedure

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The power to make Codes of this sort was granted to the National Assembly for Wales by the Animal Welfare Act 2006 whilst it was a single body, and no procedure was specified. Following the creation of the Welsh Government as a separate legal entity under the Government of Wales Act 2006 ('GoWA'), the power transferred to the Welsh Ministers. Under the transitional provisions in Schedule 11 to GoWA, codes became subject to the same procedure as previously applied to codes made by the Secretary of State in relation to England.

A draft of the code must be laid before the Assembly. If, within 40 days (excluding any time when the Assembly is dissolved or is in recess for more than 4 days) of the draft being laid, the Assembly resolves not to approve the draft code then the Welsh Ministers must not issue the code.

If no such resolution is made, the Welsh Ministers must issue the code (in the form of the draft) and the code comes into force in accordance with its provisions. The intended date in this case is 12 November 2018.

### Scrutiny under Standing Order 21.7

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No points are identified for reporting under Standing Order 21.7 in respect of this code.

### Government Response

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No government response is required.

### Implications arising from exiting the European Union

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EU law contains legal requirements relating to animal health and welfare, and particularly during the movement of animals.



This Code reflects the requirements of that legislation, which will become retained EU law by virtue of the European Union (Withdrawal) Act 2018. That legislative framework will remain in force until it is amended. Animal welfare and animal health and traceability have been identified by the UK Government as policy areas where a common policy framework across the UK will be needed when the UK leaves the EU.

EU law requirements are likely to remain effective, particularly in relation to dogs that are regularly transported between the UK and the remainder of the EU. How, and if so to what extent, these matters remain relevant to dogs that are not intended to leave the UK will be a matter to be determined by the four UK governments. This Code will need to be kept under review as the policy and legislative context develops.

**Legal Advisers**

**Constitutional and Legislative Affairs Committee**

**August 2018**







Llywodraeth Cymru  
Welsh Government

# Code of Practice for the Welfare of Dogs

# Contents

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Preface	1
Introduction	2
The Duty of Care	2
Section 1: Environment	3
Section 2: Diet	6
Section 3: Behaviour	9
Section 4: Company	12
Section 5: Health	13
Appendix 1: The Law	16
Appendix 2: Useful Sources of Information	20

## Preface

Under the Animal Welfare Act 2006 (“the Act”), if you own or are responsible for an animal, you have a legal duty to take reasonable steps to ensure its welfare needs are met. You are always responsible for your animal’s needs. If you are unable to care for your dog at any time, you must make arrangements for another suitable person to look after it on your behalf. You remain legally responsible even when you are away. The person with whom the dog is left is also responsible in your absence.

There is no one ‘perfect’ way to look after a dog as every dog and situation is different but all have the same fundamental needs. This code explains what you need to do to meet the standard of care the law requires. If you are a parent or guardian of a child less than 16 years old, you are responsible for any animal that the child is in charge of.

Breach of a provision of the code is not an offence in itself, but if proceedings are brought against you for a welfare offence under the Act, the court may take into account the extent to which you have complied with the code in deciding whether you have committed an offence or have met the required standard of care. You should not cause any unnecessary suffering to your animal; this could constitute a serious offence under the Act.

You will find reference in the code to ‘pet care specialists’. These are people who, through qualification or experience, can provide expert advice on welfare and some aspects of health for one or more types of pet animal. Examples are animal behaviourists, veterinary nurses and dedicated welfare organisations. Owners/keepers should look to their veterinary surgeon (vet) for their primary source of advice on their animal’s health.

To find out more about the Animal Welfare Act 2006, your responsibilities under it, and other legislation relating to dogs, see Appendix 1 at the end of this code. For further sources of information, see Appendix 2.

You should be aware that the legislation cited in the code and Appendix 1 is correct at the date of issue but may be subject to change.

This preface is not part of the code but is intended to explain its purpose and broad aims. Similarly Appendix 1, which provides information on the relevant legal requirements and Appendix 2, which lists some additional sources of information, are not part of the code.

This Code of Practice was updated with the assistance of the Animal Welfare Network for Wales. The Welsh Government is grateful to the Network for their time and expert recommendations.

## Introduction

Owning and caring for a dog can be great fun and very rewarding, but it is also a big responsibility and a long-term caring and financial commitment. You control your dog's lifestyle; it is your responsibility to make sure its needs are met, whatever the circumstances. The Animal Welfare Act 2006 requires that you must take reasonable steps to ensure your dog:

- Has a suitable environment to live in;
- Has a healthy diet;
- Is able to behave normally;
- Has appropriate company;
- Is protected from pain, suffering, injury and disease.

These are explained in more detail in sections 1-5 of this Code. For further advice, speak to your vet or pet care specialist. Other sources of information are listed in Appendix 2.

Every animal is different and, as you get to know your dog, you will recognise familiar characteristics. It is important that you are

able to notice any changes in behaviour, as these might indicate that your dog is distressed, ill, or is not having its needs met in some other way.

This Code of Practice is issued under section 14 of the Animal Welfare Act 2006 (the "Act"). A Code of Practice was first issued by the Welsh Ministers and came into force on 28 November 2008. This updated version came into force on 12 November 2018 and it applies in Wales only. The purpose of this Code of Practice is to provide advice on how to meet the needs of your dog and therefore ensure compliance with the Animal Welfare Act 2006. It covers all dogs for which a person is responsible.

The key things you need to know are summarised in the 'Welfare of Dogs' document.

It is your responsibility to care for your dog as described in this Code. It is important that you read the complete Code of Practice to fully understand your dog's welfare needs and what the law requires of you.

## The Duty of Care

Under the Animal Welfare Act 2006 animal owners and keepers have a legal duty to care for the animals for which they are responsible, whether on a permanent or temporary basis. A person could therefore be responsible for an animal if they are in charge of it, whilst an owner has ongoing responsibility for their animal even if another person is in charge of it. A parent or guardian of a child under 16 years old is responsible for any animal that is cared for by the child. This ensures that an adult can normally be identified as a person responsible for an animal. If a permanent keeper leaves an animal in the care of another person, it is

the permanent keeper's duty to ensure the temporary keeper is competent and has the necessary authority to act in an emergency.

Responsibility for an animal includes having an understanding of its specific health and welfare needs and having the appropriate knowledge and skills to care for the animal. Those responsible for animals must also comply with legislation, be aware of the appropriate Code of Practice and know when and where to seek qualified advice and help, e.g. from a veterinary surgeon.



## Section 1: Environment

1.1 The environment available to a dog should be appropriate for its needs. There should be enough space, or access to an area to allow for exercise and toileting. There should be at least one area in which the dog feels safe and secure to which it can withdraw and be undisturbed if it chooses to do so. The dog should always be able to find an area where it will be comfortable.

### Sleeping and Resting

1.2 Dogs need:

- Their own comfortable space, with clean bedding, where they can go to rest and sleep, and which should be in a quiet place.
- Their bedding to be in a dry, draught-free but ventilated area.
- Their bedding to be regularly cleaned, washed or removed and replaced.
- A resting area free from such things as sharp edges and splinters that can cause injury.

1.3 Any sleeping area that you provide for your dog should be large enough for it to comfortably stretch and lie out flat. Your dog should be able to walk and turn around and wag its tail without it touching the sides.

### Use of Cages/Crates

1.4 If using a cage, commonly referred to as a 'crate', this should be in a positive manner and should be an appropriate size for your dog.

1.5 Crates should never be used as a place in which your dog spends all of its time or as a form of punishment. If you use a crate to confine your dog it is important that the crate is a place where your dog is happy to be and feels safe and relaxed. It should not be in there unattended for any period of time that is likely to cause distress.

1.6 It is important that the crate is the right size for your dog and not used for more than one dog. As a minimum, the crate must provide enough space for your dog to be able to sit and stand at full height, turn around, stretch out and lie down in a natural position. Your dog will probably outgrow the crate it had as a puppy. As your dog grows you must replace its crate with one of a suitable size.

1.7 The crate needs to be located where it is quiet and away from things that may frighten or worry your dog, and away from draughts, sources of heat or direct sunlight, but there does need to be good air circulation. There should be fresh clean drinking water, bedding and toys or other items to prevent your dog from becoming bored. Regular opportunities for playing with other dogs and people, exercise and toileting need to be provided.

1.8 Many welfare organisations offer advice and information on the use of crates for dogs.

### Prevention of Roaming

1.9 It is an offence to allow your dog to roam. The area that your dog is kept in should be absolutely secure with a good quality boundary to prevent it from escaping or roaming. It should be secure enough to prevent other animals getting in and to deter unwelcome visitors, including those intent on theft. Gates should be well secured.

1.10 The type of boundary, and the material from which it is made, should be suitable for your dog. Consider the size and weight of your dog and its ability to escape by jumping, climbing or digging. There should be no sharp edges on any surface that could cause your dog injury. If wire is used consideration must be given to the gauge of the mesh to avoid trapping injuries.

1.11 Invisible fences that emit a shock via a collar are prohibited under the Animal Welfare (Electronic Collars)(Wales) Regulations 2010.

## Keeping Your Dog Outside

1.12 If your dog is to be kept or left outside there are a number of additional considerations that should be taken into account.

These include:

- Security (including protection from theft)
- Adequate comfort and shelter
- Companionship and interaction
- Protection from injury (including from rubbish/litter and hazardous substances)
- Nuisance to neighbours.

1.13 Outside housing should consist of separate sleeping and activity areas. There should be protection from adverse and extreme weather conditions including heat, cold and damp. The sleeping area should be large enough for your dog to lie comfortably both in and beside its bed and it should contain clean comfortable bedding. Insulation and temperature control in the sleeping area should aim to keep the ambient temperature between 10°C and 26°C.

1.14 The activity area should be large enough for your dog to be able to relieve itself without needing to walk through the soiled area to return to the sleeping area. All faeces and urine should be removed at least daily and the area should be regularly and frequently cleaned and disinfected.

1.15 Dogs that are kept outside and away from people or other animals, and denied mental stimulation, from toys and chews for example, can suffer significant psychological problems. These may be associated with a range of other problem behaviours such as excessive chewing and signs of aggression. Care should be taken to ensure that your dog is provided with enough company, exercise or other

stimulation to ensure that it remains happy and free from negative states such as fear, anxiety or frustration. You should regularly visit and interact with your dog and check its welfare. Where dogs are kept together, they must be compatible. You should ensure that there is sufficient room for all dogs to be alone when they choose to be and that there are sufficient resources, such as bedding, food and water bowls, to prevent competition.

1.16 Dogs kept outside may react to sights and sounds that they do not normally see or hear inside the home. Your dog may bark, howl or cry for extended periods if it is bored, frightened or anxious. Not only does this mean that your dog might be unhappy and more motivated to escape, it can also cause a nuisance to your neighbours. If you require advice on managing such problems you should speak to your vet or another suitably qualified person.

## Hygiene

1.17 An important part of providing a suitable environment is making sure that it is safe, clean and hygienic. Clean up after your dog at home and dispose of any faeces in a waste bin (or other suitable disposal system) on a daily basis, particularly where dogs share the same environment as children. Ensure any disinfectant used is safe for pets. This not only makes the environment cleaner, but also helps to prevent the potential spread of disease.

## Hazards

1.18 Dogs, and especially inquisitive puppies, will explore and may eat things that are poisonous or dangerous to them. The following are examples:

- Raisins, grapes and chocolate are poisonous to dogs. A full list is available on the British Veterinary Association website (link at Appendix 2). It is important to keep them out of reach at all times.

- There are many household and garden plants that are poisonous to dogs (see Appendix 2 for links to websites that include lists of poisonous plants). Poisonous plants should be avoided or placed where your dog cannot reach them.
- Poisonous chemicals. A dog may drink or eat poisonous substances either by accident or because it finds them palatable. Chemicals should be kept out of reach and any spillages cleaned up immediately. Examples of poisonous substances that are commonly used and may be accessible to dogs include slug pellets, rat poison and anti-freeze.
- Medicines intended for people or other animals. It is important that your dog is only given medicines that have been specifically prescribed or advised by your vet.
- Open windows and balconies.

You should always consult your vet immediately if you are concerned that your dog has eaten or come into contact with anything that could be harmful.

## Travel

1.19 Dogs are regularly transported in vehicles. You should make sure that your dog is suitably restrained when being transported. In the event of an accident or sudden and unexpected manoeuvres, an unrestrained dog can be seriously injured or cause injury to others. A safety harness, specifically for use in a car, or a secured, purpose built cage of adequate size and with good ventilation will keep your dog in one place. You should ensure, however, that when securing your dog in a restricted area, it is not constantly subjected to direct sunlight and is away from heating vents.

1.20 Long journeys should be planned so they have minimal impact on your dog's feeding regime. To avoid travel sickness do not feed your dog immediately before travelling. Water and opportunities to toilet should be provided on a regular basis.

1.21 Dogs should never be left unattended in a car or other vehicle even on a seemingly mild day. The temperature in vehicles can become very high, very quickly, causing heat stroke or death and you could be prosecuted for causing cruelty.

## Section 2: Diet

2.1 Your dog must always have access to fresh clean drinking water from a clean and suitable container. If away from your home you should ensure access to clean water, carrying a supply with you where necessary. This is essential for all dogs unless your vet tells you differently. Many dogs may not drink large amounts but their thirst may increase in hot weather or if you feed dried food. Changes in the amount of water your dog drinks should be monitored as it may also indicate illness.

### Balanced Diet

2.2 It is essential to provide a nutritionally balanced diet at all stages of a dog's life to ensure good health.

2.3 Dogs need a diet containing protein, fat, carbohydrate, vitamins and minerals. This is usually in the form of commercially available prepared foods. When feeding prepared foods, you should read and be guided by the food manufacturer's instructions.

2.4 If you have the specialist knowledge to formulate a balanced diet, an alternative to a prepared dog food is a home made diet. Unlike cats, dogs are not totally carnivorous and will enjoy and benefit from vegetables being added to their food. Providing a suitable homemade diet requires a good and detailed understanding of your dog's nutritional needs. If you wish to feed your dog this way and do not have the requisite specialist knowledge, you should obtain advice from your vet or pet care specialist.

2.5 A dog's dietary needs will change during its life both with age but also at other times, e.g. during illness. It is important that your dog is fed a diet that meets its nutritional needs, taking into account its age, health, reproductive status, body condition, weight and activity level. If in doubt consult your vet or pet care specialist.

2.6 It is important that your dog has the correct diet in appropriate portions and, if you have more than one dog, that each is fed according to its needs.

2.7 Allow dogs to eat undisturbed.

### Healthy Weight







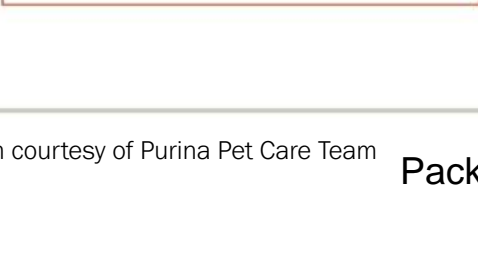
2.8 Dogs should not be given more food than they need as overeating leads to obesity. The feeding instructions on dog food packaging are a good guide, or seek advice from your vet or pet care specialist if you are unsure. An obese dog is an unhealthy dog and pet obesity is the most frequent nutritional problem seen by vets. If a dog eats too much and exercises too little, it will put on weight which will reduce its quality and length of life. Increased weight may lead to health problems such as heart disease and diabetes. Remember that if you are using food rewards for training purposes you may unwittingly overfeed your dog. You will need to adjust the amount of food your dog has at meal times to account for this.

2.9 You should know the best weight for your dog and try to maintain its ideal body condition throughout the different stages of its life. Changes to the way your dog eats or drinks may be a sign of ill health – seek advice from your vet.

### Body Condition

2.10 Know what is the ideal body condition for your dog and age. The diagram below provides a guide to body condition scoring. If you need further advice you should contact your vet.



TOO THIN		<p><b>1</b> Ribs, lumbar vertebrae, pelvic bones and all bony prominences evident from a distance. No discernible body fat. Obvious loss of muscle mass.</p>
		<p><b>2</b> Ribs, lumbar vertebrae, pelvic bones easily visible. No palpable fat. Some evidence of other bony prominence. Minimal loss of muscle mass.</p>
		<p><b>3</b> Ribs easily palpated and may be visible with no palpable fat. Tops of lumbar vertebrae visible. Pelvic bones becoming prominent. Obvious waist and abdominal tuck.</p>
IDEAL		<p><b>4</b> Ribs easily palpable, with minimal fat covering. Waist easily noted viewed from above. Abdominal tuck evident.</p>
		<p><b>5</b> Ribs palpable without excess fat covering. Waist observed behind ribs when viewed from above. Abdomen tucked up when viewed from side.</p>
TOO HEAVY		<p><b>6</b> Ribs palpable with slight excess fat covering. Waist is discernible viewed from above but is not prominent. Abdominal tuck apparent.</p>
		<p><b>7</b> Ribs palpable with difficulty; heavy fat cover. Noticeable fat deposits over lumbar area and base of tail. Waist absent or barely visible. Abdominal tuck may be present.</p>
		<p><b>8</b> Ribs not palpable under very heavy fat cover, or palpable only with significant pressure. Heavy fat deposits over lumbar area and base of tail. Waist absent. No abdominal tuck. Obvious abdominal distention may be present.</p> <p><b>9</b> Massive fat deposits over thorax, spine and base of tail. Waist and abdominal tuck absent. Fat deposits on neck and limbs. Obvious abdominal distention.</p>

## Feeding Regime

2.11 The number of feeds per day will depend upon the age of your dog and how much exercise it has. Generally, it is best to feed an adult dog twice a day unless advised otherwise by your vet.

2.12 If you do feed your dog twice a day, the food may be divided up into two equal portions, or a third and two-thirds division.

2.13 If you have more than one dog it is important to give each animal the opportunity to eat undisturbed.

2.14 An unexplained increase or persistent loss in appetite may be a sign of illness. You should consult your vet if the problem persists.

## Other Dietary Needs

2.15 Dogs that are pregnant, feeding their puppies, unwell, old or very young may well have different dietary needs from the average healthy adult dog. For example, puppies need more frequent feeding than a healthy adult dog. Your vet is the best person to advise you about the care of your dog in these circumstances.

2.16 Do not feed your dog within an hour before or after vigorous exercise as this can lead to bloating or other potentially serious medical conditions.

2.17 If you need to change your dog's diet, do it gradually, over a week or so, unless your vet tells you otherwise.

## Section 3: Behaviour

3.1 This section offers guidance on your dog's behaviour.

### Early Experiences

3.2 Puppies learn most readily about other dogs, people and animals when they are very young. This is called socialisation. It is important that puppies are provided with opportunities for socialisation from three to 14 weeks of age so that they develop into well adjusted and happy dogs. A lack of opportunities for, or inappropriate contact with, dogs, people and other animals can lead to the development of behavioural problems. This key period encompasses the time at which puppies are usually given their initial course of vaccinations and your vet will tell you when it is safe to allow your puppy to mix with other dogs and animals.

3.3 Puppies should be carefully and positively introduced to a wide range of noises, objects and activities in the environment; this is known as habituation. If puppies learn at an early age that these are not a threat, then they are more likely to be comfortable in their presence for the rest of their lives. However, it is important not to overwhelm or frighten your puppy, and you should always allow it a safe escape route from things that it finds frightening and stressful. Forcing your puppy to interact may lead to behavioural problems so it is important to make situations as relaxed and positive as possible so that it wants to investigate and interact.

3.4 A puppy needs long periods of rest to develop a healthy body and temperament. Do not disturb a sleeping dog; instead, allow it to wake up of its own accord.

3.5 You should seek advice about how to care for a new puppy from your vet or another suitably qualified person.

### Training

3.6 Dogs continue to learn throughout their lives, and do so in many different circumstances. Formal training is important, especially from an early age. Training should begin with simple tasks such as teaching your dog to respond to its name and to come when called. It is important to be consistent and positive when training your dog. Reward good behaviour with something that your dog finds enjoyable, such as play, food or attention, and make sure that you respond immediately.

3.7 It is best to train dogs on a regular basis for short periods. Take every opportunity to praise your dog for behaviour you want. Your dog is less likely to perform unwanted behaviours if it is ignored.

3.8 Good dog training classes will show you reward-based training techniques that teach your dog desirable behaviour and prevent or modify different types of unwanted behaviour. Negative punishment-based training can cause unnecessary suffering and confusion to dogs. The use of any collar capable of administering a shock to a dog is banned in Wales. Further information on training can be found in Appendix 2 – Sources of Information.

### Exercise

3.9 The amount of exercise your dog needs will vary according to its age, health and breed. For example, as your dog gets older it may prefer a more sedentary life, or your vet may, for health reasons, recommend a restricted exercise regime, where toys for mental stimulation perhaps replace physical exercise. Unless your vet advises otherwise, your dog needs regular exercise, at least once a day, so it can run, play, explore and investigate. This will keep your dog active, fit and stimulated.

3.10 Puppies need exercise and stimulation, provided in short bursts of activity. Over-exercising a growing puppy can damage its developing joints. If you are in any doubt about what exercise your puppy needs, seek advice from your vet.

3.11 Puppies are not fully protected from disease when first vaccinated. Always ask your vet when your puppy will be fully protected, and, until then, only exercise it outside if in a private garden or enclosed space.

3.12 It is against the law to allow your dog to be dangerously out of control anywhere; not only are there dangers from traffic and livestock, but also from other dogs. Let your dog off the lead only when you are sure that it is safe and legal to do so. It is important to train your dog, when called, to return to you when off the lead. Even when off the lead your dog should remain under your control.

3.13 Your dog's collar/harness should not be too tight nor should there be opportunity for it to slip. Ensure that it fits comfortably so as not to cause your dog irritation or pain. Prong and pinch collars, as well as choke chains are not acceptable as they can cause pain suffering and/or injury.

3.14 You should avoid walking your dog during the hottest part of the day. Early morning or in the evening are the best times to walk your dog during periods of hot weather.

## Play and Interaction

3.15 Dogs are social, playful and intelligent animals with active minds – they need mental stimulation to be happy. This can be provided by contact and playing with humans or other dogs, by giving them toys to play with or an environment with lots of opportunities to explore and investigate. However, take care not to overwhelm your dog. Part of their diet may also be offered in dried food 'puzzle feeders' that release food gradually, providing mental stimulation for dogs when indoors.

3.16 Interacting with your dog by playing games using safe and suitable toys is a good way of keeping your dog entertained. Do not leave your dog alone with flimsy toys, especially if it chews very vigorously – there is a risk it could swallow small parts and develop serious intestinal problems. Toys should be checked regularly to ensure they are not dirty or damaged. Changing toys often means that your dog will not become bored with an individual toy.

## Recognising and Understanding Behaviour

3.17 Dogs experience a range of different emotions including happiness, fear, anxiety and anger. It is important that you recognise and understand the signals your dog uses to show you how it is feeling. Any changes in the behaviour of your dog may indicate it is unhappy or ill. Signs of stress can vary from dog to dog but may include:

- panting, salivation, licking of the lips;
- excessive activity, such as pacing around;
- fouling or urinating indoors;
- barking (unless there is good reason from the dog's perspective);
- excessively seeking out contact, both with people and other pets;
- hiding or cowering;
- flattening the ears and lowering the tail.

Some of the above may also be signs of illness or pain and you should contact your vet if you are concerned.

3.18 Give your dog access to a safe hiding place so that it has somewhere to go if it is feeling afraid.

3.19 It is advisable to seek advice from your vet if you are unsure how to deal with any sudden behaviour changes or if you notice uncharacteristic and/or sudden fearful or aggressive responses.

## Going to the Toilet

3.20 Dogs need access to an appropriate place, away from their resting and feeding area, which they can use as a toilet regularly and at least every few hours.

3.21 Toilet training is an essential part of early learning. If your dog is introduced to a suitable outdoor location early on, and is rewarded for using it as a toilet area, it will use it as a matter of routine. Do not tell your dog off, or use other forms of punishment, when it makes a mistake as this can make it fearful and lead to problems later on in its life. There are many available sources of useful information about toilet training your puppy (see Appendix 2 – Sources of Information). Some puppies will urinate as part of greeting behaviour. If it persists speak to a qualified behaviourist.

3.22 A keeper of a dog, or the person responsible for a dog, has a legal obligation to clean up after it (use either a ‘pooper scooper’ or a plastic bag) when in a public place unless exempt (see Appendix 1). Under the Anti-Social Behaviour, Crime and Policing Act 2014, a Local Authority can introduce Public Spaces Protection Orders which vary in their requirements and may impose additional obligations on dog owners. You should be aware of the requirements that apply in the areas in which you walk your dog.

## Section 4: Company

4.1 This section offers guidance on providing your dog with suitable company.

**Any dog has the potential to bite in certain circumstances. Therefore, never leave your dog unsupervised around children or other animals.**

### Relationships with Dogs, Other Animals and People

4.2 Dogs learn how to behave appropriately in social situations through careful positive introduction to varied situations involving different people and other animals including, for example, friendly dogs. Dogs that have had negative experiences might not react well in social situations. You should be aware of how your dog responds to unfamiliar people, other dogs and animals and act accordingly.

4.3 If your dog is friendly towards other dogs then it should have plenty of opportunities to play with other friendly dogs. Your dog should also have regular opportunities to interact with people.

4.4 You should ensure that everyone who interacts with your dog does so in a kind, gentle and consistent way. Do not allow people to frighten, scare or worry your dog.

4.5 Children and adults who are not familiar with dogs need to know that a dog should not be approached when resting, sleeping, eating, playing with a favourite toy or when it is ill. Dogs should not be forced to play or be carried around. Your dog should be provided with a quiet rest area to which it can go and rest or hide undisturbed.

### When Away From Home

4.6 You have a responsibility to make sure that your dog is cared for properly if you are

unable to take it with you. This may be done by a dog sitter who lives in your home while you are away, somebody licensed to board dogs or by taking your dog to stay with a friend or relative who knows how to look after it. When someone else is looking after your dog they are legally responsible for its welfare and you need to ensure that they understand its needs and any special requirements that it may have.

4.7 Dogs are sociable animals and enjoy the company of people. The length of time a dog can be left on its own varies according to its age, experience, housing situation etc. Some dogs can become bored and others, which haven't been taught to cope when left alone, or which have suffered a traumatic experience will become distressed even if left for short periods of time. Many animal welfare organisations recommend dogs are not left alone for more than four hours.

### Number of Dogs

4.8 Owners/Keepers should think carefully about the individual needs of each dog, the size of their property and the financial and time implications of having a dog. It is also important to take into account your dog's likely acceptance of other dogs and animals within its home territory. Your vet or pet care specialist will be able to advise.

4.9 Where multiple dogs are kept together make sure there is enough space for them to get away from one another if they want to and there are enough water bowls, toys, beds etc. for each dog to avoid competitive or guarding behaviour.

4.10 Some Local Authorities have orders in place stipulating the maximum number of dogs that can be walked in public by a single person. Owners should check with their Local Authority to ensure they comply with any such orders.



## Section 5: Health

5.1 This section offers guidance on the health of your dog.

### Health care

5.2 Good health is an essential part of good dog welfare. Your dog's veterinary practice is best placed to advise you about routine health care, such as neutering, vaccination and internal and external parasite control, as well as any health problems it may have. You should familiarise yourself with the of the out-of-hours arrangements of your practice.

5.3 The cost of maintaining your dog's health and welfare can be significant and you should consider how these costs will be met. You may wish to consider purchasing pet healthcare insurance from one of the many available commercial providers.

5.4 As the person responsible for your dog's health you need to consider:

- Prevention of disease. There are various vaccines that are designed to protect your dog from certain important, and some potentially fatal, diseases.
- Prevention of parasite problems. All dogs need regular worming and flea/tick treatment. It is particularly important that the former includes treatment for tapeworm in dogs that are kept in rural areas or visit rural areas frequently. Untreated flea and skin problems can cause significant suffering. Many worming and flea preparations are available and your vet will be able to advise you on which are most suitable for your dog's specific circumstances.
- Provision of a healthy, balanced diet (see section 2).
- Provision of the right environment that minimises the risk of injury and disease (see section 1).
- Prompt action if your dog becomes ill, suffers injury or begins to behave in an unusual way.
- Good dental hygiene.
- It is important to undertake appropriate preventative health care measures if travelling overseas with your dog. There are diseases found overseas that are not encountered in the UK. Further advice is available in the "Useful Sources of Information" at Appendix 2.

### Illness

5.5 It is important that you are aware of the signs of illness in your dog, and that you consult a vet promptly if these occur. Indications of illness may include:

- sickness and diarrhoea;
- constipation or difficulty passing urine;
- significant weight change (in either direction) over a short period;
- lack of appetite;
- drinking much more or less than normal;
- lack of energy;
- unusual swellings;
- skin conditions such as loss of hair;
- limping;
- coughing;
- breathlessness;
- unusual bleeding;
- discharge from eyes or ears;
- signs of pain, such as sensitivity to touch.

This list is not exhaustive and any change in your dog's behaviour should alert you to the possibility that it may be ill. If you think that there is anything wrong with your dog, seek advice from your vet. Failure to seek advice from a vet in a timely manner can lead to unnecessary suffering which is an offence.

## Getting a Dog

5.6 Dogs vary greatly in both their physical characteristics e.g. shape, size, coat type etc. and non-physical characteristics, e.g. behaviour and temperament. Take time to research different types of dogs and ensure that you find one that is a good fit for your specific circumstances. There are many sources of good advice available including those listed in the "Useful Sources of Information" at the end of this code.

5.7 Many puppies and dogs are advertised for sale on online classified websites. It is important to carry out thorough research before buying a puppy or dog via an advert. The Pet Advertising Advisory Group offers a list of Minimum Standards each advert should have as a starting point for your research. Pre-purchase advice is available from welfare organisations listed in "Useful Sources of Information" at the end of this code.

5.8 The future health and welfare of your dog is influenced by many factors including the circumstances under which it was bred and the previous environments in which it was kept. Not all dogs are bred with appropriate care for their physical and behavioural well-being or health. It is best to take advice from your vet or other relevant organisations (see Appendix 2) about where to obtain your dog.

5.9 You should check, as far as is possible, that the dog's parents have been appropriately screened for inherited conditions commonly found in the breed (for example hip scores for hip dysplasia or eye screening for inherited eye

conditions); and ensure that you are able to meet its needs. Dogs with inherited conditions are likely to require special care and may need expensive veterinary treatment.

5.10 If buying a puppy, you should always ask to see it with its mother and litter mates in circumstances that allow you to observe interactions between them. Where possible, you should also see the puppy's father too. This is important for a number of reasons; it can give a good guide to temperament and the size to which the dog may grow. You should be aware that this may not be possible for dogs in animal welfare establishments i.e. sanctuaries and rescue shelters.

5.11 If you decide to get a puppy, a good way to ensure that the important considerations are met is through a 'Puppy Contract'. Examples are available from welfare organisations listed in "Useful Sources of Information" at the end of this code.

5.12 Puppies born at a licensed breeding premises must remain on those premises and not be sold until they are at least 56 days (eight weeks) old. All puppies must be microchipped by the age of eight weeks under The Microchipping of Dogs (Wales) Regulations 2015 (see Appendix 1). The breeder should be the first registered keeper and you will need to register yourself as the new owner when you purchase your puppy. You also need to ensure your details are kept up to date should you change your phone number or address etc.

5.13 Take your new dog or puppy to a vet for general health care advice within a couple of days of welcoming it into your home. Follow your vet's advice about continuing healthcare throughout its life.



## Grooming

5.14 Certain coat types will need more attention than others and will need grooming daily to stop it from matting or tangling. However, all dogs need regular grooming and occasional bathing to keep their skin and coats well maintained. You will need a brush and comb suited to your dog's type of coat. Seek advice from your vet or pet care specialist if you are unsure about grooming your dog.

## Breeding and Neutering

5.15 You should consider having your dog neutered. Not only will this avoid the consequences of unplanned matings but there are other benefits too. These include the avoidance of infections and cancers of the tissues that are removed, for example infections of the uterus and ovarian cancers in bitches and testicular cancers in male dogs. There may also be behavioural benefits. There are, however, also risks against which these benefits should be balanced. These include the risk of infection associated with the surgery itself and also increased risk of obesity, some forms of urinary incontinence and some forms of cancer. The balance between potential benefits and harms will vary from one case to another and you should seek advice from your vet. Other sources of guidance are listed in Appendix 2.

5.16 The decision to breed from or neuter a dog is not a simple one. The health and welfare of the individual animal must always be considered. Before breeding, you should consider the health of the parents, avoidance of inherited defects, how you will ensure appropriate socialisation and habituation, and the likelihood of finding suitable homes for puppies. If a decision is taken to breed then the health and welfare of the puppies should also be considered. The decision to breed is a significant commitment and should not be undertaken lightly. Every effort should be made to avoid unplanned matings.

5.17 As a dog owner you should make every effort to ensure that you make informed decisions

about breeding from or neutering animals in your care. After all, you will be responsible not just for the decision itself but also for managing the consequences.

## Dental Care

5.18 Care of your dog's teeth should be part of its routine grooming schedule. Special canine toothpaste and brushes are recommended for daily use and are now widely available from vets and pet shops. There are also special dental chews and toys that can also help keep your dog's teeth and gums healthy.

## Identification

5.19 Your dog must wear a collar and identity tag when in a public place, unless exempt under the Control of Dogs Order 1992. There are many different collars and harnesses available and it is important you choose a collar that fits your pet correctly. By law (Control of Dogs Order 1992) the collar must carry a tag with your name and address and, if possible, a contact telephone number on it.

5.20 Your dog must also be microchipped once it is eight weeks of age, unless exempt under The Microchipping of Dogs (Wales) Regulations 2015. Your details must be registered on an approved database and the record updated if you move or the dog is rehomed. Scanning the microchip of a lost or stolen dog will assist in reuniting it with its owner. If you have any questions about microchipping please speak to your vet or pet care specialist.

## What to do if your dog is missing

5.21 If your dog goes missing, you should report it to the database to which its microchip is registered. You should also contact your Local Authority's dog warden. It is also worth notifying local vets, animal hospitals, rehoming centres, registering your dog on missing pet websites and putting up notices. Be aware that dogs can wander some distance if lost.

## Appendix 1: The Law

### The Animal Welfare Act 2006

The following sections of the Act are referred to in the code and are set out here for ease of reference. Below are extracts from the relevant sections of the Act. The box shaded grey summarises the relevant offences and penalties in the Act.

#### 3 Responsibility for animals

- (1) In this Act, references to a person responsible for an animal are to a person responsible for an animal whether on a permanent or temporary basis.
  - (2) In this Act, references to being responsible for an animal include being in charge of it.
  - (3) For the purposes of this Act, a person who owns an animal shall always be regarded as being a person who is responsible for it.
  - (4) For the purposes of this Act, a person shall be treated as responsible for any animal for which a person under the age of 16 years of whom he has actual care and control is responsible.
- #### 4 Unnecessary suffering
- (1) A person commits an offence if—
    - (a) an act of his, or a failure of his to act, causes an animal to suffer,
    - (b) he knew, or ought reasonably to have known, that the act, or failure to act, would have that effect or be likely to do so,
    - (c) the animal is a protected animal, and
    - (d) the suffering is unnecessary.
  - (2) A person commits an offence if—
    - (a) he is responsible for an animal,
    - (b) an act, or failure to act, of another person causes the animal to suffer,
    - (c) he permitted that to happen or failed to take such steps (whether by way of supervising the other person or otherwise) as were reasonable in all the circumstances to prevent that happening, and
    - (d) the suffering is unnecessary.
  - (3) The considerations to which it is relevant to have regard when determining for the purposes of this section whether suffering is unnecessary include—
    - (a) whether the suffering could reasonably have been avoided or reduced;
    - (b) whether the conduct which caused the suffering was in compliance with any relevant enactment or any relevant provisions of a licence or code of practice issued under an enactment;
    - (c) whether the conduct which caused the suffering was for a legitimate purpose, such as—
      - (i) the purpose of benefiting the animal, or
      - (ii) the purpose of protecting a person, property or another animal;
    - (d) whether the suffering was proportionate to the purpose of the conduct concerned;
    - (e) whether the conduct concerned was in all the circumstances that of a reasonably competent and humane person.
  - (4) Nothing in this section applies to the destruction of an animal in an appropriate and humane manner.

## 9 Duty of person responsible for animal to ensure welfare

- (1) A person commits an offence if he does not take such steps as are reasonable in all the circumstances to ensure that the needs of an animal for which he is responsible are met to the extent required by good practice.
- (2) For the purposes of this Act, an animal's needs shall be taken to include—
  - (a) its need for a suitable environment,
  - (b) its need for a suitable diet,
  - (c) its need to be able to exhibit normal behaviour patterns,
  - (d) any need it has to be housed with, or apart from, other animals, and
  - (e) its need to be protected from pain, suffering, injury and disease.
- (3) The circumstances to which it is relevant to have regard when applying subsection (1) include, in particular—
  - (a) any lawful purpose for which the animal is kept, and
  - (b) any lawful activity undertaken in relation to the animal.
- (4) Nothing in this section applies to the destruction of an animal in an appropriate and humane manner.

## 14 Codes of practice

- (1) The appropriate national authority may issue, and may from time to time revise, codes of practice for the purpose of providing practical guidance in respect of any provision made by or under this Act.
- (2) The authority responsible for issuing a code of practice under subsection (1) shall publish the code, and any revision of it, in such manner as it considers appropriate.

- (3) A person's failure to comply with a provision of a code of practice issued under this section shall not of itself render him liable to proceedings of any kind.
- (4) In any proceedings against a person for an offence under this Act or an offence under regulations under section 12 or 13—
  - (a) failure to comply with a relevant provision of a code of practice issued under this section may be relied upon as tending to establish liability,
  - and
  - (b) compliance with a relevant provision of such a code of practice may be relied upon as tending to negative liability.

### Offences and Penalties

A person who is convicted of an offence under section 4 of the Act may be imprisoned for a maximum period of 51 weeks and/or fined. If they are convicted of an offence under section 9 (failing to ensure the animal's welfare) they can be imprisoned for the same maximum period and fined up to level 5 on the standard scale.

Proceedings may be brought up to 3 years after the offence was committed. Prosecutions under the Act are brought by the Local Authority in the Magistrates Court.

### Other legislation affecting dogs

As well as the Animal Welfare Act 2006 there are a number of other laws that affect the way you keep your dog. The ones most likely to affect the keeper of a pet dog are summarised below.

## Breeding and Purchase

The Animal Welfare (Breeding of Dogs) (Wales) Regulations 2014 provide that anyone who owns three or more breeding bitches and meets one or more of the listed criteria as set out in the legislation needs to be licensed. The aim of the Regulations is to control 'puppy farming' where dogs are bred in poor conditions. If you think the person from whom you are buying a puppy may be breeding dogs on a large scale and not just as a hobby you should ask to see their licence or ask the Local Authority if they have one. If dogs are being sold commercially, such as in a pet shop, the seller also has to have a licence under the Pet Animals Act 1951.

## Controlling your dog

It is a legal requirement under The Microchipping of Dogs (Wales) Regulations 2015 for all dogs over the age of eight weeks to be microchipped and keepers' details registered on an approved database. It is also a legal requirement under the Control of Dogs Order 1992 for a dog to wear a collar with the keeper's name and address on it when in a public place. Two other pieces of legislation, the Dogs Act 1871 and the Dangerous Dogs Act 1991, require you to have proper control of your dog. The penalties if you do not have proper control of your dog include a fine, imprisonment and the possible compulsory destruction of the dog. The Dangerous Dogs Act also makes it illegal to own, sell or give away a dog of four types that have been traditionally bred for fighting: Pit Bull Terrier, Japanese Tosa, Dogo Argentino and Fila Brasileiro.

The Antisocial Behaviour, Crime and Policing Act 2014 gives enforcers the powers to tackle antisocial behaviour, including instances involving dangerous or nuisance dogs, in a flexible and responsive way. It also amends the Dangerous Dogs Act 1991 to extend the offence of a dangerously out of control dog to all places, including private property where the dog has right to be, and makes an attack on an assistance dog an aggravated offence.

Local Authorities also have powers under the Clean Neighbourhoods and Environment Act 2005 to introduce Dog Control Orders. The Orders may specify that dogs must be kept on a lead or be banned from designated areas, that the person in charge of a dog must pick up any faeces, that an authority officer can order a dog to be put on and kept on a lead and that the Council may place a limit on the number of dogs that can be walked by a person at any one time. Where Orders are in force there should be clear signs so you should keep an eye open for them. The 2005 Act also transferred all responsibility for stray dogs from the police to Local Authorities. A Local Authority may impose a fine on the owner/keeper of a dog picked up as a stray and also charge the keeper kennelling costs. A stray dog that is not identified and re-claimed within seven days may be sent to a re-homing agency or destroyed.

Under the Dogs (Protection of Livestock) Act 1953 a keeper commits an offence if their dog worries (attacks or chases) livestock on agricultural land. In the case of a field or enclosure where there are sheep, dogs must be on a lead, or otherwise under close control.

The Animals Act 1971 creates liability (subject to certain defences) for damage done by dogs to livestock or other forms of damage done by an unrestrained dog under certain circumstances.

The Animal Welfare (Electronic Collars) (Wales) Regulations 2010 make it an offence for a device capable of emitting an electric shock to be attached to a dog or cat. Devices include anti-bark collars, remote training collars and 'invisible' fences that emit a shock via a collar.

The Guard Dogs Act 1975 imposes certain requirements on those responsible for guard dogs including the need to keep them under control or secured at all times and for a warning notice to be displayed at all entrances to the guarded premises.

### **Kennelling when you are away**

If you are away from home and need to put your dog in kennels, you should check that the kennel has been licensed by the Local Authority under the Animal Boarding Establishments Act 1963. The Act can also apply to people taking dogs into their homes if they do so for reward (usually referred to as ‘home boarding’).

### **Taking your dog abroad**

There are statutory controls governing the movement of dogs between countries:

- In the case of movement within Europe these are currently covered by the Pet Travel Scheme;
- Keepers must familiarise themselves with the requirements of the scheme and allow plenty of time to ensure that they and their dogs are compliant with its requirements;
- There are significant penalties for non-compliance;
- Advice and guidance is available online at [www.gov.wales/topics/environmentcountryside/ahw/importsexports/pettravelscheme/?lang=en](http://www.gov.wales/topics/environmentcountryside/ahw/importsexports/pettravelscheme/?lang=en).

Under Article 4 of the Welfare of Animals (Transport) (Wales) Order 2007 it is an offence to transport any animal in a way which causes, or is likely to cause, injury or unnecessary suffering to that animal.

### **Tail docking**

The docking of dogs’ tails has been banned in Wales since March 2007 under The Docking of Working Dogs’ Tails (Wales) Regulations 2007. There are exemptions from the ban for certain types of working dog, that allow for the dog’s tail to be docked by a vet when the dog is not more than five days old. The vet will issue a certificate to prove the dog has been docked legally. The types of dogs that can be docked (upon production of evidence that it will be used as a working dog) are:

- Spaniels: English Springer Spaniel, Welsh Springer Spaniel and Cocker Spaniel.
- Terriers: Jack Russell Terrier, Cairn Terrier, Lakeland Terrier and Norfolk Terrier.
- Hunt Point Retrieve: Braque Italiano, Brittany, German Long Haired Pointer, German Wirehaired Pointer, Hungarian Vizsla, Hungarian Wire Haired Vizsla, Italian Spinone, Spanish Water Dog, Weinmaraner, Korthals Griffon, Slovakian Rough Haired Pointer, Large Munsterlander and Small Munsterlander.

### **Microchipping**

The Microchipping of Dogs (Wales) Regulations 2015 came in to effect on 6 April 2016, requiring the compulsory microchipping of dogs in Wales.

### **Veterinary Surgeons Act 1966**

The Veterinary Surgeons Act 1966 provide a means of regulating the veterinary profession for the purposes of protecting animal health and welfare and safeguarding public health.

## Appendix 2: Useful Sources of Information

Association of Dogs and Cats Homes: [www.adch.org.uk](http://www.adch.org.uk)

Association of Pet Behaviour Counsellors: [www.apbc.org.uk](http://www.apbc.org.uk)

Battersea Dogs and Cats Home: [www.battersea.org.uk](http://www.battersea.org.uk)

Blue Cross: [www.bluecross.org.uk](http://www.bluecross.org.uk)

British Small Animal Veterinary Association: [www.bsava.com](http://www.bsava.com)

British Veterinary Association: [www.bva.co.uk](http://www.bva.co.uk)

Dogs Trust: [www.dogstrust.org.uk](http://www.dogstrust.org.uk)

PDSA: [www.pdsa.org.uk](http://www.pdsa.org.uk)

Petlog: [www.petlog.co.uk](http://www.petlog.co.uk)

Pet Care Trust: [www.petcare.org.uk](http://www.petcare.org.uk)

Pet Health Council: [www.pethealthcouncil.co.uk](http://www.pethealthcouncil.co.uk)

Pet Food Manufacturers Association: [www.pfma.org.uk](http://www.pfma.org.uk)

RSPCA Cymru: [www.rspca.cymru](http://www.rspca.cymru)

The Kennel Club: [www.thekennelclub.org.uk](http://www.thekennelclub.org.uk)

The Royal College of Veterinary Surgeons: [www.rcvs.org.uk](http://www.rcvs.org.uk)

Welsh Government website for information on the Animal Welfare Act 2006, welfare during transport and to download a copy of the Code of Practice for the Welfare of Dogs:  
[www.wales.gov.uk/animalwelfare](http://www.wales.gov.uk/animalwelfare)

Pets and poisons information: [www.animalwelfarefoundation.org.uk/wp-content/uploads/2017/06/Pets-and-Poisons-1.pdf](http://www.animalwelfarefoundation.org.uk/wp-content/uploads/2017/06/Pets-and-Poisons-1.pdf)

## **Explanatory Memorandum to the Code of Practice for the Welfare of Dogs**

This Explanatory Memorandum has been prepared by the Animal Welfare and By-Products Branch, 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

### **Cabinet Secretary/Minister's Declaration**

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Code of Practice for the Welfare of Dogs.

Lesley Griffiths AM, Cabinet Secretary for Energy, Planning and Rural Affairs

20 July 2018



## **1. Description**

Under the Animal Welfare Act 2006 (“the Act”), if someone is responsible for an animal they have a legal duty to take reasonable steps to ensure its welfare needs are met. The Code explains what needs to be done to meet the standard of care the law requires.

Breach of a provision of the Code is not an offence in itself but, if proceedings are brought against someone for a welfare offence under the Act, the Court may take into account the extent to which they have complied with the Code in deciding whether they have committed an offence or have met the required standard of care. Unnecessary suffering to any animal could constitute a serious offence under the Act.

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

The Code is being laid under the ‘Negative Procedure’.

The Technical Standards Directive – The Directive places an obligation on Member States to notify the Commission of draft regulations that fall within the scope of the Directive. This new Code updates current standards and Regulations but does not differ substantially from the current Code. Although a breach of the Code does not amount to a criminal offence any proceedings under the Welfare Act 2006 may take into account any compliance with the Code. The current Code was not notified to the Commission and therefore this Code will also not be notified.

## **3. Legislative background**

This Code of Practice is issued under section 14 of the Animal Welfare Act 2006 (the “Act”). This Code applies in Wales only, is issued by the Welsh Ministers and comes into force on 12 November 2018. It applies to all dogs for which a person is responsible.

## **4. Purpose & intended effect of the legislation**

The existing Code of Practice for the Welfare of Dogs reflected the science and legislation in force at that time and was made under the Animal Welfare Act 2006. A review was required to capture any changes in these areas and to ensure the standards being advised are still appropriate.

By not reviewing and amending the Code regularly to reflect any changes made to legislation and recognised minimum best practice standards, animals could be put at risk of harm.

The purpose of the Code is to ensure that those who are responsible for an animal are aware they have a legal duty to take reasonable steps to ensure its welfare needs are met. The Code of Practice explains what you need to do to meet the standard of care the law requires.



## **5. Consultation**

Welsh Government officials worked with Animal Welfare Network Wales, an umbrella body representing animal welfare organisations in Wales, to review and update the Code for consultation.

A twelve week public consultation took place between 16 October 2017 and 8 January 2018. The consultation was published on the Welsh Government website with a press release alerting the general public to the launch. Known stakeholders i.e. enforcement agencies and special interest groups, were also contacted individually by email or post.

A Summary of the Responses to the Consultation can be found at the attached link <https://beta.gov.wales/code-practice-welfare-dogs>

Comments and suggested amendments were taken in to account when updating the Code and a number of additions were made as a direct result of the consultation.

## **6. Regulatory Impact Assessment (RIA)**

There are no costs associated with the making of the Code and an RIA is not required at this time.

## SL(5)247 – Code of Practice for the Welfare of Horses

### Background and Purpose

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This Code of Practice is issued under section 14 of the Animal Welfare Act 2006 (the "Act"). This Code of Practice applies in Wales only, is issued by the Welsh Ministers and comes into force on 12 November 2018. It applies to all horses for which a person is responsible.

It replaces the existing Code of Practice on the Welfare of Horses issued by the Welsh Government in October 2008.

The Welsh Government undertook a review of the existing Code and consulted upon it in the summer of 2017.

Appendix 2 to the Code refers to the relevant legislation. When it quotes from legislation made using the traditional gender specific (male pronouns) drafting style, it does so strictly, but only for strict accuracy. Similarly, legislation made in English only is not translated into Welsh.

### Procedure

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The power to make Codes of this sort was granted to the National Assembly for Wales by the Animal Welfare Act 2006 whilst it was a single body, and no procedure was specified. Following the creation of the Welsh Government as a separate legal entity under the Government of Wales Act 2006 ('GoWA'), the power transferred to the Welsh Ministers. Under the transitional provisions in Schedule 11 to GoWA, codes became subject to the same procedure as previously applied to codes made by the Secretary of State in relation to England.

A draft of the code must be laid before the Assembly. If, within 40 days (excluding any time when the Assembly is dissolved or is in recess for more than 4 days) of the draft being laid, the Assembly resolves not to approve the draft code then the Welsh Ministers must not issue the code.

If no such resolution is made, the Welsh Ministers must issue the code (in the form of the draft) and the code comes into force in accordance with its provisions. The intended date in this case is 12 November 2018.

### Scrutiny under Standing Order 21.7

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No points are identified for reporting under Standing Order 21.7 in respect of this code.

### Government Response

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No government response is required.

### Implications arising from exiting the European Union

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Commission Regulation 2015/262 laying down the rules as regards the methods for the identification of equidae was adopted on 11 September 2014 and came into effect throughout the European Union on 1 January 2016. This regulation requires all horses in Wales to have a passport.



This Code reflects the requirements of that Regulation, which will become retained EU law by virtue of the European Union (Withdrawal) Act 2018. That legislative framework will remain in force until it is amended. Animal welfare and animal health and traceability have been identified by the UK Government as policy areas where a common policy framework across the UK will be needed when the UK leaves the EU.

The Regulation is likely to remain effective, particularly in relation to racing or show horses that are regularly transported between the UK and the remainder of the EU. It will also remain relevant for any horses that may be exported to the EU. How, and if so to what extent, these matters remain relevant to horses that are not intended to leave the UK will be a matter to be determined by the four UK governments. This Code will need to be kept under review as the policy and legislative context develops.

**Legal Advisers**

**Constitutional and Legislative Affairs Committee**

**August 2018**





Llywodraeth Cymru  
Welsh Government

# Code of Practice for the Welfare of Horses

## Contents

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Introduction	2
The Duty of Care	2
Section 1: Environment	5
Section 2: Diet	10
Section 3: Behaviour	17
Section 4: Company	18
Section 5: Health & Welfare	19
Appendix 1: Tethering	23
Appendix 2: The Law	25
Appendix 3: Sources of Information	29
Appendix 4: Identification & Horse Passports	30

## Preface

Under the Animal Welfare Act 2006 (“the Act”), if you own or are responsible for an animal you have a legal duty to take reasonable steps to ensure its welfare needs are met. The Code explains what you need to do to meet the standard of care the law requires. If you are a parent or guardian of a child less than 16 years old, you are responsible for any animal that child is in charge of.

Breach of a provision of this Code is not an offence in itself but, if proceedings are brought against you for a welfare offence under the Act, the court may take into account the extent to which you have complied with the Code in deciding whether you have committed an offence or have met the required standard of care. You should not cause any unnecessary suffering to your animal; this could constitute a serious offence under the Act.

In the first instance Owners/Keepers should consult their veterinary surgeon (vet) for advice on their animal’s health. You will find reference in the Code to animal care specialists. These are people who, through qualification or experience, can provide expert advice on welfare and some aspects of health for one or more type of animal. Examples are animal behaviourists, veterinary nurses and dedicated welfare organisations.

To find out more about the Animal Welfare Act 2006 and details of your responsibilities under it, see Appendix 2 at the end of this Code. For further sources of information, see Appendix 3.

You should be aware that the legislation cited in the Code and in Appendix 2 is correct at the date of issue but may be subject to subsequent change.

This preface is not part of the Code but is intended to explain its purpose and broad aims. Similarly Appendix 2, which highlights the relevant legal requirements and Appendix 3, which lists some additional sources of information, are not part of the Code.

This Code of Practice was updated with the assistance of the Animal Welfare Network for Wales. The Welsh Government is grateful to the Network for their time and expert recommendations.

## Introduction

In this Code “horse” is intended to cover all domestic horses, ponies, donkeys, and hybrids between them. This word will be used throughout, except where donkeys’ needs are different.

Owning and caring for a horse can be fun and very rewarding, but it is also a big responsibility and a long-term financial and caring commitment. You control your horse’s lifestyle; it is your responsibility to make sure that its needs are met, whatever the circumstances. The Animal Welfare Act 2006 requires that you must take reasonable steps to ensure that it:

- Has a suitable environment to live in.
- Has a healthy diet.
- Is able to behave normally.
- Has appropriate company.
- Is protected from pain, suffering, injury and disease.

These are explained in more detail in this Code. For further advice, speak to your veterinary surgeon or a suitably qualified specialist. Other sources of information are listed in Appendix 3.

## The Duty of Care

Under the Animal Welfare Act 2006 animal owners and keepers have a legal duty to care for the animals for which they are responsible, whether on a permanent or temporary basis. A person could therefore be responsible for an animal if they own it, or if they are in charge of it, whilst an owner has ongoing responsibility for their animal even if another person is in charge of it. A parent or guardian of a child under 16 years old is responsible for any animal that is cared for by the child. This ensures that an adult can normally be identified as a person

Every animal is different and as you get to know your horse, you will learn and recognise its normal appearance and behaviour. It is important that you are able to notice any changes in these as it might indicate that your horse is distressed, unwell, or is not having its needs met in some other way.

A horse being treated by a veterinary surgeon may have additional or special needs specified by the veterinary surgeon which will supersede the requirements of this Code.

For the purpose of this Code, a “keeper” means a person responsible for or in charge of an animal whether on a permanent or temporary basis.

This Code of Practice is issued under section 14 of the Animal Welfare Act 2006 (the “Act”). This Code of Practice applies in Wales only, is issued by the Welsh Ministers and comes into force on 12 November 2018. It applies to all horses for which a person is responsible.

**It is your responsibility to read the Code of Practice to fully understand your horse’s welfare needs and what the law requires of you.**

responsible for an animal. If a keeper leaves an animal in the care of another person, it is the keeper’s duty to ensure the person is competent and has the necessary authority to act in an emergency.

Responsibility for an animal includes having an understanding of its specific health and welfare needs and having the appropriate knowledge and skills to care for the animal. Those responsible for animals must also comply with legislation, be aware of the appropriate



Code of Practice and know when and where to seek qualified advice and help, e.g. from a farrier or a veterinary surgeon.

More information about the welfare provisions of the Animal Welfare Act 2006, and more details of the responsibilities of a horse keeper, can be found in the appendices to this Code.

The needs of horses are explained in detail in this Code; however, an individual horse may have other needs that need to be met to ensure its well-being. Working horses have special needs that may not apply to horses that are kept as pets; these additional needs should be taken into consideration by keepers. **If a keeper is unsure what these might be, it is important that they seek advice from a veterinary surgeon or an animal care specialist.** Specific welfare advice in relation to competition horses can be sought from sources within the relevant competition discipline.

Before buying or taking on the care of a horse, there are a number of important things to consider:

- Is buying a horse appropriate or should other options such as taking a horse on a short-term or long-term loan be considered? Having a horse on loan can help potential keepers understand the commitment required and the costs associated with keeping a horse. A horse can live for anything up to 40 years and is a long-term commitment.
- The total cost of keeping a horse. The cost of buying a horse may be minimal compared to the ongoing costs, which will vary, depending on the needs of the individual horse, where it is kept and what it is used for. As well as the day-to-day costs, costs for supplementary feeding, worming, insurance, veterinary fees (including regular vaccinations, dentistry and costs incurred through illness or injury), farriery, equipment, transport and training etc. all need to be considered. Consideration should also be given to the cost of end of life care, cost of euthanasia and/or disposal. **Potential keepers should consider all costs before deciding if a horse is affordable.**
- It is important to find the right animal as this can prevent many problems in the future. Choosing a horse with the right nature, of the right breed, to suit the keeper's needs and ability is important. The gender and age of the animal will affect how the horse is to be reared, stabled, fed and/or exercised. Seek advice before making a decision. Before purchasing a horse it is advisable to try a number of different horses, to allow comparison, and the advice of an experienced horseperson should always be sought. Before buying, it is essential to try a horse in each aspect of work that it is likely to be asked to perform, for example hacking, jumping and flatwork, and it is advisable to try out favoured horses more than once. A pre-purchase examination by an independent veterinary surgeon is highly recommended.
- The potential keeper should consider how and where the horse will be kept including whether the horse should be kept on premises with other horses for company. A livery yard may be an option if the keeper needs support in increasing their skills and knowledge.
- Consideration should be given to how much time will need to be spent looking after and exercising the horse.
- Does the potential keeper possess the right skills and knowledge? If not, they should consider gaining prior experience with horses via riding stables or through undertaking voluntary work.



- A potential keeper also needs to consider having contingency plans in place, for example:
    - the provision of stabling and transport for horses (including grass-kept horses) should emergency veterinary treatment be required
    - having isolation facilities (away from contact with other horses) available if required following veterinary advice
    - alternative arrangements for the care of a horse should the keeper become unable to care for it for any reason.
  - Any horses bought or sold must have a valid horse passport (identification document), issued by a Passport Issuing Organisation<sup>1</sup>. The small booklet identifies your animal by its height and species and states if your animal can be used for human food when it dies. Horse passports are a legal requirement. The details of the passport should be checked before purchase, in particular the silhouette (diagram providing markings/colouring) to ensure it matches the horse and, if possible, the microchip to ensure it matches the passport. The issuing organisation that provided the passport can confirm that it has in fact been issued by them. A list of authorised organisations is available on the Welsh Government website.
- These contingency arrangements should be reviewed when there is any change in the keeper or horse's circumstances.

Once a potential keeper has made the decision to buy a horse:

- Careful consideration should be given to where a horse is bought from. If the sale is through a market or horse dealer then the keeper should look carefully at the terms and conditions of sale and get a receipt of purchase.

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<sup>1</sup>[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/630882/pio-list-studbooks.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/630882/pio-list-studbooks.pdf)

## Section 1: Environment

1.1 This section offers guidance on providing horses with a suitable place to live.

### Shelter

1.2 Not all horses need a stable or housing. Some more hardy breeds (such as native ponies) with thick coats are capable of living outdoors throughout the year, provided they have shelter from the wind and summer sun and access to hard dry standing (e.g. should veterinary treatment be required). Shelter can be natural (e.g. trees or hedges) or man-made. However, where horses are less hardy (e.g. thoroughbreds), clipped, very young or old they may require a stable, housing or other shelter to protect them from rain, wind and extremes of temperature.

1.3 Donkeys originate from Africa and Asia. They are very intolerant of heavy rain, having coats that are not fully waterproof, so need access to shelter and hard dry standing at all times – natural shelter is not sufficient.

### Stable Accommodation/Housing

1.4 Horse welfare should always be considered when constructing or altering buildings to provide housing for horses. The main considerations should be the safety and comfort of the horses, ease of access, light, ventilation and drainage. If poorly designed or managed, housing can contribute to the rapid spread of disease, cause injury or pose a fire risk. Housing should be designed to incorporate the fire safety recommendations set out in the Community and Local Government's "Guide to Fire Safety in Animal Establishments and Stables". The following apply to all forms of housing including individual stables, stalls and communal barns:

- **Construction:** Buildings should be constructed soundly, with no exposed

surfaces or projections likely to cause injury. All surfaces should be capable of being effectively cleaned and disinfected. If surfaces are treated, non-toxic paints or wood preservatives should be used.

- **Fixtures and fittings** such as tie rings, hay racks and water bowls should be free of sharp edges and positioned so as to avoid injury, particularly to the eyes. If used, hay nets should be fixed at the horse's head height, allowing the horse to eat comfortably yet avoiding the risk of the horse getting its feet or head collar caught in the net when empty.
- **Floors** should be reasonably even, non-slip and designed to give good drainage, taking stable waste away from the horse.
- **Doors** should be at least 4 feet (1.2 metres) wide and should not open inwards. A bottom door should be of a height that allows the horse to look out with the head comfortably over the door. Doors should be capable of being securely fastened with top and bottom bolts. During stable design consideration should be given to prevailing winds to ensure adequate ventilation with good air circulation, whilst avoiding excessive draughts.
- **Roofs** should be high enough to provide good ventilation and air circulation. There should be a minimum clear space to the eaves of 60-90 cm (2-3 ft) above the ears of the horse in its normal standing position.
- **Light:** Good lighting is essential within all stabling both for the horse to see adequately and to enable inspection and safe handling of horses; this can include portable lighting. Light bulbs and light switches should be enclosed in safety fittings with cabling secured well out of reach.
- **Windows:** Perspex or safety glass (with grilles fitted between the horse and the glass) is advisable. One window or top door should normally be open at all times.

- **Donkeys require access to a shelter at all times.** The shelter, and area around it, should be free-draining hard standing. Allow approximately 4.5 square metres (50 square feet) of covered area per donkey, approximately 9 square metres (100 square feet) for a pair.

1.5 Horses vary so greatly in size it is difficult to set an ideal size for loose boxes, barns or stables. However, as a minimum, each horse should have sufficient room to lie down, readily rise and turn around in comfort. All passageways should be sufficiently wide to enable horses to be led safely past other horses. The British Horse Society minimum stable size recommendations are as follows:

- Horses – 3.65m x 3.65m (12ft x 12ft)
- Large horses – 3.65m x 4.25m (12ft x 14ft)
- Ponies and Donkeys – 3.05m x 3.05m (10ft x 10ft)
- Large ponies – 3.05m x 3.65m (10ft x 12ft)

Foaling mares and mares with a foal at foot require additional space. A foaling box should measure at least 4.27m by 4.27m (14ft by 14ft).

1.6 Groups of horses can be kept together in communal housing but care should be taken to ensure that all horses have adequate access to feed and water. Sufficient space should be provided to allow free movement and to allow all the horses to lie down at the same time. Care should be taken to select groups that are compatible. Some animals such as particularly aggressive horses, heavily-pregnant mares, mares with foals at foot, stallions and colts should be kept separately.

1.7 Sufficient and suitable bedding material is necessary in all accommodation to provide warmth, protection against injury and to enable horses to lie down in comfort. Bedding material

should be non-toxic, free of dust and mould and allow effective drainage, or be absorbent enough to maintain a dry bed and assist in keeping the air fresh. Where rubber matting is used, it is recommended that disposable bedding should be added to absorb urine. Whatever bedding is used (e.g. straw, shavings, rubber stable mats etc.), it should be well managed and changed or cleaned regularly. The disposal of such waste should also be considered<sup>2,3</sup>.

1.8 Fire is always a risk in stable areas. Advice should be sought from the local Fire Prevention Officer in relation to statutory requirements. All equipment and services (lighting units, fire extinguishers and alarm systems) should be kept clean, inspected annually by an appropriately qualified person and kept in good working order. All electrical installations at mains voltage must be installed, maintained and periodically inspected and tested by a competent electrician in accordance with the latest edition of the Institute of Electrical Engineers (IEE) wiring regulations. Wiring and fittings must be inaccessible to horses, well insulated, safeguarded from rodents and properly earthed. All metal pipe work and structural steelwork must be properly earthed. The risk of fire and electrocution can be reduced by having the whole installation protected by a residual current device (RCD). Highly inflammable liquid material or combustible material should not be stored in or close to stables where horses are housed. Roof beams and other ledges should be cleaned regularly. Smoking in stable areas should be prohibited.

1.9 Stable doors should not be padlocked as horses should be capable of being released quickly in the event of a fire or other emergencies in accordance with a pre-determined emergency turnout plan.

<sup>2</sup> <https://naturalresources.wales/?lang=en>

<sup>3</sup> <http://gov.wales/topics/environmentcountryside/ahw/animal-by-products/?lang=en>

## Pasture

1.10 As a guide, in order to maintain correct body condition, each horse requires a minimum of 0.4 to 0.6 hectares (one to one and a half acres) of good grazing if no supplementary feeding is being provided. However this will depend on the ground conditions, the time of year, type of horse and degree of pasture management employed. A smaller area may be appropriate where a horse is principally stabled or housed and grazing areas are used only for occasional turnout.

1.11 For donkeys, approximately half an acre (0.2 hectares) of suitable grazing and/or turnout land is recommended for each donkey, so two donkeys will require a field and stable area of approximately one acre (0.4 hectares).

1.12 For overweight animals, and those suffering from obesity related disease such as laminitis, the quality and area of grazing, and the number of hours spent grazing, will need to be restricted. Overweight animals may therefore need to be managed in a separate group to those of the correct body weight. Advice should be sought from a veterinary surgeon.

1.13 It is not always practical or possible to remove horses from fields or pastures which become muddy, however, it is essential that the horse does have a comfortable, well drained area on which to stand and lie down, and on which to be fed and watered.

1.14 A good pasture management programme is advisable to avoid over-grazing (see also 1.10 above), to aid worm control, maintain good drainage and control weeds. This should include, for example, picking up droppings, rotating grazing areas and where possible removing horses when the ground is very wet to prevent poaching (where the pasture breaks into wet muddy patches) and health problems.

1.15 Fencing should be robust and of sufficient height to prevent horses from escaping

(for example higher fences may be required for stallions) and designed, constructed and maintained to avoid the risk of injury with no sharp projections. Gateways should be designed to allow for the easy and safe passage of horses, and gates should be fastened securely to prevent injury and escape. In some situations gates may need to be padlocked. Barbed wire should not be used in fields used by horses. Fencing such as sheep or plain wire, not designed primarily for horses, can cause injury.

1.16 The British Horse Society (BHS) generally recommend that fences should be 1.24m tall (4ft) tall, however more specific recommendations are as follows:

- Horses – 1.08m to 1.38m (3ft 6" to 4ft 6")
- Ponies – 1m to 1.3m (3ft 3" to 4ft 3")
- Lower rail (in both cases) – 0.5m (1ft 6") above ground
- Stallions – 1.25m to 2m (4ft 1" to 6ft 5")

1.17 Stallions may require a double fence line and possibly an electric fence line along the top of the paddock rail. This is to prevent aggression and amorous behaviour between paddocks, as well as containing the stallion within the allocated area.

1.18 Electric fences should be designed, installed and maintained so that contact with them does not cause more than momentary discomfort to the horse; all power units should be correctly earthed. Electric fences should be tested regularly using appropriate equipment. Horses contained by electric fencing need extra supervision until they become accustomed to it. Temporary internal subdivisions created out of electrified tape and plastic posts can provide an effective internal barrier, but these should not be used as the sole boundary fence.

1.19 Fields should be kept clear of dangerous objects and poisonous plants.

## Poisonous Plants

1.20 There are a number of plants including ragwort, sycamore and acorns, that are toxic to horses. Comprehensive lists of poisonous plants can be found on the websites of most horse and welfare organisations. Links to these websites can be found in Appendix 3. Keepers should be familiar with these plants and should ensure that horses do not have access to them (or their clippings) at any time. Where fields back on to housing, care should be taken to ensure that horses do not gain access to kitchen or garden waste including vegetable peelings and lawn cuttings.

1.21 Common Ragwort is a specified weed under the Weeds Act 1959; 'The Code of Practice to Prevent and Control the Spread of Ragwort' was published in November 2011 and is available on the Welsh Government website. All ragwort species (hoary, marsh and oxford ragwort which may also be found in Wales) are toxic to horses and should be removed and disposed of carefully wherever found. Ragwort is also harmful to humans as the toxins can be absorbed through the skin so protective gloves should be worn when handling it. All Ragwort species should be disposed of by incineration, controlled burning or landfill. Ragwort should not be left where horses could have access to it, as once cut it becomes more palatable but remains toxic.

## Tethering

1.22 Tethering can be defined as securing an animal by a chain, to a centre point or anchorage, causing it to be confined to a desired area. Tethering is not a suitable method of management of an animal, as it restricts that animal's freedom to exercise itself, to find food and water, or to escape from attacks by dogs or the extremes of hot and cold weather. It also risks an animal becoming entangled, or injuring itself, on tethering equipment.

1.23 Tethering may be useful as an exceptional short-term method of animal management during brief stops during a journey, to prevent danger to the animal, or to humans, whilst proper long-term arrangements are made, or for medical reasons where short-term restriction of food intake is required under veterinary advice. The need for regular supervision is paramount.

1.24 More details on the conditions that should be met when horses are tethered are set out in Appendix 1. The term 'tethering' as it is used in the Code does not apply to horses that are stall-tied (a common method of stabling cavalry horses). Any horse that is stall-tied should receive regular exercise, unless this method is used under veterinary guidance (e.g. as part of the management of an orthopaedic condition).

## Rugs and Hoods

1.25 Not all horses will need a rug in inclement weather as some hardy breeds with thick coats are capable of living outdoors all year without rugs. Some of these hardy breeds often thrive better without rugs, as rugs can sometimes be a cause of skin irritation. However, where horses are of less hardy breeding, clipped or elderly they may require a rug to help keep them warm and dry during cold, wet weather or provide protection from flies. Turnout rugs will need to be removed when weather (particularly temperature) improves.

1.26 Young, healthy donkeys are extremely unlikely to need a rug, as they should always have access to a field shelter or stable. However, donkeys that are old, sick, underweight or clipped are more susceptible to cold and might need a rug at certain times of the year.

1.27 Rugs and hoods should be of the correct size and weight to suit the horse and the weather conditions, of the correct type

(i.e. designed for the use to which it is being put), and correctly fitted to prevent rubbing, hair loss and abrasions. Rugs should be regularly removed so the horse's body condition and general health can be checked. Ideally this should be done daily.

1.28 Rugs should be cleaned and, if necessary, repaired or reproofed regularly and all fastenings kept in good working order. A spare rug should be available to allow a very wet rug to be dried.

## Supervision

1.29 Horses at grass should, as a minimum, be inspected at least once a day, preferably more often. Stabled or group-housed horses should, as a minimum, be inspected at least twice a day, again preferably more often. Particular attention should be paid to their gait, demeanour, feet, body condition and appetite so that early signs of disease, injury, illness or parasites can be noticed and

appropriate treatment promptly provided. Close examinations should also be conducted at regular intervals in order to identify any problems (e.g. skin conditions) that may not be apparent from a distance. Tethered horses may need to be checked more frequently.

1.30 Hooves of horses should be picked out daily. As lameness could be caused by a variety of factors, legs and hooves should be regularly examined for wounds, injuries, loose shoes, impacted foreign material or anything else unusual.

1.31 Apart from those on turnout and only undertaking very light work, horses should be groomed regularly, but not excessively (which could remove the protective grease from the coat), to ensure that the coat is clean, free from wounds or parasites and to detect rug, tack or harness rubbing.



## Section 2: Diet

2.1 This section offers guidance on providing a horse with a suitable diet.

### Water

2.2 It is essential that all horses have unrestricted access to a clean supply of fresh water, or that adequate clean water is made available to them on a frequent and regular basis throughout the day. If natural water sources such as streams are to be relied on they must be clean, copious and easily accessible. Natural water sources should not be used if there is a risk of horses falling in, becoming trapped or causing environmental damage to access points. Extra care should be taken during hot or freezing weather to ensure the water supply is maintained and sufficient, for example, by regularly breaking ice during cold spells or supplying additional water during hot weather.

2.3 The average daily water requirement of a horse is 20–40 litres (5–10 gallons), but this does depend on the body weight of the horse. Additional water may need to be provided after exercise, for horses with certain health conditions, for mares in the latter stages of pregnancy and lactating mares – a veterinary surgeon should be consulted if necessary. Stabled horses, fed a diet consisting of a higher proportion of dry feed need more water. Fresh water should be supplied in suitable clean drinking vessels e.g. clean buckets, water troughs or via automatic drinking bowls. Drinking vessels should be refilled at least twice a day and should be secured to prevent them from tipping.

2.4 Water troughs should be securely fixed at a convenient height to allow horses to drink comfortably and it should not be possible for horses to paw the water or dislodge the trough and knock it over. There should be no sharp edges, protruding corners or exposed taps –

they should be boxed in. Automatic troughs should be checked regularly to ensure they are working correctly. All water vessels should be cleaned thoroughly on a regular basis. Troughs should be positioned in a way so that it would not be possible for a horse to be trapped or cornered in the area of the trough. Troughs, including those that fill automatically, and buckets should all be checked at least once a day to ensure that horses have water.

### Feed

2.5 Horses naturally eat little and often. Their natural diet is mainly grasses, which have a high roughage and low energy content. Horses should be provided with a balanced, predominately fibre-based diet of either grass, hay, haylage or a hay replacement in order to mimic their natural feeding pattern as closely as possible. They should be fed an appropriate diet that reflects their needs and keeps them in good condition. Consideration should be given to the age, type, weight, condition, health and level of work of the individual.

2.6 Donkeys in their natural habitat will graze and browse, digesting fibrous plant material such as woody trees and shrubs throughout the day and often walk considerable distances. They should have free access to barley straw and can be fed a controlled amount of hay in addition, to maintain condition, throughout the winter months.

2.7 It is important that any change in a horse's diet is made gradually, over an appropriate period of time. This includes moving to a new grazing pasture, or changing from twenty-four hour grazing to being stabled and fed hay. This can help prevent problems such as colic (abdominal pain) which is a very common disorder of horses, and is often associated with changes in diet and management.

2.8 Good grazing should ensure an adequate intake of roughage and minerals; if grazing is poor, supplementary feeding may be required. One way to limit grazing in large areas of grazing land is to divide the land into smaller areas/paddocks by using fencing.

2.9 All conserved forage (hay, haylage etc.) should be of good quality; it should be clean (free from soil, debris and poisonous plants), smell fresh and be free from dust and mould. Feeding forage at floor level is good for horses' respiratory health, provided the underlying ground is kept reasonably clean. It also means that the horse eats in a similar position to that when grazing naturally.

2.10 The quantity of concentrates (this does not include feedstuffs such as chaffs and sugarbeet) fed as supplementary feed, in addition to any grazing or similar fodder, should be no more than that necessary to meet the energy demands of the horse in response to the work the horse is doing. Feed should be well mixed and freshly prepared. Horses should not be asked to perform hard or fast work on a full stomach.

2.11 Feed should be correctly processed, stored in vermin-proof containers, and carefully handled to prevent spoiling and to ensure the nutritional value is maintained. Feed containers and utensils should be kept clean. Contaminated, mouldy or stale leftover food and forage should not be fed to horses and should be removed daily.

2.12 Where loose horses are fed in groups there should be one feeder per horse plus an extra feeding point (unless using a multifeeder such as a Tombstone feeder specifically designed to multi-feed and reduce competition for food). Two horses' lengths should be allowed between feeders to minimise the risk of injury to horses through competition for food.

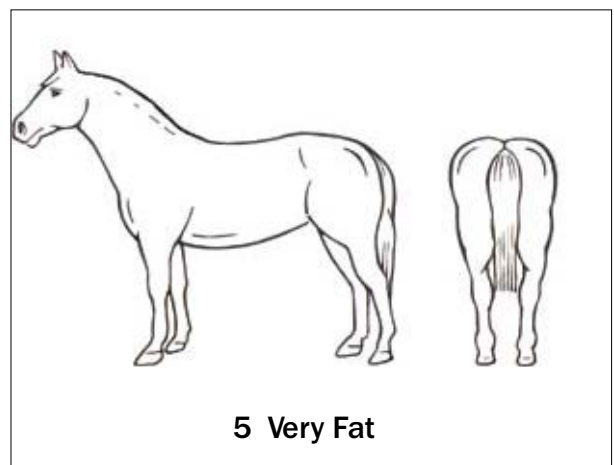
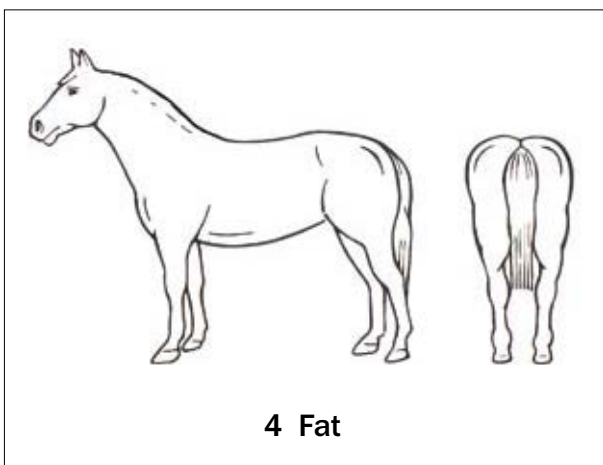
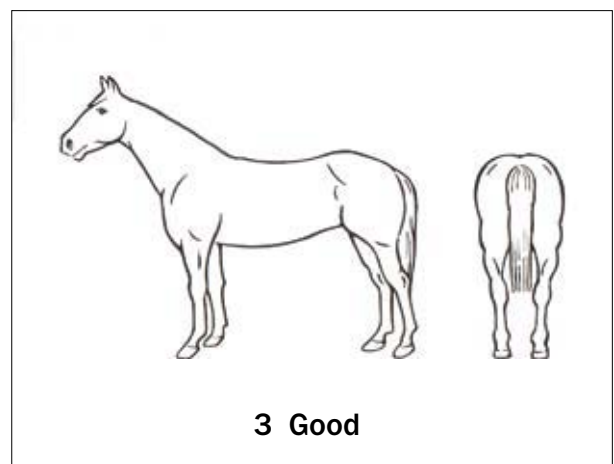
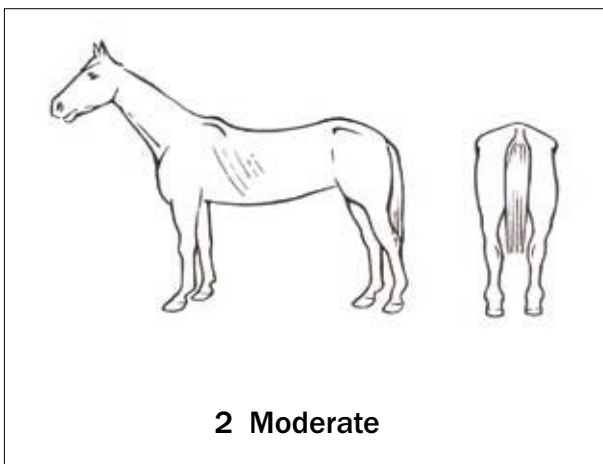
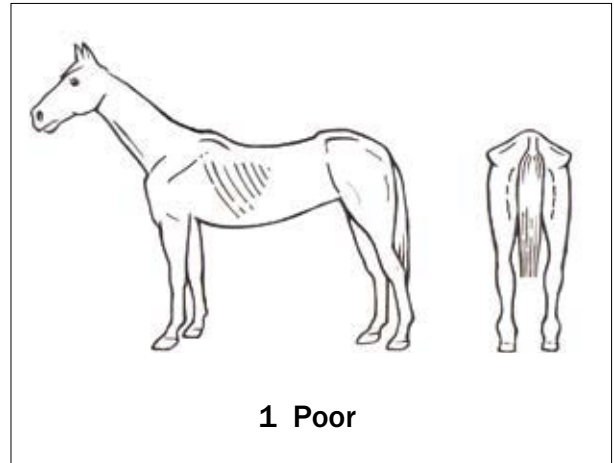
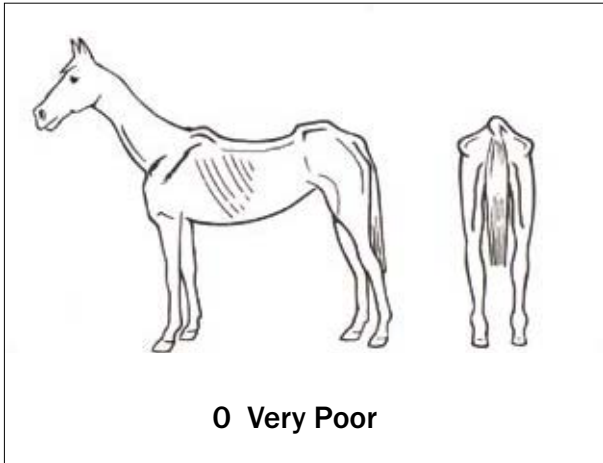
2.13 The weight and condition of every horse should be monitored regularly to avoid welfare problems. Feeding should be adjusted as necessary for animals that are too fat or too thin. It is important when feeding that horses are treated as individuals and provided with a tailor-made diet.

**Note:** In cases where horses have changed shape and size it is recommended that the saddlery is checked by a Society of Master Saddlers Registered Qualified Saddle Fitter as a change in condition will effect the fit and therefore comfort and welfare of the horse during its ridden or driving work.

2.14 Obesity is a common and serious welfare problem of horses. Obesity and certain metabolic and dietary factors are among the risk-factors for laminitis – a painful and debilitating disease, affecting the feet of horses. Fat animals are at a higher risk of developing laminitis than animals of a healthy weight. The high energy content of lush grass (e.g. during a spring or autumn flush of grass growth) represents a risk to susceptible animals and their grazing may need to be restricted. Keepers requiring more detailed guidance about laminitis and the correct management of susceptible animals should contact their veterinary surgeon. The Body Condition Scoring diagrams below can help to act as a guide if you are concerned about the condition of a horse or donkey. If further guidance is required then keepers should contact their veterinary surgeon.



## Body Condition Scoring – Horses



## Body Condition Scoring – Horses

Condition Score	Pelvis	Back and Ribs	Neck
0 Very Poor	Angular, skin tight. Very sunken rump. Deep cavity under tail.	Skin tight over ribs. Very prominent and sharp backbone.	Marked ewe neck. Narrow and slack at base.
1 Poor	Prominent pelvis and croup. Sunken rump but skin supple. Deep cavity under tail.	Ribs easily visible. Prominent backbone with sunken skin on either side.	Ewe neck, narrow and slack base.
2 Moderate	Rump flat either side of backbone. Croup well defined, some fat. Slight cavity under tail.	Ribs just visible. Backbone covered but spines can be felt.	Narrow but firm.
3 Good	Covered by fat and rounded. No gutter. Pelvis easily felt.	Ribs just covered and easily felt. No gutter along the back. Backbone well covered but spines can be felt.	No crest (except for stallions) firm neck.
4 Fat	Gutter to root of tail. Pelvis covered by fat. Need firm pressure to feel.	Ribs well covered – need pressure to feel.	Slight crest – Wide and Firm.
5 Very Fat	Deep gutter to root of tail. Skin distended. Pelvis buried, can not be felt.	Ribs buried, can not be felt. Deep gutter along back. Back broad and flat.	Marked crest very wide and firm. Fold of fat.

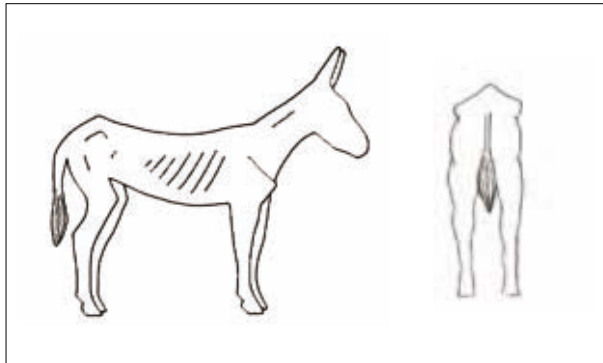
(Based on Carol Huntington Method)

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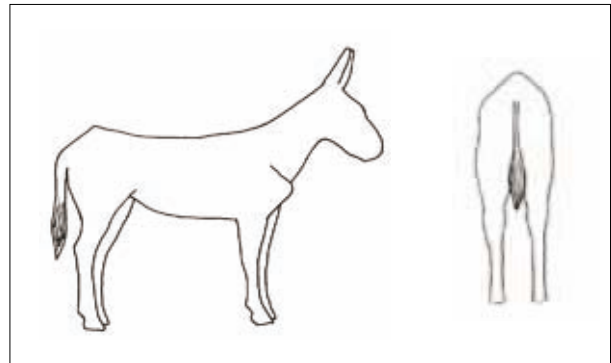
To obtain a body score, score the pelvis first, then adjust by half a point if it differs by one point or more to the neck or back.

## Body Condition Scoring – Donkeys

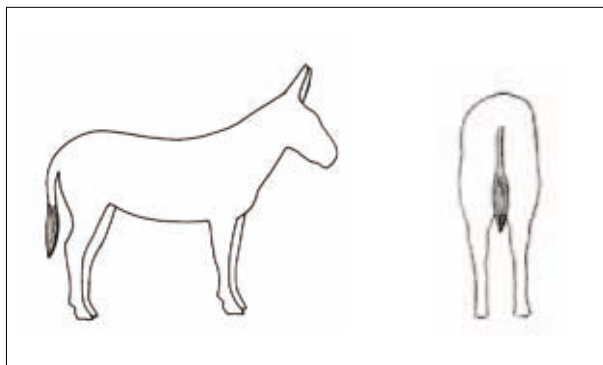
Reproduced with the permission of the Donkey Sanctuary



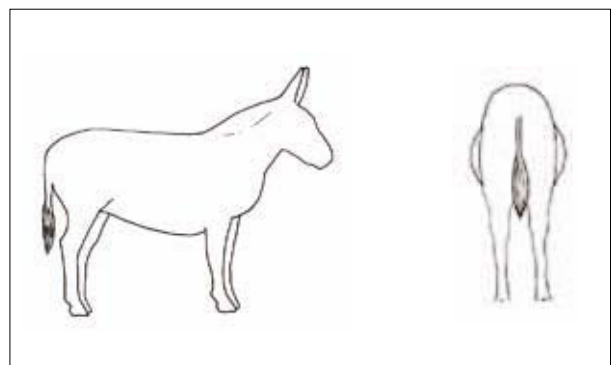
**1 Poor**



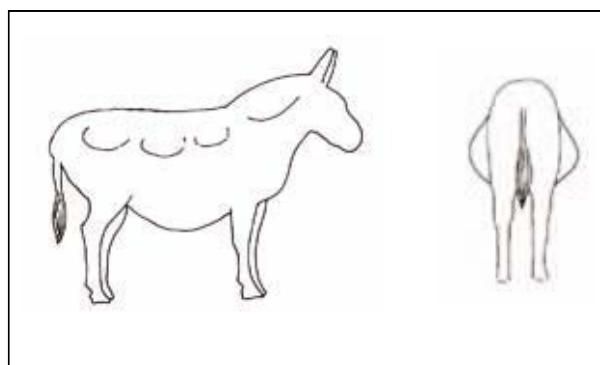
**2 Moderate**



**3 Ideal**



**4 Fat**



**5 Obese**

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Fat deposits may be unevenly distributed especially over the neck and hindquarters. Some resistant fat deposits may be retained in the event of weight loss and/or may calcify (harden). Careful assessment of all areas should be made and combined to give an overall score.

## Body Condition Scoring – Donkeys

Condition Score	Neck and Shoulders	Withers	Ribs and Belly	Back and Loins	Hind Quarters
Poor	Neck thin, all bones easily felt. Neck meets shoulder abruptly. Shoulder bones easily felt, angular.	Dorsal spine of withers prominent and easily felt.	Ribs can be seen from a distance and felt with ease. Belly tucked up.	Backbone prominent, can feel dorsal and transverse processes easily.	Hip bones visible and felt easily (hock and pin bones). Little muscle cover. May be cavity under tail.
Moderate	Some muscle development overlying bones. Slight step where neck muscles meet shoulders.	Some cover over dorsal withers. Spinous processes felt but not prominent.	Ribs not visible but can be felt with ease.	Dorsal and transverse processes felt with light pressure. Poor muscle development either side of midline.	Poor muscle cover on hind quarters, hip bones felt with ease.
Ideal	Good muscle development, bones felt under light cover of muscle/fat. Neck flows smoothly into shoulder, which is rounded.	Good cover of muscle/fat over dorsal spinous processes, withers flow smoothly into back.	Ribs just covered by light layer of fat/muscle, ribs can be felt with light pressure. Belly firm with good muscle tone and flatish outline.	Can not feel individual spinous or transverse processes. Muscle development either side of midline is good.	Good muscle cover in hind quarters, hip bones rounded in appearance, can be felt with light pressure.
Fat	Neck thick, crest hard, shoulder covered in even fat layer.	Withers broad, bones felt with firm pressure.	Ribs dorsally only felt with firm pressure, ventral ribs may be felt more easily. Over developed belly.	Can only feel dorsal and transverse processes with firm pressure. Slight crease along midline.	Hindquarters rounded, bones felt only with firm pressure. Fat deposits evenly placed.

<b>Condition Score</b>	<b>Neck and Shoulders</b>	<b>Withers</b>	<b>Ribs and Belly</b>	<b>Back and Loins</b>	<b>Hind Quarters</b>
Obese	Neck thick, crest bulging with fat and may fall to one side. Shoulder rounded and bulging with fat.	Withers broad, unable to feel bones.	Large often uneven fat deposits covering dorsal and possibly ventral aspect of ribs. Ribs not palpable. Belly pendulous in depth and width.	Back broad, unable to feel spinous or transverse processes. Deep crease along midline, bulging fat either side.	Cannot feel hip bones, fat may overhang either side of tail head, fat often uneven and bulging.

Half scores can be assigned where donkeys fall between scores. Aged donkeys can be hard to condition score due to lack of muscle bulk and tone giving thinner appearance dorsally with dropped belly ventrally, while overall condition may be reasonable.

## Section 3: Behaviour

3.1 This section offers guidance on horse behaviour. It is important for the keeper to understand the species-specific behaviour of horses, donkeys or mules in order to recognise and meet their individual animal's needs.

### Exercise

3.2 Horses and ponies require exercise, which will require time and effort from the horse keeper, or freedom to exercise. All stabled horses should be turned out daily in a field or exercise area unless exercise is being restricted under veterinary guidance. Where turn out is not possible, appropriate daily exercise and/or in hand grazing must be provided as an alternative.

3.3 Any increase in the level of work that a horse is required to perform should be undertaken gradually and consistently, over a suitable length of time. For overweight horses, a programme of daily exercise is important, in combination with dietary changes, to achieve weight loss. No horse should be exercised beyond its capabilities. The age, conformation, health, and fitness of the horse should be considered. Advice on this should be sought from a professional such as a veterinary surgeon.

### Training

3.4 Training should always be sympathetic to the horse and its welfare. Keepers and riders should be aware that training is a gradual process and there is rarely a quick fix. The use of training aids to cut corners should be avoided and they should only be used as a last resort under the supervision of an experienced person.

3.5 Training refers to the ways in which a horse can be taught to perform certain behaviours and actions that we require or desire of it. Most horses will need to be trained in some way, either to be led and handled, ridden or driven in harness. This training should only

be undertaken by an experienced person, in an appropriate and safe place. The safety of the horse and the handler is of paramount importance. The keeper should bear in mind that day to day interaction with their horse will also contribute to its training and care should be taken not to develop poor behaviour.

3.6 Horses learn by reward and repetition so it is important that they are rewarded for a desirable behaviour in a way that encourages them to repeat that behaviour. Negative or harsh training methods are both unacceptable and counter-productive. Horses do not understand which behaviour to exhibit until they have been taught. Most problematic or unwanted behaviours in horses are as a result of pain, fear or incorrect handling. Advice on resolving undesirable behaviour or traits should be sought from a vet, qualified instructor or behaviourist. Advice may be sought from a Society of Master Saddlers Registered Qualified Saddle Fitter as poorly fitting saddlery can be a major cause of discomfort which also results in undesirable behaviour.

### Handling and Restraint

3.7 It is an offence to cause an animal unnecessary suffering therefore any discipline should be appropriate, timely, reasonable and proportionate. Any restraint method used to assist normal management or treatment of a horse should be the most mild and effective method available, and should be applied by a competent person only for the minimum period necessary. Sedative drugs can only be prescribed by a veterinary surgeon, for a horse under their care.

3.8 Whilst small enclosed areas and equipment such as round-pens may be of use when handling or training horses they should not be used to keep horses in for long periods of time and should not be used for disciplinary purposes.

## Section 4: Company

4.1 This section offers guidance on providing a horse with suitable company.

### Social Behaviour

4.2 Horses are herd animals and prefer to live in social groups with other horses. Ideally they should be socialised with members of their own species but, where this is not possible, other animals may be used to provide company. Keeping horses on their own, although not preferable, would require the keeper to provide other appropriate environmental stimulation.

4.3 Donkeys have particular socialisation needs. They bond strongly to other donkeys, but also with horses and mules. Donkeys can become unwell if separated from a companion.

4.4 The individual needs of horses should always be met even when kept in a group. Horses in groups will always develop a pecking order. It is important that the correct amount of space, feed and water is provided to ensure that those lower down the pecking order are getting the feed and water they need.

4.5 It is important to identify if any horses within a group are incompatible, or become incompatible, for whatever reason. This is to protect the health, safety and welfare of the horses in the group and the humans handling them.

4.6 As a general rule, the more horses that are kept, the more time, effort and resources are required to safeguard their welfare. The size of the group is also important; individuals in larger groups are likely to encounter more competition for food and water, shelter and social position.

4.7 When forming new groups or introducing a new animal to an existing group, care should be taken to minimise stress and prevent fighting. This risk can be reduced by increasing the space allowance or by penning a new animal close to the existing group for a short period. Removing the back shoes of all animals during introduction can reduce the risk of injury from kicking.

4.8 Separation of incompatible animals is particularly important; aggressive horses should not be mixed with others. Entire males (colts, stallions) and “rigs” (a stallion with undescended testicles or a horse which has been incompletely castrated) may need to be kept apart from mares to prevent uncontrolled breeding. Mares which are heavily in foal or with a foal at foot might need to be separated temporarily from other horses. It must be remembered that keeping horses on their own, although not preferable, would require the keeper to provide other appropriate environmental stimulation.



## Section 5: Health

5.1 This section offers guidance on the health of a horse and its need to be protected from pain, suffering and disease. It is important for the keeper to understand the species-specific health needs of horses, donkeys or mules in order to recognise and meet their individual animal's needs.

5.2 Everyone responsible for the supervision of horses should be able to recognise signs of ill health and have a basic knowledge of horse first aid. It is also essential that keepers have access to a veterinary surgeon to diagnose or treat any illness, injury or disease and have their contact details easily available, including out of hours details. Horse passports should be made available to the vet at the time of treatment.

5.3 Keepers of horses should be familiar with the normal behaviour of their horses and be able to recognise signs that may indicate poor health. These can include:

- changes in demeanour or behaviour
- changes in appetite (for food and water)
- signs of pain or lameness (abnormal way of moving, reluctance to move, pawing at the ground)
- the presence of any injury
- unexpected weight loss or weight gain and changes to coat condition
- changes in body temperature, pulse, breathing rate and
- changes in faeces (dung/droppings) and urine

5.4 When a horse becomes unwell immediate action must be taken. Veterinary advice should be sought if a horse appears to be ill, in pain, injured or distressed. Any advice from the veterinary surgeon should be followed thoroughly.

### Routine Health Care

5.5 Keepers should ensure they have an appropriate parasite (worm) control programme in place. Veterinary surgeons can provide advice on the type and use of wormers, which may be based on faecal worm egg counting. Careful pasture management, including the rotation of grazing and dung collection, is an important part of an effective parasite control programme. Inappropriate use of parasite control products can contribute towards drug resistance.

5.6 Where groups of horses are kept together, parasite programmes are most effective if all horses are managed as part of the same programme.

5.7 Horses are very susceptible to tetanus and all should be vaccinated against this potentially fatal condition. A vaccination programme should be discussed and agreed with a veterinary surgeon and then implemented.

5.8 The teeth of horses continuously erupt and wear down throughout their life, and are therefore constantly changing. Most horses will require rasping of their teeth at least once a year. Signs of dental disease can include abnormal chewing of food, abnormal reaction to the bridle, dropping half-chewed food and loss of condition. However, most horses with dental disease show no outward signs at all. Consequently keepers should become familiar with their horse's normal dentition and learn how to regularly examine their horse's mouths. A horse's teeth and oral cavity should be examined by a veterinary surgeon at least once a year. Only a veterinarian is qualified to diagnose dental and oral disease and any treatment of such conditions should be undertaken either by a veterinarian or by a dental technician under their supervision.



5.9 Appropriate foot care is a key component of equine husbandry. A horse's hooves grow continuously and it is important that their feet are regularly inspected. When trimming is necessary it should be undertaken by a competent person. A horse should not be expected to work at a level above that which the hooves are capable of, whether shod or unshod. The Farriers Registration Act 1975 requires anyone shoeing horses to register each year with the Farriers Registration Council. This includes those people who only shoe their own horses. Loose shoes and those with risen clenches should receive prompt attention from a farrier to prevent possible injury. Hooves should be trimmed or re-shod as advised by the farrier, which should usually be every 4-8 weeks.

5.10 Flies can cause a great deal of irritation to horses, particularly during the summer, and can introduce infection to wounds. Midges can also be a source of irritation during the spring and summer and can cause sweet itch (an allergic skin condition). Consideration should be given to preventative fly and midge control through the use of fly repellents, fly rugs or masks and, for horses sensitive to fly or midge bites, stabling at dawn and dusk when flies and particularly midges are most active.

5.11 Keepers should regularly check saddles, bridles and bit fitting, along with checking the saddlery items for rotting, loose stitching and general wear and tear that may need attention before it becomes a health and safety issue for the horse and rider.

## Disease Prevention (Biosecurity)

5.12 There are a number of infectious diseases of horses that are present in the UK. Some of these diseases can be transferred from one animal to another by direct contact (horse to horse) or indirect contact (via objects and keepers/handlers). Preventing the introduction and spread of disease is important for the health and welfare of animals and

also avoids the considerable costs that may be associated with a disease outbreak. Therefore, good biosecurity practices are vital.

5.13 In its broadest sense biosecurity encompasses all the steps that can be taken to prevent animals being exposed, both directly and indirectly, to pathogens that might cause disease. It will thus include both measures to prevent the introduction of infection into a premises and measures to prevent the spread of any infection that is introduced. A high standard of biosecurity greatly reduces, but can never totally eliminate, risk. It is a series of risk reduction measures and should be tailored to the specific requirements of each individual premises.

5.14 Effective biosecurity involves planning ahead and some simple things that can be done on a day to day basis include:

- Implementation of good routine management and husbandry practices.
- Ensuring good hygiene procedures (between humans and horses and between different horses) are maintained. Pressure washers, brushes, hoses, water and disinfectant should be available for easy use and be used according to their risk.
- Avoiding stressing horses; stress can predispose some animals to disease.
- Ensuring boundaries are secure; horses should be prevented from mixing, and be unable to make nose to nose contact, with neighbouring animals.
- Only sharing equipment if it has been thoroughly cleansed and disinfected before and after moving between premises or groups of horses.
- Implementation of a pest control programme.
- Keeping access routes, parking areas, feeding and storage areas clean and tidy.
- Having biosecurity arrangements in place for visitors to the premises.

- Developing and implementing a health plan in collaboration with a veterinary surgeon.

5.15 The biosecurity measures that operate on a premises should be set out in the premises' health plan. These should include:

- A protocol for horses entering the premises, including an appropriate quarantine period.
- A parasite control plan.
- A vaccination plan.
- A plan for what to do in the event of a disease outbreak, including provision of isolation facilities.

5.16 New disease outbreaks often start with the introduction of new horses onto a premises. All premises should implement a protocol for the arrival of new horses. This should be done in consultation with a veterinary surgeon. The protocol should cover such elements as those below and it is important to recognise that a number of these elements must necessarily be completed in advance of the movement of the animal to its new home:

- Appropriate assurances with respect to health status of the new animal and the yard from which it is moving. This will include such elements as vaccination and worming history (including certificates) and will require discussion with the existing keeper and possibly their veterinary surgeon.
- Vehicles used for transporting horses should be thoroughly cleansed and disinfected.
- A specified quarantine period during which new horses should be isolated in a designated isolation area, away from other animals.

- An appropriate testing and/or preventative treatment programme (e.g. vaccination and worming) the specific details of which will vary according to the health status of the incoming animal and the source from which it comes.

## Isolation

5.17 It is not always possible to have a dedicated isolation facility. However, large yards and those with a high turnover of horses should make provision for a permanent isolation facility. This may not necessarily take the form of a stable block; a field (with adequate shelter) may be sufficient. Whatever is used, it is imperative that direct and indirect contact between horses in isolation and other animals is prevented.

5.18 New arrivals should be kept in isolation for a period of at least three weeks during which they should be closely monitored. If, after this time, they have shown no signs of contagious illness they can be introduced gradually and carefully to the resident horses.

5.19 Any resident horse that is displaying signs of a contagious disease should be placed immediately in isolation for examination by a veterinary surgeon. Following this, veterinary instructions should be followed.

5.20 During isolation, all contact with other horses should be prevented. Horses in isolation should have their own equipment (grooming kit, yard utensils, tack if appropriate) which should not be used on other horses. Ideally, horses in isolation would be dealt with by different individuals to those caring for other horses. However, this is not always possible. In such circumstances, the resident horses should be dealt with before any in isolation. After horses in isolation have been tended to, the keeper should change their clothes and thoroughly wash and disinfect their hands before interacting with non-isolated horses again.

## Saddlery and Harnesses

5.21 Saddlery and harnesses should be fit for purpose, being appropriate to the needs and abilities of both horse and rider. They should be correctly fitted, preferably by a Registered Qualified Saddle Fitter and the fit should be checked when the animal changes condition. Saddles should also be reassessed at 6-9 month intervals depending upon the horse's age, work load and condition. Equipment should be regularly cleaned and maintained in good order to ensure comfort, safety and effectiveness. Maintenance and repairs should be carried out by a Registered Qualified Saddle Fitter. Equipment should only be shared if it has been thoroughly cleansed and disinfected before and after moving between premises or groups of horses. However, each horse should have its own saddle fitted and the saddle shouldn't be used on other horses.

5.22 Working horses have special needs when it comes to a working harness. They should be designed and fitted only by a qualified person.

5.23 If boots and bandages are used, they should be correctly fitted to avoid discomfort or injury and only left on for the minimum time necessary.

## Transporting Horses

5.24 The transportation of horses should always be as safe and stress free as possible and in accordance with current rules and regulations. Consideration should be given to an animal's requirement for feed, water and rest. The vehicle should be safe and in good working order. Careful consideration should be given to any specific welfare requirements, for example, if transporting pregnant mares (pregnant or with a foal at foot), suckling foals, or donkeys and their bonded companions (see Appendix 2 for more information).

## Appendix 1: Tethering

Tethering should never be used as a long-term measure to control horses as this can lead to a failure to meet a horse's basic welfare needs as set out in the Animal Welfare Act (2006).

### Suitability of the Animal

1. Not all animals are suitable for tethering.
2. Horses under two years old should not be tethered.
3. Pregnant animals should not be tethered in the last third of pregnancy.
4. Nursing mothers should not be tethered.
5. Mares should not be tethered near stallions.
6. The tethering of stallions should be undertaken only with great care and as a temporary measure.
7. Unwell animals should not be tethered.
8. Old and infirm (disabled as opposed to injured or sick) animals should not be tethered.
9. Tethered animals should not be tethered around free-roaming animals.
6. The site should not have anything on it which might injure an animal.
7. The site should not be used without the written permission of the landowner. Written permission should include a requirement to abide by this Code.
8. An adequate area for tethering should allow access by any part of the horse's body and with an extra 4 metres between the hind quarters of one horse and another.

### Tethering Equipment

1. Either a well-fitting leather head collar, or a broad leather neck strap must be used. These should be fitted with a 360° swivel device where the chain is attached.
2. The chain should be approximately 20 feet in length; it must be strong enough to prevent breakage, but light enough to prevent pressure sores from the tethering equipment. Rope or nylon should not be used.
3. The ground stake must not protrude above ground level, and must be fitted with a 360° swivel.

### Site (the area to which the tethered animal has access)

1. The site should be reasonably level, have good grass cover, and be free of any objects, natural or man made, which could ensnare the tether.
2. The site should not allow the horse access to a public highway.
3. A site in which a high proportion of the herbage consists of weeds is not suitable.
4. The site should not be waterlogged.
5. The site should not be crossed by any public right of way.
1. In many cases the site will provide adequate food in the form of grass; where this is the case the tether site should be changed at least once daily to ensure the quality of the pasture.
2. If the grass is not sufficient for the animal's need, sufficient forage should be made available throughout each day.
3. Water should be made available on a frequent and regular basis throughout the day in a spill-proof container.
4. Containers for concentrate food should be kept in a clean and safe condition.

## Shelter

1. Animals should not be exposed to the full heat of the sun, to heavy rain, snow or hail, or to strong winds for other than very short periods. In extremes of weather shelter should be provided.
2. Shelter should, at a minimum, provide shade from the sun and from severe wind. In prolonged rain, a well drained area must be available.

## Exercise

1. Animals must be given freedom to exercise off the tether for a reasonable period at least once a day.

## Supervision

1. Tethered animals require a high level of supervision, and should be inspected no less frequently than six hourly intervals during normal waking hours.
2. Provision should be made to deal with situations where extremes of weather or other circumstances occur.

## Identification

1. All horses in Wales must by law have a passport. In addition all animals born after 1 July 2009 are required to be micro-chipped with the passport containing details of the microchip number.
2. In addition all tethered animals should be marked in such a way as to be permanently identifiable, and from this identification the keeper should be able to be readily contacted.
3. This could be achieved by use of a freeze-brand or alternatively the animal could have some form of identification attached to the head collar or neck strap giving full details of the keeper.

## Appendix 2: The Law

### The Animal Welfare Act 2006

The following sections of the Act are referred to in the Code and are set out here for ease of reference. Below are extracts from the relevant sections of the Act. The box shaded grey summarises the relevant offences and penalties in the Act.

#### 3 Responsibility for animals

- (1) In this Act, references to a person responsible for an animal are to a person responsible for an animal whether on a permanent or temporary basis.
  - (2) In this Act, references to being responsible for an animal include being in charge of it.
  - (3) For the purposes of this Act, a person who owns an animal shall always be regarded as being a person who is responsible for it.
  - (4) For the purposes of this Act, a person shall be treated as responsible for any animal for which a person under the age of 16 years of whom he has actual care and control is responsible.
- (2) A person commits an offence if—
    - (a) he is responsible for an animal
    - (b) an act, or failure to act, of another person causes the animal to suffer
    - (c) he permitted that to happen or failed to take such steps (whether by way of supervising the other person or otherwise) as were reasonable in all the circumstances to prevent that happening, and
    - (d) the suffering is unnecessary.
  - (3) The considerations to which it is relevant to have regard when determining for the purposes of this section whether suffering is unnecessary include—
    - (a) whether the suffering could reasonably have been avoided or reduced
    - (b) whether the conduct which caused the suffering was in compliance with any relevant enactment or any relevant provisions of a licence or code of practice issued under an enactment
    - (c) whether the conduct which caused the suffering was for a legitimate purpose, such as—
      - (i) the purpose of benefiting the animal, or
      - (ii) the purpose of protecting a person, property or another animal
    - (d) whether the suffering was proportionate to the purpose of the conduct concerned
    - (e) whether the conduct concerned was in all the circumstances that of a reasonably competent and humane person.

#### 4 Unnecessary suffering

- (1) A person commits an offence if—
  - (a) an act of his, or a failure of his to act, causes an animal to suffer
  - (b) he knew, or ought reasonably to have known, that the act, or failure to act, would have that effect or be likely to do so
  - (c) the animal is a protected animal, and
  - (d) the suffering is unnecessary.
- (4) Nothing in this section applies to the destruction of an animal in an appropriate and humane manner.



## 9 Duty of person responsible for animal to ensure welfare

- (1) A person commits an offence if he does not take such steps as are reasonable in all the circumstances to ensure that the needs of an animal for which he is responsible are met to the extent required by good practice.
- (2) For the purposes of this Act, an animal's needs shall be taken to include—
  - (a) its need for a suitable environment
  - (b) its need for a suitable diet
  - (c) its need to be able to exhibit normal behaviour patterns
  - (d) any need it has to be housed with, or apart from, other animals, and
  - (e) its need to be protected from pain, suffering, injury and disease.
- (3) The circumstances to which it is relevant to have regard when applying subsection (1) include, in particular—
  - (a) any lawful purpose for which the animal is kept, and
  - (b) any lawful activity undertaken in relation to the animal.
- (4) Nothing in this section applies to the destruction of an animal in an appropriate and humane manner.

## 14 Codes of practice

- (1) The appropriate national authority may issue, and may from time to time revise, codes of practice for the purpose of providing practical guidance in respect of any provision made by or under this Act.
- (2) The authority responsible for issuing a code of practice under subsection (1) shall publish the code, and any revision of it, in such manner as it considers appropriate.

- (3) A person's failure to comply with a provision of a code of practice issued under this section shall not of itself render him liable to proceedings of any kind.
- (4) In any proceedings against a person for an offence under this Act or an offence under regulations under section 12 or 13—
  - (a) failure to comply with a relevant provision of a code of practice issued under this section may be relied upon as tending to establish liability, and
  - (b) compliance with a relevant provision of such a code of practice may be relied upon as tending to negative liability.

### Offences and Penalties

A person who is convicted of an offence under section 4 of the Act may be imprisoned for a maximum period of 51 weeks and/or fined. If they are convicted of an offence under section 9 (failing to ensure the animal's welfare) they can be imprisoned for the same maximum period and fined up to level 5 on the standard scale.

Proceedings may be brought up to 3 years after the offence was committed. Prosecutions under the Act are brought by the local authority in the Magistrates Court.

### Other legislation affecting horses

As well as the Animal Welfare Act 2006 and regulations in respect of equine identification (please see Appendix 4) there are a number of other laws that affect the way equines are kept. The ones most likely to affect the keeper of an equine are summarised below.

## Weeds Act 1959

Under the Weeds Act 1959 the Welsh Ministers can, if satisfied that specified weeds, including Common Ragwort, are growing upon any land, serve a notice requiring the occupier to take action to prevent the spread of those weeds. An unreasonable failure to comply with a notice is an offence.

## The Farriers (Registration) Act 1975

Under this Act it is an offence for an unregistered person to describe himself as a farrier or shoeing smith, and it is an offence for an unregistered person to carry out an act of farriery. An act of farriery is described as “any work in connection with the preparation or treatment of the foot of a horse for the immediate reception of a shoe thereon, the fitting by nailing or otherwise of a shoe to the foot or the finishing off of such work to the foot”. Veterinary Surgeons and Veterinary Students under supervision are exempt from this general rule.

## The Welfare of Animals Transport (Wales) Order 2007

The Welfare of Animals Transport (Wales) Order 2007 No. 1047 (W.105) (WATO) requires everyone transporting animals on any journey to ensure:

- No one shall transport animals, or cause them to be transported, in a way likely to cause them injury or undue suffering.
- Journey times are kept to a minimum.
- The animals are fit to travel.
- The vehicle and its loading and unloading facilities are designed, constructed and maintained to avoid injury and suffering to ensure the safety of the animals.
- Water, feed and rest are given to the animals as needed and sufficient floor space and height is available in the transport.

- Horses older than 8 months must wear halters during transport – unless they are unbroken horses.
- If horses or ponies are transported on a multi-deck vehicle they must only be carried on the lowest deck, with no other animals above them. In this circumstance, the compartment height must be at least 75cm higher than the height of the withers of the highest animal.
- Horses and ponies must be transported in individual stalls when the vehicle is on a roll-on/roll-off (RO-RO) vessel, with the exception that a mare may travel with her foal.
- Unbroken horses and ponies must not be transported in groups of more than four animals.
- Unbroken horses and ponies must not be transported for more than eight hours.

## Control of Horses (Wales) Act 2014

The Control of Horses (Wales) Act 2014 provides all local authorities in Wales with consistent legal powers to seize, impound, sell, re-home, return, dispose of and destroy horses by humane means after certain notifications and time limits, when the horses are found causing nuisance by fly grazing, straying or have been abandoned in a local authority area.

The Act is only likely to affect those individuals who abandon their horses or intentionally or negligently permit their horses to graze on land where they do not have the consent of the occupier of the land or where the consent has been withdrawn and the horse keeper has refused to move them.

The provisions within the Act provide for:

- The seizure and impounding of a horse, by the relevant local authority, when the horse is on the highway or any other public place or on other land without the consent



of the occupier of the land and the occupier agrees to the local authority seizing and impounding it.

- The placing of notices about seizure. The local authority is required to post a written notice within 24 hours of seizing a horse, at or near the place where the horse was seized stating the date and time of seizure and how to contact the local authority. It must also, within 24 hours of seizing a horse, give written notices to a police constable and to any person who appears to be the keeper or a person acting on behalf of the keeper of the horse.
- The payment of costs associated with seizure. The keeper is liable to pay the local authority any costs reasonably incurred in the seizure and impounding of the horse and in feeding and maintaining it while it has been impounded,
- The disposal of impounded horses. The local authority may sell or otherwise dispose of the horse, including arranging for its humane destruction if after 7 days no person has notified the local authority that they are either the keeper of the horse or acting on behalf of the keeper of the horse.
- A record of horses dealt with. The local authority is required to keep a register of all horses seized. The register must contain a brief description of the horse, a statement of the date, time and place at which the horse was seized and when it was impounded and details of the steps taken to establish the keeper.

- A resolution of disputes about amounts payable. The keeper of a horse may dispute the amount the local authority claims they are liable to pay within 7 days of receiving a notice and refer the dispute to Welsh Ministers for resolution.

## The Veterinary Surgeons Act 1966

This Act makes provision for the management of the veterinary profession, for the registration of veterinary surgeons and veterinary practitioners, for regulating their professional education and professional conduct and for cancelling or suspending registration in cases of misconduct; and for connected purposes.

Section 2(1) of the Act sets out the provision of a register of qualified Veterinary Surgeons (it is illegal for non-veterinarians to carry out procedures such as castration).

## Appendix 3: Sources of information

### Legislation:

- Animal Welfare Act 2006.
- Council Regulation (EC) No 1/2005 on the protection of animals during transport and related operations.
- The Welfare of Animals (Transport) (Wales) Order 2007.
- The Weeds Act 1959.
- The Farriers (Registration) Act 1975.
- Commission Regulation 2015/262 laying down the rules as regards the methods for the identification of equines.
- The Control of Horses Act (Wales) 2014.
- The Veterinary Surgeons Act 1966.

### Websites of relevant organisations:

- [www.worldhorsewelfare.org](http://www.worldhorsewelfare.org) – World Horse Welfare
- [www.thedonkeysanctuary.org.uk](http://www.thedonkeysanctuary.org.uk) – The Donkey Sanctuary
- [www.bhs.org.uk](http://www.bhs.org.uk) – British Horse Society
- [www.newc.co.uk](http://www.newc.co.uk) – National Equine Welfare Council
- [www.pcuk.org](http://www.pcuk.org) – The Pony Club
- [www.bva.co.uk](http://www.bva.co.uk) – British Veterinary Society
- [www.beva.org.uk](http://www.beva.org.uk) – British Equine Veterinary Association
- [www.farrier-reg.gov.uk](http://www.farrier-reg.gov.uk) – The Farriers Registration Council
- [www.wales.gov.uk](http://www.wales.gov.uk) – The Welsh Government
- [www.hsa.org.uk](http://www.hsa.org.uk) – Humane Slaughter Association
- [www.rspca.org.uk](http://www.rspca.org.uk) – RSPCA
- [www.ragwort.org.uk](http://www.ragwort.org.uk) – Ragwort Myths and Facts
- [www.mastersaddlers.co.uk](http://www.mastersaddlers.co.uk) – The Society of Master Saddlers

### Useful publications:

#### British Horse Society Publications:

- The Complete Horse & Pony Care
- BHS Guide to Grassland management
- The BHS Complete Manual of Stable Management
- The BHS Veterinary Manual
- The BHS First Horse Owner Pack
- BHS Welfare leaflets cover a wide range of topics and can be downloaded via the BHS website at: [www.bhs.org.uk](http://www.bhs.org.uk) – follow the links to Welfare and then leaflets.

#### Pony Club Publications:

- Manual of Horsemanship
- Keeping a Pony at Grass

#### National Equine Welfare Council publications:

- Equine Industry Welfare Guidelines Compendium
- Code of Practice for Markets and Sales involved with the selling of Horses, Ponies and Donkeys
- Code of Practice for the Tethering of Horses, Ponies and Donkeys
- Code of Practice for Welfare Organisations involved in the keeping of Horses, Ponies and Donkeys

#### British Equine Veterinary Association

- Horse Care Guide

#### The Donkey Sanctuary

- The Donkey Care Handbook

## Appendix 4: Identification & Horse Passports

1. Commission Regulation 2015/262 laying down the rules as regards the methods for the identification of equidae was adopted on 11 September 2014 and came into effect throughout the European Union on 1 January 2016. This regulation requires all horses in Wales to have a passport.

2. All horses issued with passports since 1 July 2009 must be micro-chipped and the passport must contain the microchip number. Foals are required to be micro-chipped and issued with a passport before they are six months old or by 31 December in the year of their birth, whichever is the later.

3. Horses must be accompanied by their passport at all times. There are exceptions to this, for example when the horse is stabled, out at pasture or if the horse is moved on foot. Examples of when a passport must accompany a horse:

- When the horse is moved to new premises.
- When the horse is sold.
- When the horse is used for breeding purposes.
- When the horse is moved into or out of the United Kingdom.
- When the horse is used at a competition.
- When the horse is presented at a slaughterhouse for slaughter.
- When the horse is transported (except in the case of being transported for emergency veterinary treatment); and
- When a veterinary surgeon attends the horse to administer vaccinations or if the horse requires medication.

4. The purpose of horse passports is to ensure that any horses that are treated with certain drugs, for example Phenylbutazone (Bute), do not enter the human food chain. The passport states whether a horse can be used for food at the end of its life. Keepers can declare whether or not the horse is intended for human consumption by filling in the appropriate section of the passport. If a keeper declares that the horse is not intended for human consumption this declaration cannot be changed at a later date.

5. The keeper of the horse must give the passport to a veterinary surgeon before it is treated as this will inform them what medications the horse can receive. In the event that it is necessary for the veterinary surgeon to give the horse medications unsuitable for food producing animals the veterinary surgeon will be required to sign the passport denoting the horse is not intended for human consumption. The passport issuing organisation will also need to be informed of this, and it cannot be changed at a later date.

6. A passport must be returned to the Passport Issuing Organisation that issued it when the horse dies to have it invalidated. This must be done within 30 days of the death of the horse.

7. In the event the horse is sold, the passport must be given to the new owner who has 30 days in which to update the change of ownership with the Passport Issuing Organisation.

## **Explanatory Memorandum to the Code of Practice for the Welfare of Horses**

This Explanatory Memorandum has been prepared by the Animal Welfare and By-Products Branch, 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

### **Cabinet Secretary/Minister's Declaration**

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Code of Practice for the Welfare of Horses

Lesley Griffiths AM, Cabinet Secretary for Energy, Planning and Rural Affairs

20 July 2018

## **1. Description**

Under the Animal Welfare Act 2006 (“the Act”), if someone is responsible for an animal they have a legal duty to take reasonable steps to ensure its welfare needs are met. The Code explains what needs to be done to meet the standard of care the law requires.

Breach of a provision of the Code is not an offence in itself but, if proceedings are brought against someone for a welfare offence under the Act, the Court may take into account the extent to which they have complied with the Code in deciding whether they have committed an offence or have met the required standard of care. Unnecessary suffering to any animal could constitute a serious offence under the Act.

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

The Code is being laid under the ‘Negative Procedure’.

The Technical Standards Directive – The Directive places an obligation on Member States to notify the Commission of draft regulations that fall within the scope of the Directive. This new Code updates current standards and Regulations but does not differ substantially from the current Code. Although a breach of the Code does not amount to a criminal offence any proceedings under the Welfare Act 2006 may take into account any compliance with the Code. The current Code was not notified to the Commission and therefore this Code will also not be notified.

## **3. Legislative background**

This Code of Practice is issued under section 14 of the Animal Welfare Act 2006 (the “Act”). This Code applies in Wales only, is issued by the Welsh Ministers and comes into force on 12 November 2018. It applies to all horses and donkeys for which a person is responsible.

## **4. Purpose & intended effect of the legislation**

The existing Code of Practice for the Welfare of Horses reflected the science and legislation in force at that time and was made under The Animal Welfare Act 2006. A review was required to capture any changes in these areas and to ensure the standards being advised are still appropriate.

By not reviewing and amending the Code regularly to reflect any changes made to legislation and recognised minimum best practice standards, animals could be put at risk of harm.

The purpose of the Code is to ensure that those who are responsible for an animal are aware they have a legal duty to take reasonable steps to ensure its welfare needs are met. The Code of Practice explains what you need to do to meet the standard of care the law requires.

## **5. Consultation**

Welsh Government officials worked with Animal Welfare Network Wales to review and update the Code for consultation.

A twelve week public consultation took place between 21 July 2017 and 20 October 2017. The consultation was published on the Welsh Government website with a press release alerting the general public to the launch. Known stakeholders i.e. enforcement agencies and special interest groups, were also contacted individually by email or post.

A Summary of the Responses to the Consultation can be found at the attached link - <https://beta.gov.wales/code-practice-welfare-horses>

Comments and suggested amendments were taken in to account when updating the Code and a number of additions were made as a direct result of the consultation.

## **6. Regulatory Impact Assessment (RIA)**

There are no costs associated with the making of the Code and an RIA is not required at this time.

# Agenda Item 5.1

## SL(5)241 – The Education (Student Finance) (Miscellaneous Amendments) (Wales) Regulations 2018

### Background and Purpose

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These Regulations amend the student higher education financial support regulations listed below in order to remedy defects in existing legislation and make provision for changes to the immigration status categories that students must fall into in order to obtain support. Two categories are added, namely “persons granted leave to remain on the grounds of private life” and “stateless persons”.

The Regulations which are amended are:

- The Education (Student Support) (Wales) Regulations 2018
- The Education (Student Support) (Wales) Regulations 2017
- The Education (Fees and Awards) (Wales) Regulations 2017
- The Education (European University Institute) Wales Regulations 2014
- The Higher Education (Qualifying Courses, Qualifying Persons and Supplementary Provision) (Wales) Regulations 2015
- The Education (Postgraduate Master’s Degree Loans) (Wales) Regulations 2017
- The Education (Postgraduate Doctoral Degree Loans) (Wales) Regulation 2018

### Procedure

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Negative.

### Technical Scrutiny

---

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

### Merits Scrutiny

---

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

### Implications arising from exiting the European Union

---

We note that the Cabinet Secretary for Education issued a Written Statement “Funding and support for EU Nationals studying in Wales” on 2 July 2018, which included the following:



“EU nationals who intend to study in Wales for the academic year 2019/20 will be eligible to pay the same tuition fees as Welsh students and will be eligible to receive loans and/or grants from Student Finance Wales (SFW) – subject to the existing eligibility criteria.

This is a continuation of the current policy and students will be eligible to receive support until they finish their course. This applies to all student finance from SFW for students in Wales for which EU nationals are eligible. This includes loans to cover tuition fees (for those resident in the EEA for three years), loans and grants for maintenance (limited to those resident in the UK for at least three years), and some other grants and allowances.

The rules applying to EU nationals who will apply for a place at university for the academic year 2018/19 to study a course which attracts student support are unchanged. SFW will assess these applications against existing eligibility criteria, and will provide loans and/or grants in the normal way. EU nationals, or their family members, who are assessed as eligible to receive grants and/ or loans by the Student Loans Company will also then be eligible for the duration of their study on that course.”

## Government Response

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No government response is required.

### **Legal Advisers**

**Constitutional and Legislative Affairs Committee**

**11 July 2018**





# Agenda Item 5.2

## SL(5)242 – The Cancellation of Student Loans for Living Costs Liability (Wales) Regulations 2018

### Background and Purpose

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These Regulations govern the student loan liability of full-time students who receive loans for living costs from the Welsh Ministers in respect of the academic year 2018/2019.

These Regulations provide for up to £1,500 of a borrower's living costs loan liability to be cancelled in certain circumstances, with effect from the day after the date on which their first loan repayment is considered to have been received.

### Procedure

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Negative.

### Technical Scrutiny

---

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

### Merits Scrutiny

---

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

### Implications arising from exiting the European Union

---

We note the Cabinet Secretary for Education issued a Written Statement "Funding and support for EU Nationals studying in Wales" on 2 July 2018. The Written Statement included the following:

"EU nationals who intend to study in Wales for the academic year 2019/20 will be eligible to pay the same tuition fees as Welsh students and will be eligible to receive loans and/or grants from Student Finance Wales (SFW) – subject to the existing eligibility criteria.

This is a continuation of the current policy and students will be eligible to receive support until they finish their course. This applies to all student finance from SFW for students in Wales for which EU nationals are eligible. This includes loans to cover tuition fees (for those resident in the EEA for three years), loans and grants for maintenance (limited to those resident in the UK for at least three years), and some other grants and allowances.

The rules applying to EU nationals who will apply for a place at university for the academic year 2018/19 to study a course which attracts student support are unchanged. SFW will assess these applications against existing eligibility criteria, and will provide loans and/or grants in the normal way. EU nationals, or their family members, who are assessed as eligible to receive grants and/ or loans by the Student Loans Company will also then be eligible for the duration of their study on that course."

### Government Response

---

No government response is required.





# Agenda Item 5.3

## SL(5)251 – The Materials and Articles in Contact with Food (Wales) (Amendment) Regulations 2018

### Background and Purpose

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These Regulations amend the Materials and Articles in Contact with Food (Wales) Regulations 2012 (S.I. 2012/2705) to provide for the enforcement of Commission Regulation (EU) 2018/213 on the use of bisphenol A in varnishes and coatings intended to come into contact with food and amending Regulation (EU) No 10/2011 as regards the use of that substance in plastic food contact materials.

### Procedure

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Negative.

### Technical Scrutiny

---

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

### Merits Scrutiny

---

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

### Implications arising from exiting the European Union

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These Regulations implement and enforce EU obligations in respect of food safety, and therefore these Regulations will form part of retained EU law after exit day.

The Intergovernmental Agreement on the European Union (Withdrawal) Bill and the Establishment of Common Frameworks states that various elements of food policy are likely to be subject to section 12 regulations under the EU (Withdrawal) Act 2018. Therefore, the law covered by these Regulations is likely to be an area of EU law that is frozen while common frameworks are put in place.

### Government Response

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No government response is required.

### Legal Advisers

**Constitutional and Legislative Affairs Committee**

**1 August 2018**



## STATUTORY INSTRUMENT CONSENT MEMORANDUM

### **The Environment, Food and Rural Affairs (Miscellaneous Amendments and Revocations) Regulations 2018**

1. This Statutory Instrument Consent Memorandum is laid under Standing Order (“SO”) 30A.2. SO 30A prescribes that a Statutory Instrument Consent Memorandum must be laid and a Statutory Instrument Consent Motion may be tabled before the National Assembly for Wales (“Assembly”) if a UK Statutory Instrument makes provision in relation to Wales amending primary legislation within the legislative competence of the Assembly.
2. The Environment, Food and Rural Affairs (Miscellaneous Amendments and Revocations) Regulations 2018 were laid before Parliament on 23 August 2018. The Regulations can be found at:

<http://www.legislation.gov.uk/ukxi/2018/942/contents/made>

#### **Summary of the Regulations and their objective**

3. The objective of the Regulations, in the main, is to correct out-of-date references relating to European law in domestic primary and secondary legislation. For instance, where European Directives and Regulations have been amended or replaced, but updated references to them have not been carried through into domestic legislation.
4. The amendments cover a wide range of legislation in the fields of agriculture, animal health, environmental information and protection, food, forestry, marine management, pesticides, plant breeders’ rights, sea fisheries, spirit drinks, waste and water.
5. The amendments are being made to ensure the accuracy of the statute book ahead of the UK’s exit from the European Union. This is because out-of date references to legislation are not necessarily interpreted as references to the correct (updated) legislation; and there is therefore a risk that the statute book would not work properly as a result.
6. The Regulations to which this SICM relates have the territorial extent of the UK; but the extent to which each provision applies varies.
7. The SI to which this Statutory Instrument Consent Memorandum relates has been laid in the UK Parliament under the negative procedure, which will automatically become law unless there is an objection from a member of either House of Parliament. If there is no such objection, the provisions that amend the primary legislation referenced in this Memorandum would come into force on 17 September 2018.

## **Provisions to be made by the Regulations for which consent is sought**

8. Regulations 4, 6 and 29 make amendments to the Pollution Prevention and Control Act 1999, the Marine and Coastal Access Act 2009 and the Water Resources Act 1991 respectively. All of the referenced amendments are minor and technical in nature; and rectify out of date references to EU legislation.
9. It is the view of the Welsh Government that the provisions described in paragraph 9 above fall within the legislative competence of the National Assembly for Wales in so far as they relate to environmental protection, including pollution, nuisances and hazardous substances; countryside and open spaces; protection of natural habitats, coast and marine environment; and water resources management; of which none are listed as specific reservations under Part 2 of Schedule 7A to the Government of Wales Act 2006, as amended by the Wales Act 2017.

## **Why is it appropriate for the Regulations to make this provision**

10. As set out under paragraph 3, there is a need to make a number of amendments to correct out of date references to European law within domestic legislation, prior to the UK's exit from the EU, to ensure the statute book in these areas remains functional.
11. It is the view of the Welsh Government that it is appropriate and proportionate to deal with these amendments in these Regulations due to the territorial extent of the enactments being amended. Making these technical amendments separately, could not only cause drafting complications, but could also result in the law potentially not working effectively.

## **Financial implications**

12. There are no anticipated financial implications for the Welsh Government associated with these Regulations.

**Lesley Griffiths AM**  
**Cabinet Secretary for Energy, Planning and Rural Affairs**

September 2018

Lesley Griffiths AC/AM  
Ysgrifennydd y Cabinet dros Ynni, Cynllunio a Materion  
Gwledig  
Cabinet Secretary for Energy, Planning and Rural Affairs



Llywodraeth Cymru  
Welsh Government

Ein cyf/Our ref MA-L/LG/0497/18

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

SeneddCLA@assembly.wales

29 August 2018

Dear Mick,

I am writing to inform you that I have laid a statutory instrument consent memorandum (“the memorandum”) in relation to the Environment, Food and Rural Affairs (Miscellaneous Amendments and Revocations) Regulations 2018 (“the Regulations”) which were made by Dr Therese Coffey MP, the Parliamentary Under Secretary of State for the Environment, on 23 August. The Regulations contain amendments to the Pollution Prevention and Control Act 1999, the Marine and Coastal Access Act 2009 and the Water Resources Act 1991 which all include provision for Wales. I wish to make you aware that, while I have laid the memorandum, I do not intend to table a statutory instrument consent motion.

The purpose of the Regulations, in the main, is to make technical amendments to correct out-of-date references relating to European law in domestic primary and secondary legislation. For instance, where European Directives and Regulations have been amended or replaced, but updated references to them have not been carried through into domestic legislation. The amendments are being made to ensure the accuracy of the statute book ahead of the UK’s exit from the European Union. This is because out-of-date references to legislation are not necessarily interpreted as references to the correct (updated) legislation; and there is therefore a risk that the statute book would not work properly as a result.

The Regulations have the territorial extent of the UK, but the extent to which each provision applies varies. The amendments contained within the Regulations cover a wide range of legislation in the fields of agriculture, animal health, environmental information and protection, food, forestry, marine management, pesticides, plant breeders’ rights, sea fisheries, spirit drinks, waste and water.

I have laid the memorandum in accordance with the requirement under Standing Order (SO) 30A. I consider the Regulations to be a relevant statutory instrument because they make a provision in relation to Wales amending primary legislation within the legislative competence of the Assembly, which is not an incidental, consequential, transitional, transitory, supplementary or savings provision relating to matters that are not within the legislative competence of the Assembly.

The Regulations are subject to negative procedure in Parliament, and were therefore made before they were laid; and provided no Member of Parliament prays against them, parts of them, including the provisions amending the primary legislation referenced above, will come into force on 17 September. It is, of course, for you to decide whether you, as the responsible committee referred to under SO 30A, wish to consider and report on the memorandum.

I have considered carefully whether I should proceed to table a statutory instrument consent motion under SO 30A, to be debated after the 35 days allowed for scrutiny by the responsible committee has elapsed. There is, of course, no requirement for the Welsh Government to do so. However, normally we would table a motion so that the Assembly can give its consent, or not, before the relevant statutory instrument is made.

In this case, as the Regulations have already been made, I have decided that I will not proceed to lay such a motion. I do not believe there is merit in holding an Assembly debate on whether consent should be given to provisions in Regulations that have already been made, where those provisions are technical, uncontroversial and there is no substantive change to existing policy. Furthermore, the part of the Regulations that amends primary legislation will already have come into force before the 35 days allowed for scrutiny under SO 30A. It is of course still open to any Assembly Member, if they feel strongly that the memorandum should be debated, to lay a motion to debate this in Plenary.

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

**Lesley Griffiths AC/AM**

Ysgrifennydd y Cabinet dros Ynni, Cynllunio a Materion Gwledig  
Cabinet Secretary for Energy, Planning and Rural Affairs

Huw Irranca-Davies AC/AM  
Y Gweinidog Plant, Pobl Hŷn a Gofal Cymdeithasol  
Minister for Children, Older People and Social Care

Llywodraeth Cymru  
Welsh Government

Our ref: MA - L/HID/0359/18

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

9 July 2018

Dear Elin,

### **Childcare Funding (Wales) Bill**

During March, and in accordance with section 110(3) of the Government of Wales Act 2006, the First Minister for Wales provided for your consideration the Childcare Funding (Wales) Bill to determine whether it was within the competence of the National Assembly.

At the time of introduction on 16 April 2018, the consent of the Chief Secretary to the Treasury to the provision in section 8 of the Bill relating to the amendment to section 18 of the Commissioners for Revenue and Customs Act 2005 and to the relevant provisions relating to data sharing and onward transmission of data had been secured. However, consents of the Home Secretary and the Secretary of State for Work and Pensions to the relevant provisions in sections 4 and 5 of the Bill were outstanding.

I am pleased to inform you that these outstanding consents have now been secured and I attach, for information, a copy of a letter of confirmation from the Secretary of State for Wales.

A copy of this letter and enclosures is also being sent to the Chairs of the Children, Young People and Education Committee, Constitutional and Legislative Affairs Committee and the Finance Committee.

Yours sincerely



**Huw Irranca-Davies AC/AM**  
Y Gweinidog Plant, Pobl Hŷn a Gofal Cymdeithasol  
Minister for Children, Older People and Social Care

Bae Caerdydd • Cardiff Bay  
Caerdydd • Cardiff  
CF99 1NA

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:  
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[Gohebiaeth.Huw.Irranca-Davies@llyw.cymru](mailto:Gohebiaeth.Huw.Irranca-Davies@llyw.cymru)  
[Correspondence.Huw.Irranca-Davies@gov.wales](mailto:Correspondence.Huw.Irranca-Davies@gov.wales)

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

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



OFFICIAL



HM Treasury, 1 Horse Guards Road, London, SW1A 2HQ

Professor Mark Drakeford AM,  
Cabinet Secretary for Finance,  
5<sup>th</sup> floor  
Ty Hywel  
Cardiff Bay  
Cardiff  
CF99 1NA

14 March 2018

Dear Mark,

#### WELSH 30 HOURS FREE EARLY EDUCATION AND CHILDCARE OFFER

1. I wrote to the then Cabinet Secretary for Communities and Children on 26 July 2017, regarding the Welsh Government's (WG) 30 hours free early education and childcare (30 hours) offer. I agreed that HMRC could continue to explore options with Welsh Officials to integrate the offer into the existing childcare service, and for HMRC to conduct parent eligibility checks on WG's behalf.
2. I am pleased that these conversations have progressed and that WG have agreed to align key parent eligibility criteria with the existing English 30 hours offer. I am therefore happy for the Welsh offer to be integrated into the childcare service before national rollout is complete in September 2020.
3. I understand HMRC will act as an agent of WG in conducting these checks, and carrying out ancillary tasks, as allowed for under the Commissioners for Revenue and Customs Act 2005 and the Government of Wales Act 2006. The relationship between WG and HMRC will be defined in a Memorandum of Understanding (MoU).
4. I am content for WG to amend section 18 of the Commissioner for Revenue and Customs Act 2005 through a clause in the Childcare (Funding) Wales Bill. When passed this will make provision for the data gateways necessary to allow HMRC data to be used in conducting eligibility checks. Gateways will be created

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through Welsh regulations subject to Treasury consent. Those regulations will cover the onward transmission of this information by WG for the purposes of the Welsh childcare scheme.

5. The present agreement to integrate the Welsh offer into the service is based on the current plans from WG. I must make clear that any changes to the operation of the 30 hours childcare scheme or eligibility criteria would generate further costs and will affect the timelines for delivery. These changes would also necessitate separate agreements and would need to be covered by a new MoU.
6. WG will be responsible for funding all costs associated with the delivery and on-going support for the Welsh 30 hours offer. HMRC have provided high-level estimates of these costs, however, these are subject to change once delivery begins.
7. Whilst HMRC are keen to begin work as soon as possible, I must stress that the department's immediate focus will continue to be stabilising and improving the childcare service for existing customers. HMRC officials have also discussed service performance levels with WG and these will be agreed as part of the MoU.
8. I look forward to HMRC supporting WG in the delivery of your 30 hours offer and trust that this letter provides the assurance you need for your Childcare (Funding) Wales Bill to begin passage through the Assembly on 16 April. I am copying this letter to the Secretary of State for Wales.

Best wishes,

RT HON ELIZABETH TRUSS MP



UK Government  
Llywodraeth y DU

**Rt Hon Alun Cairns MP**  
Secretary of State for Wales  
Ysgrifennydd Gwladol Cymru

T: 020 7270 0575

E: [Correspondence@walesoffice.gsi.gov.uk](mailto:Correspondence@walesoffice.gsi.gov.uk)

Huw Irranca-Davies AC/AM  
Minister for Children and Social Care  
National Assembly for Wales  
Cardiff Bay  
Cardiff  
CF99 1NA

27 June 2018

Ref: 263 Sub 18

*Dear Huw,*

### **Childcare Funding (Wales) Bill**

You wrote to me on 22 December 2017 regarding the Childcare Funding (Wales) Bill and your request for Secretary of State consent for the data sharing for the purposes of operating and administering the application and eligibility checking system required to facilitate the delivery of the offer across Wales.

I have sought the views of the affected Secretaries of State who have confirmed they are content for me to provide consent for these provisions.

*Alun*



**Rt Hon Alun Cairns MP**  
Secretary of State for Wales  
Ysgrifennydd Gwladol Cymru

Julie James AM  
Leader of the House and Chief Whip

11 July 2018

Dear Julie

### **European Union (Withdrawal) Act 2018 – regulations made under Schedule 4**

Further to your attendance at our meeting on 11 June 2018, I would like to return to an issue raised at the meeting regarding the power to make regulations under Schedule 4 of the European Union (Withdrawal) Act 2018 (the Act).

We believe there is lack of clarity in the Act with regard to the sifting process and regulations made under Schedule 4 to the Act. While the sifting process clearly does not apply to Schedule 4 regulations made by UK Ministers, the Act is less clear as to whether the sifting process applies to Schedule 4 regulations made by the Welsh Ministers.

In brief, the confusion stems from paragraph 12(3) of Schedule 7 to the Act, which applies (among other things) paragraphs 1(8), 1(9) and 1(10) of Schedule 7 to regulations made by the Welsh Ministers under Schedule 4. We accept that paragraphs 1(8) and 1(9) need to apply to such regulations, but it is the application of paragraph 1(10) which causes the confusion.

We do not believe that the sifting process is intended to apply to negative resolution regulations made by the Welsh Ministers under Schedule 4 (and we believe that the UK Government is of the same opinion).

We would be grateful for your view as to whether the Welsh Government will be making negative resolution regulations under Schedule 4 without following the sifting process.

I look forward to receiving your response at the earliest opportunity.

I am copying this letter to the Cabinet Secretary for Finance.



Yours sincerely,

A handwritten signature in black ink that reads "Mick Antoniw". The signature is written in a cursive style with a horizontal line underneath the name.

**Mick Antoniw**

Chair

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





Julie James AC/AM  
Arweinydd y Tŷ a'r Prif Chwip  
Leader of the House and Chief Whip

Llywodraeth Cymru  
Welsh Government

Ein cyf/Our ref MA-L/JJ/0429/18

Mr Mick. Antoniw AM  
Chair of the Constitutional and Legislative Affairs Committee  
National Assembly for Wales

[Mick.Antoniw@assembly.wales](mailto:Mick.Antoniw@assembly.wales)

20 July 2018

Dear Mick,

I wrote to you in January and March about the use of subordinate legislation-making powers included in the UK Government's European Union (Withdrawal) Act ("the Act"). I am also writing in response to recommendation 4 of your Committee's report on "*Scrutiny of regulations made under the European Union (Withdrawal) Act 2018: operational matters*", published on 10 July.

I also wrote to you in June and stated in that letter that, in the extraordinary circumstances of the UK leaving the EU, the Welsh Government is willing to allow UK Ministers to make uncontroversial, technical correcting regulations in devolved areas under the Act, with the consent of Welsh Ministers.

Given these parameters, officials have been working intensively to develop delivery plans. They are confident that they have identified all the EU-derived domestic instruments covering areas devolved to Wales that require correction in order to ensure their operability post-exit and believe they have a clear idea of what needs to be corrected.

In my letter in June I also said that there are around 400 EU-derived domestic instruments that contain deficiencies which are likely to need to be addressed. This figure includes all the domestic legislation that requires correction whether or not it is Welsh made. In order to correct the deficiencies in these instruments around 50 statutory instruments (SIs) will need to be made by the Welsh Ministers.

It is important to note that while the number of EU-derived domestic instruments that require addressing is unlikely to change significantly, it is almost certain that there will be a fluctuation in the figure given for SIs made by the Welsh Ministers as the programme progresses. Officials are continuing their work to group SIs but it is difficult to give a completely clear account of this work as it will be informed by policy and drafting decisions to be made by the UK Government and our response.

Bae Caerdydd • Cardiff Bay  
Caerdydd • Cardiff  
CF99 1NA

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:  
0300 0604400

[Gohebiaeth.Julie.James@llyw.cymru](mailto:Gohebiaeth.Julie.James@llyw.cymru)  
[Correspondence.Julie.James@gov.Wales](mailto:Correspondence.Julie.James@gov.Wales)

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

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

Amendments to Schedule 2 of the Act, made in May also give powers to the Welsh Ministers to correct deficiencies in directly applicable EU instruments in certain cases. Officials are working with UK Government officials to identify how best to make changes to these instruments. However, work is not sufficiently advanced to allow me to provide the number of SIs that may be produced in this area.

Officials are continuing to work on the best way in which to bring forward corrections and to identify when they will need to lay the correcting SIs in their areas and to prioritise them. We plan to begin laying the correcting SIs in the autumn.

The Cabinet Secretary for Finance and I would be willing to meet with you informally.

Yours sincerely,



**Julie James AC/AM**

Arweinydd y Tŷ a'r Prif Chwip  
Leader of the House and Chief Whip

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

28 August 2018

Dear Mick,

I am writing with regard to your Committee's recent report on operational matters relating to the scrutiny of regulations made under the European Union (Withdrawal) Act 2018 ("the 2018 Act"), and in particular recommendation 2, which stated:

*We recommend that as the Committee assigned the function of sifting regulations under the 2018 Act, we should be required by the National Assembly's Standing Orders to publish the criteria that we will apply to regulations subject to the sifting process.*

You first identified and recommended criteria that should be applied to regulations subject to the sifting process in your report of February 2018, and reproduced these criteria on page 20 of your most recent report, linked to the above recommendation.

Since your Committee first developed its proposals on the sifting criteria, the Procedure Committee of the House of Commons and the Secondary Legislation Committee of the House of Lords have also published reports recommending criteria that should be applied by the sifting committee of each House.

The House of Commons' Procedure Committee identified in its report<sup>1</sup> published on 9 July:

*"...a number of factors which the new committee may want to consider when deciding whether the instrument ought to be subject to the affirmative procedure. The main ones are:*

- *Legal importance: does the instrument amend existing law or make new law in a way which is significant? Would it normally fall within the "Brooke criteria", which since the 1970s have been a general guide as to whether an instrument ought to engage the affirmative procedure?*
- *Political importance: is the Government proposing a legislative change which involves a substantive change in policy?*

<sup>1</sup> <https://publications.parliament.uk/pa/cm201719/cmselect/cmproced/1395/1395.pdf>



- *Overall significance: is a proposed legislative change, taken together with other proposals, significant enough to merit the affirmative procedure?*

In its report<sup>2</sup> published on 20 July, the House of Lords' Secondary Legislation Committee concluded:

*"...we propose, at this stage, to adopt a case by case approach:*

- *We shall consider each proposed negative instrument on its merits, taking into account the Minister's reasons for his or her opinion that the negative procedure should apply.*
- *We shall apply the overarching test: "is the subject matter of this instrument and the scope of any policy change effected by it of such significance that the House would expect to debate it?"*
- *In assessing whether the test is met, the Committee will take into account certain features of an instrument (such as those listed in paragraph 5 [of the report] above), although we stress that this is not a definitive list.*
- *The Committee will also apply a presumption of the affirmative procedure where a proposed negative instrument contains significant amendments to primary legislation or retained direct principal EU legislation, rebuttable by a full and convincing explanation for the negative procedure."*

I note that whereas the two Parliamentary committees propose to focus on the substance of the subject matter within each SI, and in particular, the extent to which it might involve a substantive change of current government policy, the criteria proposed by your Committee focus on the clarity and transparency of the explanatory memoranda accompanying the instruments.

While clarity as to what is being proposed is essential to the Committee being able to do its job in terms of sifting, I agree with the arguments put forward by Assembly Committees, in the Brexit context, that the different legislatures of the United Kingdom ought to act in concert on these matters.

I would therefore suggest that your Committee might consider revisiting your proposed criteria in light of the reports of the UK Parliamentary committees and, indeed, any proposals made by the Scottish Parliament in this regard.

I also wish to provide an initial response to the proposed approach to Standing Orders.

In your report in February, you recommended that *'the sifting criteria... should be set out in the National Assembly's Standing Orders'*. By contrast, your July report, as noted above, recommends that Standing Orders should only require the relevant Committee to publish the sifting criteria that will be applied to regulations subject to the sifting process. In making this change, the report refers to the Welsh Government's response to your February report, which stated the government was not persuaded the criteria should be included in Standing Orders. This was because the government was of the view that the criteria would need to be consistent with the final framework for the sifting mechanism, which was not known at that time. We now have clarity about what is provided for by the 2018 Act, including certain correcting regulations that must be made according to the affirmative procedure and the sifting process for those regulations that are proposed to be made according to the negative procedure.

Accordingly, the Government is now of the view that the recommendation within your Committee's February report is sensible and that the criteria to be applied by the sifting

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<sup>2</sup> <https://publications.parliament.uk/pa/bills/other/2017/1701/secleg/174/174.pdf>

committee should indeed be set out in the Assembly's Standing Orders. This would be consistent with Standing Orders 21.2 and 21.3, which set out the grounds on which a responsible committee may report when considering all statutory instruments and draft statutory instruments laid before the Assembly.

The Business Committee, and the Assembly itself, will of course return to this matter when the Assembly returns in September, and will consider the proposed changes to its Standing Orders to establish procedures for the scrutiny of regulations made under the 2018 Act.

I am grateful to the Committee members for their work on this matter. The Government will provide a formal response to the recommendations in your Committee's report in due course.

Yours sincerely,



**Julie James AC/AM**  
Arweinydd y Tŷ a'r Prif Chwip  
Leader of the House and Chief Whip

Alun Davies AM  
Cabinet Secretary for Local Government and Public  
Services

11 July 2018

Dear Alun

**Reciprocal Guidance on Devolution Guidance Note 18**

At yesterday's meeting of the Constitutional and Legislative Affairs Committee, members considered your written statement of 2 July 2018 regarding a Concordat between the Welsh Government and the Ministry of Justice that sets out the working arrangements between the two organisations.

While welcoming the Concordat, members noted that paragraph 20 of the Concordat, that relates to the development of legislative proposals, makes reference to Welsh Government Reciprocal Guidance in respect of Devolution Guidance Note (DGN) 18.

The Committee is aware of DGN 18 and, as such, it would be helpful if you would provide further details about the Reciprocal Guidance.

I look forward to receiving your response at the earliest opportunity.

Yours sincerely,



**Mick Antoniw**

Chair

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



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



Llywodraeth Cymru  
Welsh Government

Ein cyf/Our ref MA - P/ARD/2675/18

Mick Antoniwi  
Chair  
Constitutional and Legislative Affairs Committee

14 August 2018

Dear Mick

### **Reciprocal Guidance on Devolution Guidance Note 18**

Thank you for your letter of 11 July asking about the Reciprocal Guidance referred to in paragraph 20 of the Concordat between the Welsh Government and the Ministry of Justice.

The Welsh Government's Reciprocal Guidance is due to be revised to take account of the new reserved powers model of devolution put in place under the Wales Act 2017 in the same way as the new UK Government Devolution Guidance Note has been updated. It will provide advice and guidance to Welsh Government officials in the same way as the UK Government's Devolution Guidance Note does for UK officials.

The Guidance will continue to focus on the efficient and effective handling of legislation and how the Welsh and UK Governments will work together where we both have an interest. The same principles of early consultation on legislative proposals which might impact on each other's policy or practical responsibilities will continue to be relevant between the Welsh and UK Governments in the revised Guidance.

We expect the Reciprocal Guidance to continue to cover both Assembly and Parliamentary bills and the means by which the Assembly's competence and the Welsh Ministers' executive powers can be modified.

As before, it should be read in conjunction with the Memorandum of Understanding between the UK Government and Devolved Administrations.

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

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

Drafting of the revised Guidance will begin during summer recess and a final version should be available in the new Assembly term. A copy of the final Reciprocal Guidance can be provided to the Committee in due course.

Yours

A handwritten signature in blue ink, appearing to read 'Alun Davies', with a stylized flourish at the end.

**Alun Davies AC/AM**

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

Mark Drakeford AM  
Cabinet Secretary for Finance

20 July 2018

Dear Mark,

## EU law in Wales: What happens during the Brexit transition?

Since the start of June, the External Affairs and Additional Legislation Committee has been considering the arrangements that need to be made in Wales, and the Assembly in particular, to prepare for the Brexit transition period.

This has been, in the large part, as exercise in determining what we can reasonably anticipate in terms of how EU law will operate during the transition period, as we await further details of the UK Government's proposals.

The evidence we received has been published and is available from our website.

At this point in time, we are marshalling our consideration of the transition period into three areas:

1. The legal mechanism for maintaining EU law during the transition period;
2. The Assembly's role in scrutinising draft EU law during the transition period; and
3. The inter-governmental routes available to the Welsh Government to make representations in relation to EU law during transition.



## Legal mechanism

In terms of the legal mechanism for maintaining EU law during the transition period, the evidence we have received suggests that the Withdrawal Agreement and Implementation Bill ('the WAIB') will provide for a mechanism that, to a large extent, replicates relevant provisions of the European Communities Act 1972. The information we have received from you confirms that the WAIB "will give effect to the implementation period".

You have stated that you "would expect there to be a high degree of similarity between the practice now and during transition and that this would include the role played by the Welsh Government".

We have agreed the following principle that should underpin the legal mechanism provided:

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In terms of the transposition, implementation and enforcement of EU law in Wales, we expect there to be a high degree of similarity between the practice now and during transition insofar as the role of the Welsh Government and the National Assembly for Wales are concerned i.e. for the Assembly and Welsh Government to have full powers of transposition and implementation, in relation to Wales, over non-reserved policy areas.

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I would be grateful for your response to this principle. It will act as the starting point for our assessment of the WAIB's provisions that relate to the transition period, once published.

## The Assembly's scrutiny role

It is clear that the Assembly's arrangements for the scrutiny of EU law will need to change in time for the transition period.

According to the text of the draft Withdrawal Agreement, subsidiarity monitoring arrangements, the most formal aspect of the Assembly's scrutiny of draft EU laws, will cease in March 2018. These arrangements currently rely on interaction with



the European scrutiny arrangements in the UK Parliament and are ultimately based on Article 5 of the Treaty on European Union.

We intend to liaise with our colleagues in both Houses of Parliament to explore the extent to which we can continue to interact with Parliament's European scrutiny arrangements during the transition period.

Of crucial importance to us is the provision of EU documents. We note that, under the draft Withdrawal Agreement, the UK Parliament will continue to receive documents directly from the EU's institutions during the transition period. We will be discussing the onward passage of this documentation to the devolved legislatures with colleagues in both Houses.

We are currently considering the level of information we might wish to receive from the Welsh Government during the transition period.

I enclose copies of the correspondence we have sent to committees in both Houses.

### Inter-governmental relations relating to the EU during transition

We appreciate that work on reforming inter-governmental relations is currently underway, under the auspices of JMC Plenary.

Details of the institutional arrangements for governing the EU-UK relationship have yet to be agreed and, consequently, the role for the devolved governments and legislatures in these arrangements is unclear.

We are pleased to note that, during transition, the UK Government anticipates maintaining the current system of involving devolved administrations in developing the final UK Government position on draft EU laws that impact on devolved areas.

In the absence of further information at this point in time, we have agreed a principle to underpin our future scrutiny of this detail as it emerges:





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As minimum, there should be no diminution of the Welsh Government's participation in the UK representation to the EU during transition, whatever form that representation ultimately takes.

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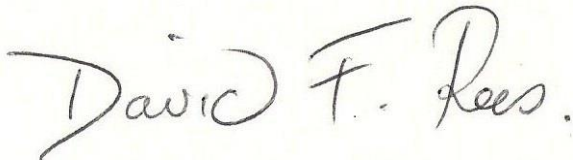
I would be grateful for your response to this principle.

Once the role of the devolved governments becomes clearer, we will be able to consider our approach to scrutiny of these arrangements.

I have written in similar terms to the Parliamentary Under Secretary of State for Exiting the European Union. I have copied this letter to the Chair of the Assembly's Constitutional and Legislative Affairs Committee in light of its work on inter-institutional relations.

I look forward to your response.

Yours sincerely,



David Rees AM, Chair of the External Affairs and Additional Legislation Committee  
Croesewir gohebiaeth yn Gymraeg neu Saesneg.

We welcome correspondence in Welsh or English.

**Enc.:** Letter to Sir William Cash MP, Chair of the European Scrutiny Committee, House of Commons; Letter to Lord Boswell, Chair of the European Union Select Committee, House of Lords.

**CC:** Mick Antoniw AM, Chair of the Constitutional and Legislative Affairs Committee, National Assembly for Wales.



Kirsty Williams AC/AM  
Ysgrifennydd y Cabinet dros Addysg  
Cabinet Secretary for Education

Ein cyf/Our ref: MA-(P)-KW/2501/18

Lynne Neagle AM  
Chair - Children, Young People and Education Committee  
National Assembly for Wales  
Ty Hywel  
Cardiff Bay  
CF99 1NA

[SeneddCYPE@assembly.wales](mailto:SeneddCYPE@assembly.wales)

17 July 2018

Dear Lynne,

As you will recall, during your committee's scrutiny of the Additional Learning Needs and Education Tribunal (Wales) Bill a commitment was made to provide regular updates on the Additional Learning Needs (ALN) transformation programme. This letter is the fourth of these updates.

## 1. Legislation and Statutory Guidance

Since the last update in April 2018 my officials have continued to develop the draft subordinate legislation and the next iteration of the ALN Code which will be published for consultation later this year.

To support the development of the ALN Code we have commissioned two consultants who worked on the development of the Children and Families Act 2014 in England and the associated Special Educational Needs and Disability Code of Practice. Two workshops were held on 13 and 14 June with a group of external stakeholders who participated in a problem-solving, solutions-focussed discussion around the following two themes;

- the boundary between local authorities' and schools' responsibilities in respect of Individual Development Plans (IDPs)
- considerations for local authorities and further education institutions in respect of IDPs for post 16 learners

Officials have also been working with stakeholders through the various ALN expert groups to develop and refine our thinking in relation to particular aspects of the draft ALN Code, such as the role of the Additional Learning Needs Co-Ordinator (ALNCo), the Early Years ALN Lead Officer, and the IDP template.

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

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

## **2. Implementation/ transition support**

### **2.1. ALN transformation leads**

Since taking up post the ALN transformation leads have been building relationships both in their respective regions and across Wales. They have supported all local authorities and further education institutions in Wales to complete their first readiness self assessments, the results of which are now being used to develop implementation plans. The regional and further education implementation plans are due to be submitted to Welsh Government in September 2018.

### **2.2. ALN Innovation Grants and Expert Groups**

In March 2018 the two-year pre-legislative ALN innovation grant funding concluded. On 19 June, to celebrate the work of the projects funded by the grant an ALN Innovation Fund Learning Day was held. The purpose of the day was for project leads to share their learning and experiences with other practitioners across Wales, including effective working practices within their region. The day has also helped shape the next steps for each of the expert groups and potential future work streams. The feedback received on the day has been extremely positive and the ALN Innovation Fund has helped local authorities to work collaboratively and deliver multi-agency projects in preparation for the implementation of the Additional Learning Needs and Education (Wales) 2018 Act 'the Act'.

### **2.3. Guidance on implementing the Additional Learning Needs and Education Tribunal (Wales) Act 2018**

On 2 July I issued a written statement announcing the publication of the first in a series of guides which explain how the Act will be implemented. The guide published focuses on implementing IDPs for children of compulsory school age and under. It sets out the intended mandatory phased timetable for local authorities and school governing bodies to transfer children with special educational needs plans – such as statements and individual education plans - to the new ALN system. The full guide is available [here](#).

I also intend to publish further guides which will set out the arrangements for implementing specific aspects of the ALN system. This includes the arrangements for further education, including specialist post-16 education.

## **3. Workforce development**

In June, based on bids received, a total of £262,689 was allocated to four regions over the 2018/19 and 2019/20 financial years to support the postgraduate training of local authority-based specialist and advisory teachers of learners with hearing impairment (HI) and multi-sensory impairment (MSI). This funding will also be used to facilitate training in Braille and British Sign Language for local authority-based specialist staff.

A further £26,329 has been allocated for the 2020/21 financial year to facilitate post graduate training for local authority based specialist and advisory teachers of the visually impaired (VI).

In order to ensure a continued supply of Educational Psychologists, we fund Cardiff University's Doctorate in Educational Psychology (DEdPsy) professional training programme. Negotiations with the University about arrangements from 2019-20 are continuing.

The Welsh Government and experts in the field have developed a draft framework that outlines the skills and expectations of ALNCoS. The draft framework will help inform funding decisions in relation to the programme of skills development for the ALNCo workforce, as part of the £20m ALN transformation programme. It is also being used to develop our wider policy on ALNCoS, including the proposed regulatory requirements to be introduced under the Act.

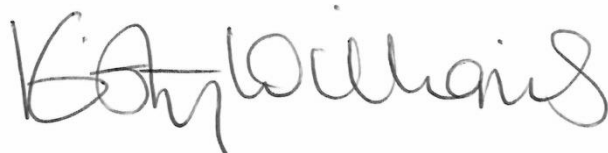
#### **4. Awareness raising**

##### **4.1. ALN implementation training materials**

The ALN implementation training materials being developed by Eliesha Cymru have been split into four levels, with each level targeting different practitioners. Level one of the on-line training programme is currently being reviewed by Welsh Government. This level is aimed at all professionals who support learners with ALN and will help raise awareness of the Act.

I am copying this letter to the Chairs of the Finance Committee and the Constitutional Affairs and Legislative Committee.

Yours sincerely,



**Kirsty Williams AC/AM**

Ysgrifennydd y Cabinet dros Addysg  
Cabinet Secretary for Education

cc Simon Thomas AM, Chair, Finance Committee  
[SeneddFinance@assembly.wales](mailto:SeneddFinance@assembly.wales)

cc Mick Antoniw AM, Chair, Constitutional and Legislative Affairs Committee  
[SeneddCLA@assembly.wales](mailto:SeneddCLA@assembly.wales)

Committee Chairs  
National Assembly for Wales  
Cardiff Bay  
CF99 1NA

Your ref:  
Our ref: EJ/KD/LPR

18 July 2018

Dear Committee Chair

I write to you about our plans for the next two Senedd@... Initiatives:

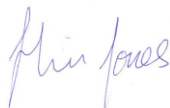
- Senedd@Aberystwyth - week commencing 3 December 2018;
- Senedd@Caerphilly – week commencing 25 March 2019.

We are currently in the process of designing our events programme which will be complemented by outreach and education sessions with schools, colleges, youth groups, community groups, businesses and charities in the area.

During previous Senedd@ initiatives, committees have held formal meetings and informal engagement sessions in community locations, to encourage people to participate in their work. Both Senedd@Aberystwyth and Senedd@Caerphilly provide an opportunity to raise your Committee's profile, and directly engage with local stakeholders and citizens. As such, we would be grateful if you could consider whether your committee would like to be involved in one or both Senedd@ and advise us of your intentions by contacting Kevin Davies ([kevin.davies2@assembly.wales](mailto:kevin.davies2@assembly.wales)).

Thank you in advance for your co-operation.

Yours sincerely



Elin Jones AM  
Llywydd

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**WRITTEN STATEMENT  
BY  
THE WELSH GOVERNMENT**

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**TITLE** Welsh Government Supplementary Evidence to the Commission on Justice in Wales

**DATE** 31 August 2018

**BY** Rt Hon Carwyn Jones AM, First Minister

I am pleased to inform Members that five supplementary evidence papers submitted to the Commission on Justice in Wales by the Welsh Government are now available on the Commission's website. These papers cover the following areas:

- Education and Employment
- Family Justice
- Law and Constitution
- The Role of Legal Services and the Legal Profession in Wales
- Victims, Offenders and Communities

<https://beta.gov.wales/supplementary-evidence-justice-commission-welsh-government>

**SCOTTISH PARLIAMENT FINANCE AND CONSTITUTION  
COMMITTEE: COMMON UK FRAMEWORKS**

**Summary**

- *Since before the referendum, the Royal Society of Edinburgh (RSE) has been engaged in the debate on the UK's membership of the EU. After the referendum the RSE launched an EU Strategy Group, Chaired by Sir John Elvidge. This group oversees the work of four subgroups on Constitutional Law and Government, Economics and Public Finance, Research and Innovation, and Migration and Rights. Each of these groups has published position papers and other responses which are referenced in the response.*
- *The RSE understands the need to develop common frameworks across the UK post-Brexit in order to harmonise UK policy and maintain the internal market. This response does not seek to define the UK internal market but recommends a way forward in which common frameworks can be developed, agreed and established.*
- *Currently there is no clear institutional body or arrangement which could effectively facilitate the development and oversight of common frameworks. Therefore the Society agrees with the suggestion from the House of Commons Public Administration and Constitutional Affairs Committee (PACAC) that an Independent Secretariat body should be created to handle the development and oversight of common frameworks.*
- *An Independent Secretariat should have statutory power, would be made up of civil servants that come from all legislatures in the UK and would represent the UK interest. The body would have the power to conduct its own research, to help set agendas and solve disputes. The RSE believes that funding for the body should be ringfenced with each government contributing proportionally and some meetings could be attended by high level ministers.*
- *The RSE proposes that the body should be fully transparent and accountable to all parliaments. It should be the decision of each parliament on how they wish to scrutinise the body but there is also an opportunity for inter-parliamentary cooperation.*
- *The RSE believes that common frameworks will require a set of key principles that will help them be effective and maintain the UK internal market. These are that all frameworks should be reached by consensus, the Independent Secretariat should provide evidence based decision making, frameworks should not be intrusive and they should operate in a 'two-way street'.*

**Introduction**

- 1** The RSE welcomes the opportunity to respond to the Scottish Parliament's Finance and Constitution Committee inquiry into common UK frameworks post-Brexit.
- 2** Following the decision by the UK to leave the EU, the RSE has been engaged in the debate on Brexit through our EU Strategy Group, chaired by Sir John Elvidge, which oversees the work of 4 subgroups covering Constitutional Law & Government (RSE, 2017a); Economy, Public Finance & Industrial Strategy (RSE, 2017b); Research & Innovation (RSE, 2017c); and Migration & Rights (RSE, 2017d). These groups produced position papers last year and continue to engage in debates through direct responses to calls for evidence and consultations.
- 3** Through the EU Strategy subgroups, the RSE has previously submitted two responses to the Committee on the Impact of Brexit on the Scottish Budget (RSE, 2017e) and, more recently, on the Funding of EU Competences post-Brexit (RSE, 2018).



- 4 It is widely accepted that common frameworks across the UK will need to be developed, agreed and established post-Brexit to harmonise policy and strengthen the UK internal market. The RSE understands that work has been done by the UK Government and devolved Governments to identify where common frameworks will be required.
- 5 The recent report from the PACAC (PACAC, 2018) indicates that the UK Government does not have a unified approach on how common frameworks should be established, operated and monitored. Structures are currently being left to individual departments, which may not result in a coherent approach to frameworks in general.
- 6 The UK Government's framework analysis identifies 24 policy areas that will be subject to more detailed discussion on whether common framework arrangements may be needed and a further 82 policy areas which may be required. It is clear that establishing and agreeing common frameworks will with be a significant complex exercise and there will be more work required to define the UK internal market. Through our EU Strategy Group the RSE will continue to be involved in the discussion to provide advice and expertise around common frameworks.

## Common Frameworks Institutional Arrangements

### *Structure and Internal Market*

- 7 Firstly, the RSE acknowledges the level of complexity involved in establishing and agreeing common frameworks, quite apart from defining and understanding what the UK internal market is. Therefore, with this response we do not intend to define the UK internal market but would encourage more work to be done to elucidate this issue.
- 8 The current UK devolution settlement is a reserved powers model; reserved powers to Westminster are specified, while other powers go to the devolved administrations. Within this there is no hierarchy of laws; meaning that the UK Parliament retains the right to legislate in devolved areas and, if necessary, they can also legislate to take back devolved powers. However, there is a very strong constitutional convention that the UK Parliament will not normally legislate in devolved areas without the consent of the relevant devolved legislatures.
- 9 The report from the PACAC indicates that Brexit has exposed inconsistencies and inadequacies in Whitehall departments' conceptualisation of devolution. Additionally, the Committee notes that the mechanisms for inter-governmental relations in the UK are not fit for purpose. The RSE considers it important that there should be cooperation across all levels of Government and with devolved Governments to ensure frameworks are developed under a coherent strategy and are successful.
- 10 Common frameworks will operate across institutions including parliaments, governments and agencies, so the structure of these and how these will operate are important. Therefore the UK Government as well as devolved Governments will need to identify what kind of institutions we need in order to make the internal market work successfully. New institutions may be necessary and research may be required to identify what an institutional inter-governmental framework will look like.

### *Current Institutions & Arrangements*

- 11 Within the current constitutional structure there are examples which could inform the development of common frameworks.
- 12 The Cabinet Office method of coordination may be the best model – however the development of these frameworks should be left to the individual departments within Whitehall and devolved administrations. Principles need to be articulated and application monitored at a central level.
- 13 The Joint Ministerial Committee could serve as a starting point for a new model of inter-governmental relations, with the European sub-committees providing effective examples. However, these committees do not have any significant power.
- 14 The model of the British Irish Council could also be looked at, but this Council is not geared to solving policy disputes as it is a loose collaborative structure.



**15** Lastly, there are institutional arrangements within other states in the EU which agree common frameworks and handle dispute resolution, such as the German Länder and the Autonomous Communities of Spain. Concepts and principles from these examples could be used in the UK context.

### *New Model & Considerations*

**16** The RSE does not believe that, within the constitutional architecture of the UK there is an obvious mechanism to address common frameworks. We therefore recommend that a new, Independent Secretariat be established to handle the development, agreement and maintaining of common frameworks. In this regard, we are building on the recommendation of the PACAC.

**17** As common frameworks are expected to be areas of significant complexity, we recommend that an Independent Secretariat have the statutory duty and powers to oversee all the common frameworks..

The main objective of the Secretariat would be to ensure the agreement, establishment and maintenance of common frameworks. It is pivotal that the body be seen as impartial, acting completely in the interest of the UK as a whole and recruiting expertise and experience from all the governments in the UK, to ensure a sophisticated understanding of the UK constitutional settlement. Its civil servants will be required to represent the UK interest and not that of devolved legislatures or UK Government departments.

**18** The Secretariat must command the confidence of the UK Government and the devolved administrations that it will give evidence based, independent and fair advice on how the common frameworks should operate and are operating. Not all the expertise that is required need be internal; some expertise may be externally contracted to other institutions such as universities, in the same way that some parliamentary committees use expertise.

**19** The Secretariat exercising a common UK Interest is particularly important as it will help to bring the governments to an agreement and to resolve disputes. The Secretariat should have a role in

helping the UK Government to co-ordinate its negotiating stance on international treaties with the relevant devolved administrations when the implementation of the Treaty could impinge on devolved competences. The aim should always be to reach an agreed negotiating position on matters that impinge on devolved competences and the Secretariat could facilitate the achievement of that aim.

**20** The UK Parliament may use its power to ensure agreement; this, however, would be an unconstructive approach and could damage intergovernmental relations. Therefore, the model suggested above would help to reach agreement and resolve disputes, in turn benefiting intergovernmental relations.

**21** With the agreement of common frameworks and the evolution of the current devolution settlement, there will likely be disputes between the Governments. The RSE recommends that there be more work on the structures for dispute resolution, given the view of the PACAC that the current MoU is not fit for purpose for new developments such as the common frameworks.

**22** Additionally, it is important that the Secretariat has its own institutional identity that commands respect from all Governments. To reinforce this the body should have a research capacity, which could be similar to the Office of Budget Responsibility. Having research capacity would allow the body to take an initiative to set agendas, but could also help if there are disputes, as it can undertake research to find resolutions. This may draw the Governments together to deal with difficult and complex issues earlier than originally would have been possible. The Secretariat should have the power to call meetings of the UK Government and the devolved administrations and to propose the agenda. The UK Government and the devolved administrations should have the opportunity to add items to the agenda. This would guarantee that the common frameworks do not rely on Whitehall and that the independent Secretariat has the appropriate level of influence in the institutional arrangement.

- 23** Having this influence will help the Secretariat to enable the UK Government and devolved administrations to create and sustain consistent and successful common frameworks. The UK constitutional settlement works best when the different governments agree common positions. Having the relevant powers will help the Secretariat to organise regular, well-prepared meetings in which positions are agreed.
- 24** In undertaking research, the Secretariat could have subgroups which would deal with issues in specific areas.
- 25** Some areas will require subgroups more than others. For example, given their complexity, international agreements may require subgroups with wide representation more than other areas. There will be policy areas of international agreements which may affect some devolved nations more than others, e.g., fisheries in Scotland. Proper cooperation with devolved administrations will be required in which an agreed position is the main outcome; this could be facilitated through the subgroups.
- 26** Statutory power is important for the Secretariat to be successful, but the resourcing of the body will also be vitally important. Powers will be meaningless if the body is not properly funded. The RSE recommends that a financial framework be developed and agreed. This should secure ringfenced funding to which all governments contribute proportionally. If funding is not ringfenced then there is a risk that the body may be undermined and become weak.
- 27** Included in the statutory powers should be a requirement for meetings of the main group which the Prime Minister and First Ministers (or other high-level Ministers) attend. There should be working groups at official level that would meet regularly, focusing on the detail that would then feed into the main meetings of Ministers.
- 28** It is important the process which is designed does not expire after 7 years once all powers are released but that it continues to deal with new issues and protect/maintain the internal market. With constant changes in the economy and technology the permanent arrangement must be flexible to deal with issues such as regulation and further devolution.
- 29** In relation to representing the UK interest, it is important that the UK Government differentiate between UK and English interests. The RSE would encourage the UK Government has demonstrated its ability to find mechanisms to do this. This is clearly necessary and the RSE would encourage the UK Government to look at mechanisms to implement this.

### *Transparency, Accountability and Parliamentary Engagement*

- 30** The Secretariat would report to all parliaments and position papers would go into the public domain, but only after decisions are made. Other research such as impact assessments could go live in the public domain immediately to show the need for common frameworks and the best viable way forward.
- 31** High level meetings should be attended by Ministers, ideally the Prime Minister and the First Ministers of the devolved Governments. Minutes of these meetings and other working group meetings would go into the public domain.
- 32** The body will be accountable to all parliaments, but it will be a matter for the individual parliaments to determine the accountability mechanisms. Parliaments have an important role in this structure, not simply on their individual oversight but potentially in designing and agreeing an inter-parliamentary process. The British–Irish Parliamentary Assembly could be an example to build on.

### **Guiding Principles**

- 33** The development of common frameworks will require a set of key principles that will help them to be effective and maintain the UK internal market. Principles will also help underpin a stable constitutional settlement which is beneficial for the UK Government and devolved administrations.

- 34** The current model which the UK is part of in the EU is based on the principle of four freedoms: goods, services, capital and labour plus harmonisation of certain major policies eg competition, state aids and public procurement. This model could be adopted in the UK internal market post-Brexit. However, the current EU policy arrangement does not match the current UK devolution settlement. Any changes to the UK devolution settlement to redesign the UK internal market need to be carefully thought through and achieved by political consent in the different parts of the UK.
- 35** The RSE believes that there should be 4 main principles that help the development of common frameworks.
- 36** First, all decisions on common frameworks should be reached by consensus between the UK Government and the relevant devolved administrations.
- 37** Second, the Secretariat should have an independent statutory role to prepare evidence based decision making processes on common frameworks by doing and commissioning research, agenda setting and using its influence to help the governments to arrive at consensus.
- 38** Third, common frameworks should be no more intrusive into constraining devolved competences than they need to be to serve their purpose. The subsidiarity and proportionality principles could be adapted for the UK context, acknowledging the freedom of the devolved nations.
- 39** Fourth, the RSE accepts the case for common frameworks around areas that would otherwise be wholly devolved. Some of the areas that are currently reserved in the devolution legislation might be better agreed through UK common frameworks. Common frameworks could give the opportunity for movement at both ends of the devolution system. The current criteria in the MoU of the EU Withdrawal Bill from A-F (UK Government, 2018) would indicate that reserved areas will be considered in common frameworks. Given the principles outlined above it will probably require the power of the UK Parliament to be limited in certain areas of reserved powers. This underpins the need for a two-way street on common frameworks, as it appears that the current criteria already articulated lead to this conclusion.

## Conclusion

- 40** In this response we present our recommendations for the future arrangements on common UK frameworks. We believe that establishing an Independent Secretariat body is the best way forward to develop and maintain frameworks across Brexit. We believe that it is pivotal for the body to have statutory powers and ring fenced funding to ensure its success and to reduce any risk that it is undermined. The body should look to continue after all devolved powers are passed to governments as it is likely issues will continue to come up over time which could affect common frameworks. In our recommendations we believe that this is the best way to handle common frameworks to ensure fairness across all levels of government, maintaining the UK internal market and protecting a UK interest with which all governments agree.

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### *Additional Information*

This Advice Paper has been signed off by the General Secretary of the RSE.

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*Advice Paper (Royal Society of Edinburgh) ISSN 2024-2694*



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## WRITTEN STATEMENT BY THE WELSH GOVERNMENT

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**TITLE** Introduction of the UK Agriculture Bill

**DATE** 12 September 2018

**BY** Lesley Griffiths AM, Cabinet Secretary for Energy, Planning and Rural Affairs

I am today announcing I have asked the UK Government to include powers for Welsh Ministers in an Agriculture Bill which has been introduced to the UK Parliament. The Bill provides a legal basis for future support to farmers after Brexit, as we transition away from the Common Agricultural Policy. The powers being taken for Welsh Ministers are intended to be transitional until our own primary legislation can be brought forward, to design a 'Made in Wales' system which works for Welsh agriculture, rural industries and our communities. Provisions relating to Wales are contained in a separate Schedule so that any changes the National Assembly wishes to see for Welsh Ministers can be made easily.

'Brexit and our Land' is the Welsh Government's consultation on future support to farmers after Brexit. Our land supports livelihoods, anchors communities and generates the vital natural resources we all rely on. The people who manage it contribute a huge amount to our country. We must continue to support them. However, the way we provide the support needs to change after Brexit.

The Welsh provisions in the Agriculture Bill broadly mirror those proposed by the UK Government for England. These include:

- New financial powers for future schemes
- Collection and sharing of data
- Powers to intervene in exceptional market conditions
- Setting of marketing standards
- Modification of retained EU law relating to the financing, management and monitoring of payments to farmers, including the CAP Basic Payment Scheme

There are a small number of additional powers being taken in Wales. In addition to a small number of technical differences, our powers also include an emphasis on supporting rural communities and businesses involved in supply chains.



In general, these are enabling powers which provide for Welsh Ministers to bring forward Wales-specific regulations to the Welsh Assembly for scrutiny. Regulations will not be brought forward until the policy development process has concluded. In “Brexit and our Land” we committed to bring forward a white paper in spring 2019.

The Intergovernmental Agreement on the European Union (Withdrawal) Bill and the Establishment of Common Frameworks sets out how the UK Government and Devolved Administrations will work together to create a fully functioning statute book across the UK when we exit the EU. The introduction of the Agriculture Bill is the first test of the principles in the Agreement of collaboration, cooperation and respect for devolution.

Today’s joint statement between the UK and Welsh Government on agriculture support demonstrates the considerable engagement and collaboration that is taking place to establish a UK common framework for agriculture support. The statement makes clear the majority of this framework will be managed through non-legislative, intergovernmental coordination. As a result, Wales will not be constrained in its design of new schemes and will be able to implement what is best for Wales.

While Welsh Government is generally supportive of the Bill as drafted, there are two outstanding issues which have not been resolved to our satisfaction: first, provisions relating to the World Trade Organisation (WTO) Agreement on Agriculture; and, second, the Red Meat Levy.

The management of the UK’s Agreement on Agriculture at the WTO is an issue which the UK Government believes to be reserved. As a matter of law, the Welsh Government does not accept all aspects of the clause are reserved and, in any case, there is a strong and self-evident relationship between the WTO powers and devolved responsibilities on agriculture support.

Welsh Ministers have secured an important agreement from the UK Government to commit in Parliament to consult the Devolved Administrations on WTO-related regulations. We have also agreed to find a process for how such regulations will be brought forward. However, a commitment to consult is insufficient given the importance of this matter. We will therefore continue to work towards an agreement which ensures appropriate engagement with and consideration of the views of Welsh Ministers and other administrations.

On the Red Meat Levy, it is disappointing powers relating to the redistribution of Red Meat Levy will not be on the face of the Bill at introduction. The Welsh Government expects a UK Government amendment to correct this as soon as possible. It is critical the red meat industry is able to access funds to prepare it best for the opportunities of Brexit and react to inevitable change. Given a legislative change is required to underpin any future agreed mechanisms about finding a solution, the Agriculture Bill – the first to be introduced in Parliament for some decades – is clearly an opportunity to resolve this longstanding issue.

Overall, the introduction of the Agriculture Bill is an important step in our transition to a new system of farm support. It gives significant new powers and flexibilities to Wales. We will continue to work with the UK Government to resolve our outstanding concerns and bring forward advice to the Assembly on legislative consent in the light of this work.

This statement is being issued during recess in order to keep members informed. Should members wish me to make a further statement or to answer questions on this when the Assembly returns I would be happy to do so.



## **Agricultural Framework Progress Update: September 2018**

### **A joint statement by the UK Government and the Welsh Government**

As agriculture is a devolved area, each administration of the UK will have the opportunity to develop policy to suit their own unique circumstances once the UK has left the EU. Both the UK Government and the Welsh Government have consulted separately on new agriculture policies to replace the Common Agriculture Policy (CAP) in England and Wales, respectively.

The UK Government published a 'Framework Analysis' policy paper in March 2018. This paper set out 153 areas where EU law currently intersects with devolved competence. This is where the UK Government and devolved administrations would need to work together to determine whether we would need UK or GB wide common approaches in future. It will be guided by the principles agreed at JMC (EN) in October 2017. The paper also identified a list of 24 policy areas to be subject to more detailed discussion to explore whether a legislative common framework arrangement might be needed, in whole or in part. The list included "agricultural support".

As we leave the EU and the CAP, we want our farmers and those with an interest in agriculture to be clear that we have been and will continue to work closely together. We want to achieve better outcomes for our farming industry, and to facilitate an open and transparent dialogue as our proposals develop.

The Agriculture Bill provides both administrations with new powers to bring replacement schemes into effect, as well as extending some provisions to Northern Ireland.<sup>1</sup> However, the Bill does not contain a legislative framework for these powers. This reflects the fact that the UK Government and Welsh Government are of the view, based on discussions to date, that the vast majority of policy areas can be suitably managed through non-legislative, inter-governmental coordination.

As part of this process, we are proposing to develop an administrative framework for coordinating agricultural support spending and changes to marketing standards. The aim of this is to ensure effective co-ordination and dialogue between the administrations on how any changes to legislation in one part of the UK may affect other parts. This framework will tie in closely with planned common UK frameworks being developed for other policy areas. There are other areas identified within "Agricultural Support" that we are expecting to work on while the Agriculture Bill passes through the UK Parliament. These include market intervention and data collection and sharing. Other agriculture-related frameworks within the 24 identified, on organic farming, the environmental release of GMOs, zotech and fertiliser regulations are also being discussed. Our joint aim is to reach agreement on all of these areas in order for frameworks to be in place by the end of the Implementation Period (December 2020).

We are also discussing arrangements for cross-border holdings, which is of particular interest to the numerous farmers along the English/Welsh border. We are aware that farmers with holdings that straddle borders and those with holdings located in another administration will want to ensure their businesses can operate as smoothly as possible. Our intention here is to reduce bureaucracy and to provide clarity for these businesses.

It is still the ambition of the UK Government and the Welsh Government to work towards a UK-wide approach where that is necessary. We fully expect our close collaboration to continue with the Department of Agriculture, Environment and Rural Affairs in Northern Ireland (DAERA) and the Scottish Government over the next 18 months to agree and

implement administrative frameworks to set out future working and coordination on agriculture. As part of that process, we welcome the views of Parliament, the devolved legislatures and wider stakeholders on these proposals.

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<sup>i</sup> Given the absence of local Ministers in Northern Ireland to take decisions about future agricultural policy, UK Government Ministers have sought to ensure as far as possible that the status quo can be maintained until a new policy direction can be established. There is a need to take care not to prejudge or constrain the ability of an incoming Minister, NI Executive and NI Assembly to decide what is appropriate for the Northern Ireland agri-food sector. The overarching principles that have been applied when considering the extension of clauses to NI are:

- to ensure the continuation of a legal basis to provide the current suite of agricultural support payments (and options) post EU exit;
- to ensure that the NI Executive has maximum flexibility to develop future agricultural policy consistent with the principles agreed by JMC(EN), including ensuring the functioning of the UK Internal Market; and
- that the Agriculture Bill does not constrain the ability of the NI Executive to continue current schemes and options available under the Rural Development Programme and Common Market Organisation provided for by existing and retained EU legislation, for as long as NI Ministers consider this appropriate.



Llywodraeth Cymru  
Welsh Government

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

Ein cyf/Our ref: MA-L/JJ/0533/1

13 September 2018

Dear Mick

I am writing to notify you of the Welsh Government's formal response to the Committee's recent report on *Scrutiny of regulations made under the European Union (Withdrawal) Act 2018: operational matters*. I attach a table which sets out our response to each recommendation.

I am grateful to the Committee for its work on this matter.

Yours sincerely

**Julie James AC/AM**  
Arweinydd y Tŷ a'r Prif Chwip  
Leader of the House and Chief Whip

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

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

**The Welsh Government response to the report of the Constitutional and Legislative Affairs Committee – Scrutiny of regulations made under the European Union (Withdrawal) Act 2018: operational matters**

<b>Recommendation</b>	<b>Response</b>
<p><b>Recommendation 1.</b> We recommend that the National Assembly’s Standing Orders should be amended to provide that the function of making a recommendation as to the appropriate procedure to apply to regulations subject to the sifting process under the 2018 Act is assigned to a committee.</p>	<p><b>ACCEPT:</b> The Government agrees with the committee’s recommendation.</p>
<p><b>Recommendation 2.</b> We recommend that as the Committee assigned the function of sifting regulations under the 2018 Act, we should be required by the National Assembly’s Standing Orders to publish the criteria that we will apply to regulations subject to the sifting process.</p>	<p><b>REJECT:</b> The Leader of the House set out the Government’s position in her letter to the Committee Chair on 28 August 2018. The Government is of the view that the criteria to be applied by the sifting committee should be set out in the Assembly’s Standing Orders. This is in recognition that we now have certainty about the provisions of the European Union (Withdrawal) Act 2018, including which correcting regulations must be subject to the affirmative procedure and the sifting process for those regulations that are proposed to be subject to the negative procedure, This would also be consistent with Standing Orders 21.2 and 21.3, which set out the grounds on which a responsible committee may report when considering all statutory instruments and draft statutory instruments laid before the Assembly.</p>
<p><b>Recommendation 3.</b> If the National Assembly is content for our recommendations as the sifting committee not to be binding, we recommend its Standing Orders should be amended to place a requirement on the Welsh Ministers to explain why they do not agree with our recommendations (as applies to UK Ministers in paragraph 3(7) of Schedule 7 to the 2018 Act).</p>	<p><b>ACCEPT:</b> The Government considers the recommendation of the sifting committee should not be binding as this is consistent with the provisions of the European Union (Withdrawal) Act 2018. Although the Government anticipates that in the vast majority of cases it would accept the recommendation of the sifting committee, in circumstances when we do not agree with the recommendation of the sifting committee we accept that it would be appropriate for the Welsh Ministers to provide an explanation as to why they do not agree. This is consistent with</p>

	<p>what is required of UK Ministers by the Act, and we agree the National Assembly's Standing Orders should be amended accordingly.</p>
<p><b>Recommendation 4.</b> We recommend that the Leader of the House writes to us before the end of July 2018, providing an update on the number of regulations that will be required to correct deficiencies in retained EU law as a result of the UK's withdrawal from the EU, as well as an update on the number of any other regulations that will need to be made under the 2018 Act.</p>	<p><b>ACCEPT:</b> The Leader of the House provided an update when she wrote to the Committee on 20 July 2018.</p>
<p><b>Recommendation 5.</b> We recommend that in deciding future committee timetables, consideration is given to the potential need for this Committee, in our role as the sifting committee, to sit longer, and / or on a different day, and / or sit more than once a week in order to scrutinise regulations that will be made under the 2018 Act.</p>	<p>This is a matter for the National Assembly's Business Committee.</p>
<p><b>Recommendation 6.</b> We recommend that the Welsh Government enters into an agreement with us as the sifting committee to cover:</p> <ul style="list-style-type: none"> <li>• an early warning system to assist with managing the scrutiny of all subordinate legislation until the end of this Assembly (in 2021);</li> <li>• the optimum day of laying of proposed negative regulations under the 2018 Act; and</li> <li>• any other matter that will aid the effective and efficient scrutiny of regulations made under the 2018 Act, especially regulations correcting deficiencies in retained EU law.</li> </ul>	<p><b>ACCEPT IN PART:</b> The Government wishes to ensure that, as far as possible, the subordinate legislation flowing from the European Union (Withdrawal) Act 2018 is delivered in an orderly manner, and believes that entering into such an agreement with the sifting committee, and/or the National Assembly as a whole, would aid its management of the scrutiny process. Due to the exceptional circumstances within which this activity will be taken forward, any information provided through an early warning system will, by necessity, have appropriate caveats attached. Work is already underway between Government officials and the Committee clerks to establish a protocol.</p> <p>The purpose of the early warning system is to assist with managing the scrutiny of the anticipated high volume of subordinate legislation associated with the UK's exit from the EU. Therefore, the Government is not</p>

	<p>persuaded at this time that an early warning system is needed through to the end of this Assembly in 2021. The Government considers that the early warning system should be in place until exit day on 29 March 2019, at which point its continuation can be considered in light of the circumstances at that time.</p>
<p><b>Recommendation 7.</b> We recommend that the National Assembly’s Standing Orders require that, where UK Ministers acting alone in devolved areas lay before the UK Parliament regulations in areas within the legislative competence of the National Assembly or the executive competence of the Welsh Ministers, and where the Welsh Ministers are required to give their consent to the making of those regulations:</p> <ul style="list-style-type: none"> <li>• the Welsh Ministers notify the National Assembly within one working day of the regulations being laid; and</li> <li>• such notification is accompanied by an explanatory memorandum summarising the purpose and impact of the regulations and explaining why the Welsh Ministers have given their consent.</li> </ul>	<p><b>ACCEPT IN PRINCIPLE:</b> The Welsh Government agrees that the National Assembly’s Standing Orders should require the Welsh Ministers to notify the National Assembly of regulations laid before the UK Parliament by UK Ministers that intersect with devolved areas and to which the Welsh Ministers have given their consent. The Welsh Government also agrees that the notification should be accompanied by an explanation of the purpose and impact of the regulations, and reasons why the Welsh Ministers have given their consent. For reasons of practicality the Welsh Government does not agree that such notification should be within one working day of the regulations being laid before Parliament but instead proposes it should be provided normally within three working days. The one working day timescale does not allow sufficient time to confirm which regulations have been laid before the UK Parliament on any one day, collate the correct explanatory information bilingually, and obtain appropriate Ministerial clearances before issuing the notification. This will be compounded by the potential volume of regulations involved.</p>
<p><b>Recommendation 8.</b> We recommend that the National Assembly’s Standing Orders require that, where UK Ministers acting alone lay before the UK Parliament regulations in areas within the legislative competence of the National Assembly or the executive competence of the Welsh Ministers, and where the Welsh Ministers are not</p>	<p><b>ACCEPT IN PRINCIPLE:</b> The Welsh Government accepts that such notification should be provided and accompanied by an explanation of the purpose and impact of the regulations. For the same reasons set out in response to recommendation 7 the Welsh Government proposes that such notification should be provided normally</p>

<p>required to give their consent to the making of those regulations:</p> <ul style="list-style-type: none"> <li>• the Welsh Ministers notify the National Assembly within one working day of the regulations being laid; and</li> <li>• such notification is accompanied by an explanatory memorandum summarising the purpose and impact of the regulations.</li> </ul>	<p>within three working days of the regulations being laid before the UK Parliament rather than one working day.</p>
<p><b>Recommendation 9.</b> We recommend that the National Assembly's Standing Orders should be amended to provide a procedure in respect of the provisions contained in section 109A of the <i>Government of Wales Act 2006</i>, in particular:</p> <ul style="list-style-type: none"> <li>• to require an explanatory memorandum that: <ul style="list-style-type: none"> <li>○ summarises the effect of regulations that UK Ministers propose to lay under section 109A(3) of the 2006 Act;</li> <li>○ makes a recommendation as whether the relevant draft regulations should be subsequently made by UK Ministers;</li> <li>○ explains the reasons for the recommendation made;</li> </ul> </li> <li>• to require that the Business Committee refers that explanatory memorandum to a committee or committees;</li> <li>• requires the Welsh Ministers to lay before the National Assembly any written statement provided to UK Ministers (i.e. the statement mentioned in new section 157ZA(2)(b)(ii) of the 2006 Act), no later than one working day after the statement is provided by the Welsh Ministers.</li> </ul>	<p><b>ACCEPT:</b> The Welsh Government agrees with the Committee's recommendation, but acknowledges that Committee scrutiny of the explanatory memorandum is a matter for Business Committee. The first part of the recommendation is silent on who should be required to lay the explanatory memorandum. The Welsh Government believes that the requirement to lay an explanatory memorandum in relation to regulations that UK Ministers propose to lay under section 109A(3) of the <i>Government of Wales Act 2006</i> should be placed on the Welsh Ministers. The Welsh Government also agrees to lay before the National Assembly any written statement provided by the Welsh Ministers under section 157ZA(2)(b)(ii) of the 2006 Act no later than one working day after the statement is provided to UK Ministers.</p>
<p><b>Recommendation 10.</b> We recommend that the detail of recommendation 10 applies equally in respect of the provisions contained in section 80 of the <i>Government of Wales Act 2006</i>.</p>	<p><b>ACCEPT:</b> The Welsh Government agrees with the Committee's recommendation on the understanding that it relates to the detail of recommendation 9. As with recommendation 9, the Welsh Government believes that the</p>

	<p>requirement to lay an explanatory memorandum in relation to regulations that UK Ministers propose to lay under section 80A(8) of the Government of Wales Act 2006 should be placed on the Welsh Ministers. The Welsh Government also agrees to lay before the National Assembly any written statement provided by the Welsh Ministers under section 157ZA(2)(b)(ii) of the 2006 Act no later than one working day after the statement is provided to UK Ministers.</p>
<p><b>Recommendation 11.</b> We recommend that the Welsh Ministers are required by the National Assembly’s Standing Orders to lay any report, provided to them in accordance with paragraph 4(4) of Part 2 of Schedule 3 to the 2018 Act, within one working day of its receipt.</p>	<p><b>ACCEPT:</b> The Welsh Government agrees with the Committee’s recommendation. It should be noted that because the Welsh Ministers will be laying a UK Government report it will be laid before the National Assembly in English only.</p>
<p><b>Recommendation 12.</b> When the UK Government repeal or revoke retained EU law restrictions (in respect of legislative and executive competence), we recommend that the Welsh Ministers are required by the National Assembly’s Standing Orders to make a written statement:</p> <ul style="list-style-type: none"> <li>• that EU law restrictions have been lifted, no later than 7 calendar days after the relevant regulations have been laid;</li> <li>• that explains the impact of the removal of the restrictions on the competence of the National Assembly or the Welsh Ministers.</li> </ul>	<p><b>ACCEPT IN PRINCIPLE:</b> The Welsh Government agrees with the Committee’s recommendation that the National Assembly’s Standing Orders should place a requirement on the Welsh Ministers to make a written statement to notify the National Assembly when restrictions on competence in relation to retained EU law have been repealed or revoked by the UK Government, and to provide an explanation of the impact on competence.</p> <p>The Welsh Government agrees with the proposed timescale for the written statement being made but notes that the recommendation connects the Welsh Ministers’ written statement and the lifting of EU law restrictions with the laying of the relevant regulations. However, the restrictions would not be lifted until the relevant provisions of the regulations are in force, which would likely occur at a time after they have been laid. Should the restrictions be revoked or repealed by UK Ministers using the relevant powers in the European Union (Withdrawal) Act 2018 they would be subject to the affirmative</p>



	procedure in the Houses of Parliament, and would therefore be laid in draft before both Houses and must be approved by both Houses before being made.
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# Agenda Item 10

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

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# Agenda Item 11

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