

Agenda – Constitutional and Legislative Affairs Committee

Meeting Venue:

Committee Room 1 – Senedd

Meeting date: 28 January 2019

Meeting time: 13.00

For further information contact:

Gareth Williams

Committee Clerk

0300 200 6362

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1 Introduction, apologies, substitutions and declarations of interest

2 Legislation (Wales) Bill: Evidence session 4

13.00

(Pages 1 – 18)

Kay Powell, Law Society

Osian Roberts, Law Society

Trevor Coxon, Law Society

CLA(5)–04–19 – Briefing

CLA(5)–04–19 – Paper 1 – Written evidence Law Society

CLA(5)–04–19 – Paper 1 Annex A

3 Legislation (Wales) Bill: Evidence session 5

13.45

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Rob Sherrington, Citizen’s Advice Cymru;

Callum Higgins, Citizen’s Advice Cymru

Professor Richard Owen, Swansea Law Clinic;

Tahmid Miah, Swansea Law Clinic

CLA(5)–04–19 – Paper 2 – Written evidence Swansea Law Clinic

4 Instruments that raise no reporting issues under Standing Order

21.2 or 21.3

14.30

(Pages 25 – 26)



Cynulliad
Cenedlaethol
Cymru

National
Assembly for
Wales

CLA(5)-04-19 – Paper 3 – Statutory instruments with clear reports
Negative Resolution Instruments

4.1 SL(5)302 – The Smoke Control Areas (Exempted Classes of Fireplace) (Wales)
Order 2019

4.2 SL(5)305 – The Food for Specific Groups (Information and Compositional
Requirements) (Amendment) (Wales) Regulations 2019

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

Negative Resolution Instruments

5.1 SL(5)301 – The Smoke Control Areas (Authorised Fuels) (Wales) Regulations
2019

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CLA(5)-04-19 – Paper 4 – Report

CLA(5)-04-19 – Paper 5 – Regulations

CLA(5)-04-19 – Paper 6 – Explanatory Memorandum

6 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

6.1 SL(5)303 – The Agricultural Holdings (Units of Production) (Wales) Order
2019

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CLA(5)-04-19 – Paper 7 – Report

7 Proposed negative instruments that raise no reporting issues under Standing Order 21.3B

(Pages 75 – 79)

CLA(5)-04-19 – Paper 8 – Proposed Negative instruments with clear reports

7.1 pNeg(5)11 – The Environmental Assessment of Plans and Programmes and the Environmental Impact Assessment (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019

7.2 pNeg(5)12 – The Exotic Diseases in Animals (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019

7.3 pNeg(5)13 – The Zoonotic Disease Eradication and Control (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019

7.4 pNeg(5)14 – The Nutrition (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019

8 Written statements under Standing Order 30C

8.1 WS–30C(5)75 – The Environment and Wildlife (Legislative Functions) (EU Exit) Regulations 2019

(Pages 80 – 87)

CLA(5)–04–19 – Paper 9 – Statement

CLA(5)–04–19 – Paper 10 – Commentary

8.2 WS–30C–076 – The REACH etc. (Amendment etc.) (EU Exit) Regulations 2019 (“2019 Regulations”)

(Pages 88 – 92)

CLA(5)–04–19 – Paper 11 – Statement

CLA(5)–04–19 – Paper 12 – Commentary

8.3 WS–30C(5)77 – The Nutrition (Amendment etc) (EU Exit) Regulations 2019

(Pages 93 – 98)

CLA(5)–04–19 – Paper 13 – Statement

CLA(5)–04–19 – Paper 14 – Commentary

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

10 Legislation (Wales) Bill: Consideration of evidence

11 Inter-Institutional Agreement: Draft Report

(Pages 99 – 104)

CLA(5)-04-19 – Paper 15 – Draft Report

12 Review of Statutory Instruments requiring Consent: Brexit and Written Statements made under Standing Order 30C: Draft Report

(Pages 105 – 121)

CLA(5)-04-19 – Paper 16– Draft Report

CLA(5)-04-19 – Paper 17– Letter from the First Minister to the Llywydd, the role of the Assembly and its committees in scrutinising Brexit-related legislation, 11 January 2019

CLA(5)-04-19 – Paper 18– Letter from the Llywydd to the First Minister, the role of the Assembly and its committees in scrutinising Brexit-related legislation, 4 December 2018

13 A Speakers' Conference – consideration of draft report to the Llywydd

(Pages 122 – 128)

CLA(5)-04-19 – Paper 19 – Draft report

Document is Restricted

Legislation (Wales) Bill

Constitutional and Legislative Affairs Committee Inquiry

Response
January 2019

Legislation (Wales) Bill / Bil Deddfwriaeth (Cymru)

Response by the Law Society of England and Wales

Introduction

The Law Society of England and Wales ("the Law Society") is the professional body for solicitors, representing over 160,000 registered legal practitioners. The Law Society represents the profession to parliament, governments and regulatory bodies and has a public interest in the reform of the law.

The Law Society Wales Office delivers the Law Society's aims in Wales, working with Welsh institutions; influencing and responding to the devolution of law-making; and promoting and supporting the legal community in Wales. This response has been informed by members of the Law Society's Wales Committee which includes solicitors, academics and lay members.

The Bill

The landscape of legislation in Wales is complex and the divergence of Welsh legislation from England only legislation is accelerating. Given this backdrop so as far as it is possible to draw together the current law to improve accessibility the aim of the legislation is supported and to be encouraged.

Part 1 Accessibility of Welsh Legislation

The arguments for a duty to be included in legislation are clearly made in the Explanatory Memorandum. Whilst 'consolidating and codifying Welsh law' is the aim of the Bill the interpretation of the duty is left to the government of the day. It is a particular concern that the timing and progress of codification is a matter for the government of the day.

Codification and Codes of Law

The Bill refers to 'codification' and the Explanatory Memorandum to Codes of Welsh law but as we know from the Law Commission's report on the Form and Accessibility of the Law Applicable in Wales¹ there are versions of codification and what is proposed for Welsh law does not create a 'Code' in the civil law tradition. Viewed from a wider perspective the proposals could lead to confusion. It is proposed, therefore, that the codes which result from this activity of 'consolidating and codifying Welsh law' be referred to as 'Welsh Law Codes' to identify them as specific, novel and unique.

Having a new term to describe the way Welsh law is being 'ordered' will assist those learning about and using Welsh law in the future. The main aim of the Bill is to improve accessibility and the resulting activity will establish a new approach to statute law in Wales.

¹ <https://www.lawcom.gov.uk/project/the-form-and-accessibility-of-the-law-applicable-in-wales/>

We would hope to see an open, inclusive approach to the preparation of the draft codes. Planning law is an early candidate which is benefitting from the involvement of the Law Commission another area which would benefit from being codified early in the process is local government law given its significant divergence from the law in England. We propose that the Welsh Government adopts a protocol to include factors such as early engagement with stakeholders, as these will differ with the varying topics, and whether the government can proceed to develop a new code without first seeking a Law Commission project on the relevant law.

Further, in response to the Law Commission project on the Form and Accessibility of the Law Applicable in Wales we said:

The Constitutional and Legislative Affairs Committee could include an additional scrutiny function regarding the form of new law applicable in Wales with a protocol to introduce draft Bills for pre-legislative scrutiny and engage expert advisers (voluntarily, by committee or otherwise).²

We would welcome more information on how the National Assembly will accommodate the making of new Welsh Law Codes.

Part 2 Interpretation and operation of Welsh legislation

In 2016 in response to the Law Commission's consultation to inform its project on the Accessibility of the Law Applicable in Wales, our members agreed an Interpretation Act was necessary for Welsh law but at the time did not feel the time had come. This provision for interpretation, however is supported and welcomed.

We note that there was significant input to some of the detailed proposals for interpretation in the Counsel General's consultation on the draft Bill. However, it is clear from the Bill as laid that some of the concerns raised then have not been reflected in the redraft as introduced to the Assembly.

On Section 13 we raised specific concerns on the issue of deemed service of documents by electronic means. This refers to documents deemed to have been served on the day on which an electronic communication is sent. However, practitioners will note that in some parts of rural Wales in particular, internet connection is very poor, bandwidth of provision limited and transfer rates very slow. We question, therefore, whether a deemed service on the day of transmission is reasonable or achievable.

Whilst the Bill relates to Welsh legislation Sections 12 and 13 should be read in a wider context and in relation to the Civil Procedure Rules. Practice direction 6A at para 4.2 deals with the question of prior agreement to electronic service and file sizes etc.

4.2 *Where a party intends to serve a document by electronic means (other than by fax) that party must first ask the party who is to be served whether there are any limitations to the recipient's*

² [ibid.](#)

*agreement to accept service by such means (for example, the format in which documents are to be sent and the maximum size of attachments that may be received).*³

Furthermore, in the Schedule of definitions we raised a query whether it may not be appropriate to include a definition of community councils as these are unique to Wales albeit similar to Parish Councils in England.

Finally, in the Counsel General's summary of responses to his consultation on the draft Bill, he notes that there was little support for what is now Section 25 regarding duplicate offences, but although slightly amended it remains in the Bill as introduced.

Having said the above, we are broadly supportive of the majority of the suggested interpretations. Indeed there are some very welcome additions such as Section 26 which determines that unless expressed otherwise, Welsh law shall bind the Crown.

In force dates

In our response to the Law Commission's project we noted:

*There is a particular concern regarding 'in force' dates. Whereas amendments produce complicated legislation knowing when particular provisions came into force is a further, greater concern. Even where legislation is annotated reliable 'in force' information remains elusive. This issue becomes further complicated where there are amendments, and further and divergent amendments, to subordinate legislation.*⁴

The inclusion of these provisions in Part 2 are also to be welcomed.

Post Legislative Scrutiny

Whilst the Bill is concerned with the ordering of legislation there is a further element of good law making which forms part of a robust system and that is post-legislative scrutiny. The regular analysis and evaluation of the implementation of Welsh legislation is not apparent on the face of the Bill and should be encouraged.

Time and Capacity

It will take many years for the aims of this legislation to be achieved. During that period of time it will be vitally important for the programme to be adequately resourced in terms of financial and human resources and for successive governments to respond positively to their new duty if the full benefits of this piece of

³ https://www.justice.gov.uk/courts/procedure-rules/civil/rules/part06/pd_parto6a

⁴ Ibid.

legislation are to be realised. If they are then the profession and public in Wales will have much better, more reliable access to the legislative sources of the laws of Wales.

Please refer any questions regarding this response to:

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Bil Deddfwriaeth (Cymru) - Sylwadau

Cynnwys

Penawd 1 a 2 – newid *hygyrchedd* i **mynediad**

Penawd 15 – **Gweithredu** yn lle *arfer*

Penawd 20 – **rhannau** yn lle *rhaniadau*

Penawd 36 – **newid** yn lle *disodli*

Rhan 1 – newid *hygyrchedd* i **mynediad i**

Is adran 2 (3)

- (a) **Gyfrannu**
- (b) **Gynnal**
- (c) **Hwyluso y defnydd o'r Gymraeg**

(4) **Gall** y rhaglen.....

Rhan 2

3 (1) *Mae'r Rhan hon yn gymwys i'r*

- (a) **Ddeddf** Hon
- (b) **I Ddeddfau**.....

(2) (b) (i) *a wneir o dan*.....*uniongyrchol UE a* **gedwir**

4 (1) (a) *y mae darpariaeth* **penodol**

(2) Nid yw'r eithriad yn is adran (1) **yn weithredol**

(b) adran 26 (**gweithredu** deddfwriaeth....

9 Mae cyfeiriad.....oni wneir darpariaeth **benodol**

12 (1) Pan fo Deddf.....yn cyfeirio'n **gywir**

(2) (a) os yw A yn cyfeirio'n **gywir**

(3) Mae'r adran hon yn **weithredol**

13 (a) **Mewn** achos

(b) **Mewn** achos

14 (1) **Gall** pwer.....Cymreig **ei arfer** ar fwy.....

- 15 **Gweithredu** pwer.....
- (2) Caniateir **gweithredu**.....
 - (3) Ond yn ystod.....ni chaniateir **gweithredu**
 - (4) Yn gysylltiedig.....ddyletswydd, **a weithredir** yn unol a'r adran hon, **ac**
 - (5) Mae **gweithredu**
- 16 (1) Caniateir **gweithredu**
- (5) Caniateir **gweithredu**
- 17 (1) Caniateir **gweithredu**
- 19 (1) Caniateir **gweithredu** (**hefyd newid y gair gyfarwyddydau am gyfarwyddiadau dwy waith + hefyd yn is adran 2 is law**)
- 20 Newid rhaniadau am **rannau** (4 lle)
- 23 Mae'r adran hon yn **weithredol**
- 24 Mae'r adran hon yn **weithredol**
- (2) Mae'r cyfeiriad.....y'i diwygiwyd, y'i **ymhestynnwyd**
- 25 (2) Nid yw is adran (1) yn **weithredol**
- 26 (1) a (2) **yn ymrwymo** yn hytrach na rhwymo (mewn pedwar lle)
- (3) Newid y gair atebol am gyfrifol
- (4) Mae'r adran hon.....i'r graddau **y bo'r** Ddeddf....darpariaeth **benodol**
- 30 (1) a (2) newid y gair amnewid am **gyfnewid**
- (3) newid y gair ddargeddiwr am **gedwir**

Agenda Item 3

Submission to the Constitutional and Legislative Affairs Committee of the National Assembly for Wales on Legislation (Wales) Bill

Submitted by Swansea Law Clinic

This submission is being made by the Swansea Law Clinic, which is part of the Hillary Rodham Clinton School of Law at Swansea University.

The Clinic is a *pro bono* service and has been operating year-round since March 2017 when a Miscarriage of Justice Project was established. Since then we have been running projects in prison law, legal aid exceptional case funding, a Litigant Helpdesk in Swansea Civil Justice Centre, and, since November 2017, we have been providing an initial advice and assistance service. The latter involves face to face client interviews mainly, but not exclusively, in the following areas of law: housing, relationship breakdown, employment, equality, and consumer issues. Our model uses undergraduate and postgraduate law students as Student Advisers. They work under supervision and following ethical training they advise our clients. We aim to complement and not replace existing legal advice services as well as complementing provision that is eligible for legal aid.

We are also involved in public legal education which involves a range of activities but mainly involves informing school students as to their legal rights and responsibilities and, from time to time, journalism on access to justice matters.

Since the Clinic was founded almost two years ago, we have assisted through our legal advice and public legal education programmes over 500 people. It is our intention to use new technologies to scale our service further. Although most of our clients are members of the public our service is also available to small businesses.

A number of our projects work in association with a number of other organisations. The Miscarriage of Justice Project works with a charity, Inside Justice, and a solicitors' regulated practice and charity, the Centre for Criminal Appeals. The Prison Law Clinic works with the charity, the Prisoners' Advice Service and PACT. The Exceptional Case Funding Clinic receives support from the charity, the Public Law Project. We have run an outreach clinic at Maggie's Swansea, Singleton Hospital. The charity, Travelling Ahead, has referred cases to us, and we have referred cases to Advocate (formerly known as the Free Representation Unit). We also receive assistance from LawWorks Cymru and the Equality and Human Rights Commission Wales's Advisers' Helpline.

Our interest in this consultation is that we find that many of our clients are either finding it difficult to afford legal services and/or find the legal system complex. As a result, we are interested in all aspects of access to justice and public understanding of the law.

Executive Summary

We fully support the imposition of a statutory obligation on future governments in Wales to improve the accessibility of Welsh law under Part 1 of the Bill.

In our experience, our clients are not always aware of their rights and obligations under Welsh law and we believe this duty will enhance their awareness.

There is evidence that individuals, small businesses and the voluntary sector find Welsh law difficult to access and navigate. We think organising legislation by subject matter will assist them, as will the publication of up to date legislation online.

We hope that the accessibility programmes under section 2 of the Bill will take a broad approach to accessibility and it will not be confined to moving all legislation on a topic to legislative Codes. The accessibility programmes should also think about clarity of language, the removal of overlapping and inconsistent provisions, computational law principles, as well as new approaches to law making. We are also concerned to see the development of Codes being accompanied by explanatory texts.

The Housing (Wales) Act 2014 is an example of legislation that we use in our casework where the statutory language is clear, and is an example that could be followed in Codes.

The Bill, if enacted, will enhance access to justice in the Welsh language.

A broad and successful approach to accessibility programmes will be world-leading with economic as well as citizenship benefits.

Duty to keep accessibility under review

1. We would like to see a statutory obligation on future governments in Wales to keep the accessibility of Welsh law under review. This will create a discipline to ensure that the subject is periodically revisited, as a result, we feel the duty in section 1 of the Legislation (Wales) Bill (the Bill) has the potential to bring about behaviour change so that all actors involved in the law-making process will think of accessibility when making laws.
2. We know of few international precedents for a duty on government to keep the accessibility of law under review. Section 3 of New Zealand's Legislation Act 2012 contains an analogous duty, but we are not aware of any others. Therefore, we think that Part 1 of the Bill affords the potential not only to make the law more accessible for individuals in Wales but also to make Wales more economically competitive by making it easier for businesses to know their legal rights and obligations thereby reducing compliance costs. According to the University of Cumbria's Centre for Regional Economic Development (CRED), SMEs often do not have the expertise or resources to keep track of legislation and this increases their apprehension about having to deal with legal requirements.¹
3. Lord Lloyd Jones, a senior jurist and UK Supreme Court judge, has said that 'the complexity of [Welsh law] is now a huge problem'.² The complexity will only get worse: more primary and secondary legislation will be passed, laws will have to be domesticated following Brexit, and the current practice of passing amendments to legislation without accompanying text adds to the accretion of the problem. As a result, action needs to start to be taken at the earliest possible opportunity.
4. In our experience, our clients are not always aware of the rights and obligations which arise out of Welsh law and that are increasingly relevant to their day to day lives. In part, this could be to do with the difficulties inherent in accessing Welsh law with its different sources and confusing differences in terminology such as Measures and Acts, etc. Codes will have a tidying up effect, which will make it easier for them.
5. There have been reports that the voluntary sector finds the current system of accessing Welsh law burdensome.³
6. From our casework we have found that there could be more awareness of important Welsh legislation such as the Housing (Wales) Act 2014. In particular, our clients do not seem aware of when landlords need to be registered and licensed under the Act. Equally, they do not seem to be aware when agents need to be licensed under the

¹ CRED, *Business Perception of Regulatory Burden*, May 2012

² Lord Lloyd Jones, 'Codification of Welsh Law' Lecture delivered to the Association of London Welsh Lawyers on 8 March 2018, <https://docs.wixstatic.com/ugd/ab7491_8c924cda0b7e4312b1e10fe9b8e7d501.pdf> accessed on 16 January 2019

³ BBC Radio 4, *Law in Action*, (10 March 2011)

Act. In addition, we have heard from other practitioners specialising in the area that there is a lack of awareness of the Social Services and Well-being (Act) 2014.

7. There are other indicators that there is a specific Welsh dimension to access to justice issues. A report by Dr Nason of Bangor Law School found that: “Based on claims we know to be Welsh, there were 1.8 civil judicial review claims per 100,000 Welsh residents in both 2013/14 and 2014/15. On the other hand the number of claims per head of population in other locations has been consistently substantially higher, but has been falling in recent years.”⁴
8. The lack of judicial review claims in Wales relative to England is even more surprising when it is taken into account that: ‘The Welsh approach to regulation of public governance is distinctive; introducing new and unique duties on Welsh Ministers and public bodies...Social rights have been woven to the framework of public governance, with potential to ensure good governance, fairness and accountability’.⁵

Clarity

9. Making the law accessible is not just about finding it all in the same place, important though that will be. Using clear language is also important, and we commend the Housing (Wales) Act 2014 for its use of user-friendly language.
10. We hope that Codes will go beyond putting all legislation on a particular subject matter in one place, but also inconsistent and overlapping provisions will be removed when legislation is moved to Codes.

Availability of and changes to legal services

11. Our advice model aims to empower clients to resolve their problems by themselves, as much as possible. Similar models are followed by other advice agencies. Codification of laws by subject matter will assist them in this empowerment as they will find it easier to research the law themselves.
12. There is evidence that many families are being priced out of justice, so increasingly more people will have to research law themselves. A report produced by Professor Donald Hirsch of Loughborough University, commissioned by the Law Society of Wales and England, found that those that people on incomes already 10 per cent to 30 per cent below the minimum income standard are being excluded from legal aid.⁶ The situation is getting progressively worse as the means test threshold for legal aid has been frozen since 2010. So, in addition to cuts in the scope of legal aid since 2013 those who are eligible for legal aid are still, in some cases, unlikely to be able afford it and maintain a minimum acceptable standard of living.

⁴ Sarah Nason, *Understanding Administrative Justice in Wales* (Bangor University: 2015 p.107)

⁵ Submission to the Commission on Justice In Wales from Dr Simon Hoffman (Swansea University) at para. 3 <https://beta.gov.wales/submission-justice-commission-dr-simon-hoffman-swansea-university> accessed on 16 January 2019

⁶ Donald Hirsch, *Priced out of Justice? Means testing legal aid and making ends meet* (Centre for Research in Social Policy Loughborough University, March 2018)

13. This means that individuals are being forced to navigate the legal system by themselves on such potentially life changing issues as eviction and severe housing disrepairs. There is evidence that the public read legislation with the National Archives recording 2 million visitors per week to their legislation.gov.uk website.⁷ This further increases the need to make the process of finding the law as simple as possible in order for people in such situations to better enforce their rights.
14. New business models for delivering legal services which are emerging such as limited retainers, also known as unbundling, mean that individuals and small businesses are doing more of their own legal work in order to make the cost of legal services affordable. As the Court of Appeal in *Minkin v Lesley Landsberg* (2015) has approved unbundling then it is reasonable to assume that they will form part of the landscape for legal services for the foreseeable future, and that members of the public and small businesses will be navigating legislation without legal advisers.
15. There is a good economic case for imposing the obligation under s1 of the Bill. There has been research that has found that small businesses are a hard to reach group for lawyers.⁸ There is further evidence that small businesses have a tendency to ignore legal problems or try to resolve them by themselves. The proposed obligation would assist small businesses in finding the law and assessing their legal rights and obligations which will assist in making their operations more efficient.
16. The obligation addresses the unavailability of many laws which apply only in Wales passed by the UK Parliament in the Welsh language. It therefore has the potential to significantly enhance accessibility of laws for those who wish to access them in the Welsh language.

Publication of legislation

17. We want to see all Welsh law being available online. Section 9 of New Zealand's Legislation Act 2012 places a duty on the Chief Legislative Counsel to be accessible and, as far as is reasonably practicable, downloadable from the Internet. Up to date versions of current law which are available electronically free of charge ought to be available to members of the public. At the moment, UK legislation, including Welsh law, on the legislation.gov.uk website hosted by the National Archives is not always up to date. Although there are warning notices on the website there is no information which assists members of the public in making sure that they can find up to date information.
18. In order to aid understanding of the law as it applies to members of the public in their circumstances, we want to see a situation where they can easily identify currently in force legislation or even tailor searches of legislative databases to their own legal needs. We would like to see accessibility programmes under section 2 of the Bill explore whether computational law principles could be applied to achieve this.

⁷ Office of the Parliamentary Counsel, *When laws become too complex* (March 2013).

⁸ Legal Services Board, *The legal needs of small businesses 2013 – 17* Available at: <https://research.legalservicesboard.org.uk/news/latest-research-18/> Accessed on 4 June 2018

Cross cutting legislation

19. There is legislation which potentially affects the public's legal position which cannot be incorporated into Codes because it is cross cutting and cannot be limited by subject matter such as the Human Rights Act 1998. In addition, there is specifically Wales-only legislation which creates duties which are cross cutting and could also potentially affect the legitimacy of legislation. Welsh Ministers must have 'due regard' to the UN Convention on the Rights of the Child (UNCRC) in 'all their functions' when 'exercising any of their functions' under section 1 of the Children and Young Persons (Wales) Measure 2011. In addition, public bodies must contribute to well-being goals in accordance with the sustainable development principle under section 3 of the Well-being of Future Generations Act (Wales) Act 2015.
20. We accept that the purpose of Codes is to find all applicable law in one place. It would not be the best place to engage in 'how to use' legislation discussions particularly as Law Wales already exists as a forum for such discussion. However, we would like to see brief reference to cross cutting legislation in explanatory memoranda to Codes themselves so that members of the public were at least alerted to the need, on occasion, to read Codes in conjunction with other legislation.

Explanatory material

21. Similarly, we support the idea of including primary and secondary legislation, as well as soft law, within Codes but are concerned that members of the public are not always aware of the hierarchy of legal norms. We would like to see some brief explanation of hierarchy of legal norms in explanatory memoranda to all Codes with cross reference to more detailed explanation on the Law Wales website.
22. We would like to see thought given not just to using text in explanatory material but also other ways of presenting information such as visualisations. At present, legislation and accompanying explanatory material only uses text and we feel it is time to be more innovative.

Accessibility programmes

23. The Bill does not define accessibility, which we see as a potential strength of the legislation. New Zealand's Legislation (Act) 2012 defines accessibility narrowly and we think the accessibility programmes under s.2 of the Bill could be more wide ranging, flexible and innovative than the New Zealand model by looking at public legal education, computational law principles, participative law-making and setting standards for clear and simple legislation.

Statutory Instruments with Clear Reports

28 January 2019

SL(5)302 – The Smoke Control Areas (Exempted Classes of Fireplace) (Wales) Order 2019

Procedure: Negative

This Order is made pursuant to section 21(5) of the Clean Air Act 1993 (“the Act”) and comes into force on 6 February 2019. The Order revokes and replaces with amendments the Smoke Control Areas (Exempted Classes of Fireplace) (Wales) Order 2017 (S.I. 2017/423) (W. 90).

Section 20 of the Act places a general prohibition on the emission of smoke in smoke control areas. Under section 21(5) of the Act, the Welsh Ministers may, by order, exempt in relation to Wales specified classes of fireplace from the provisions of section 20, if they are satisfied that such fireplaces can be used for burning fuel other than authorised fuels without producing any smoke or a substantial quantity of smoke.

Article 2 of this Order exempts the classes of fireplace listed in the first column of the table in the Schedule to this Order from the provisions of section 20 of the Act, subject to the conditions specified in the second and third columns of that table in relation to those classes of fireplace.

Parent Act: Clean Air Act 1993

Date Made: 15 January 2019

Date Laid: 16 January 2019

Coming into force date: 06 February 2019



SL(5)305 – The Food for Specific Groups (Information and Compositional Requirements) (Amendment) (Wales) Regulations 2019

Procedure: Negative

These Regulations make provision to enforce, in Wales, Commission Delegated Regulation (EU) 2016/128 supplementing Regulation (EU) No 609/2013 of the European Parliament and of the Council as regards the specific information and compositional requirements for food for special medical purposes.

Parent Act: Food Safety Act 1990; European Communities Act 1972

Date Made: 17 January 2019

Date Laid: 21 January 2019

Coming into force date: 22 February 2019



SL(5)301 – The Smoke Control Areas (Authorised Fuels) (Wales) Regulations 2019

Background and Purpose

These Regulations revoke and replace with amendments the Smoke Control Areas (Authorised Fuels) (Wales) Regulations 2017 (S.I. 2017/421 (W. 89)).

Section 20 of the Clean Air Act 1993 Act (“the 1993 Act”) provides that it is an offence to emit smoke from a chimney of a building or a chimney serving a furnace of a fixed boiler or an industrial plant, if that chimney is within a smoke control area. However, by virtue of section 20(3), it is a defence to prove that the alleged emission was caused solely by the use of an authorised fuel.

By virtue of section 20(6), “authorised fuel” means a fuel declared by regulations to be an authorised fuel. The power to make such regulations is exercisable in relation to Wales by the Welsh Ministers.

These Regulations specify all fuels which are currently authorised for use in smoke control areas in Wales for the purposes of section 20 of the 1993 Act.

Procedure

Negative

Technical Scrutiny

The following point is identified for reporting under Standing Order 21.2 (vii) (differences between the Welsh and English texts) in respect of this instrument.

In paragraph 71(c) of the Schedule, the English text specifies a size of “between approximately 30 millimetres and 130 millimetres in length”. The corresponding Welsh text specifies a range of 30-150 millimetres.

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

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

Government Response

A government response is required.

Legal Advisers

Constitutional and Legislative Affairs Committee

18 January 2019

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

2019 No. 50 (W. 15)

CLEAN AIR, WALES

**The Smoke Control Areas
(Authorised Fuels) (Wales)
Regulations 2019**

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations revoke and replace with amendments the Smoke Control Areas (Authorised Fuels) (Wales) Regulations 2017 (S.I. 2017/421 (W. 89)) (“the 2017 Regulations”).

Section 20 of the Clean Air Act 1993 Act (“the 1993 Act”) provides that it is an offence to emit smoke from a chimney of a building or a chimney serving a furnace of a fixed boiler or an industrial plant, if that chimney is within a smoke control area. However, by virtue of section 20(3), it is a defence to prove that the alleged emission was caused solely by the use of an authorised fuel.

By virtue of section 20(6), “authorised fuel” means a fuel declared by regulations to be an authorised fuel. The power to make such regulations is exercisable in relation to Wales by the Welsh Ministers.

These Regulations specify all fuels which are currently authorised for use in smoke control areas in Wales for the purposes of section 20 of the 1993 Act.

The fuels that were listed in the Schedule to the 2017 Regulations immediately prior to the coming into force of these Regulations continue to be authorised fuels, with the exception that changes have been made to the specification of three fuels (ALDI Winter Flame Smokeless Fuel, Brazier briquettes and Multiheat briquettes).

Fourteen additional fuels are authorised for the first time.

The Welsh Ministers’ Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. It was not considered necessary to carry out a regulatory impact

assessment as to the likely costs and benefits of complying with these Regulations.

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

2019 No. 50 (W. 15)

CLEAN AIR, WALES

**The Smoke Control Areas
(Authorised Fuels) (Wales)
Regulations 2019**

Made 15 January 2019

Laid before the National Assembly for Wales
16 January 2019

Coming into force 6 February 2019

The Welsh Ministers make the following Regulations in exercise of the power conferred by section 20(6) of the Clean Air Act 1993⁽¹⁾.

Title, commencement and application

1.—(1) The title of these Regulations is the Smoke Control Areas (Authorised Fuels) (Wales) Regulations 2019 and they come into force on 6 February 2019.

(2) These Regulations apply in relation to Wales.

Authorised fuels for the purposes of Part III of the Clean Air Act 1993

2. Anthracite, semi-anthracite, electricity, gas, low volatile steam coals and the fuels described in the Schedule are declared to be authorised fuels for the purposes of Part III of the Clean Air Act 1993.

Revocation

3. The Smoke Control Areas (Authorised Fuels) (Wales) Regulations 2017⁽²⁾ are revoked.

(1) 1993 c. 11. The relevant function of the Secretary of State was, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales by virtue of article 2 of, and Schedule 1 to, the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672). That function is now exercisable by the Welsh Ministers by virtue of section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006 (c. 32).

(2) S.I. 2017/421 (W. 89).

Lesley Griffiths
Minister for Environment, Energy and Rural Affairs,
one of the Welsh Ministers.
15 January 2019

SCHEDULE Regulation 2

Authorised Fuels

1. ALDI Winter Flame Smokeless Fuel manufactured by Coal Products Limited at Immingham Briquetting Works, Immingham, North East Lincolnshire which—

- (a) comprise anthracite fines (as to approximately 60 to 80% of the total weight), petroleum coke (as to approximately 10 to 30% of the total weight), bituminous coal (as to approximately 0 to 17% of the total weight) and molasses/acid or an organic binder (as the remaining weight);
- (b) were manufactured from those constituents by a process involving roll-pressing and heat treatment of up to 300°C;
- (c) are either unmarked pillow-shaped briquettes or, pillow-shaped briquettes marked with a single indented line running longitudinally along each face, off-set from its counterpart by 10 millimetres;
- (d) have an average weight of 55 or 80 grams per briquette; and
- (e) have a sulphur content not exceeding 2% of the total weight.

2. Aimcor Excel briquettes, manufactured by Applied Industrial Materials UK Limited at Newfield, County Durham, or manufactured by Oxbow Carbon & Minerals UK Limited at Windsor House, Cornwall Road, Harrogate, North Yorkshire, which—

- (a) comprise petroleum coke (as to approximately 60 to 75% of the total weight), low volatile coal and reactive coke (as to approximately 20 to 25% of the total weight) and cold-setting resin binder (as to the remaining weight);
- (b) were manufactured from those constituents by a process involving roll-pressing;
- (c) are unmarked pillow-shaped briquettes;
- (d) have an average weight of 73 grams; and
- (e) have a sulphur content not exceeding 2% of the total weight.

3. Aimcor Pureheat briquettes, manufactured by Applied Industrial Materials UK Limited at Immingham, North East Lincolnshire, or manufactured by Oxbow Carbon & Minerals UK Limited at Windsor House, Cornwall Road, Harrogate, North Yorkshire, which—

- (a) comprise anthracite (as to approximately 60% of the total weight), petroleum coke (as to approximately 25% of the total weight) and binder (as to the remaining weight);
- (b) were manufactured from those constituents by a process involving roll-pressing and heat treatment at about 250°C;
- (c) are pillow-shaped briquettes with a single line indentation on one side and a double line indentation on the reverse side;
- (d) have an average weight of 75 grams; and
- (e) have a sulphur content not exceeding 2% of the total weight.

4. Ancit briquettes, manufactured by Coal Products Limited at Immingham Briquetting Works, Immingham, North East Lincolnshire, which—

- (a) comprise anthracite (as to approximately 60 to 95% of the total weight), petroleum coke (up to approximately 30% of the total weight), bituminous coal (up to approximately 15% of the total weight) and a molasses and phosphoric acid binder or an organic binder (as to the remaining weight);
- (b) were manufactured from those constituents by a process involving roll-pressing and heat treatment at about 300°C;
- (c) are unmarked cushion-shaped briquettes;
- (d) have an average weight of 48 grams; and
- (e) have a sulphur content not exceeding 2% of the total weight.

5. Big K Fire Log, manufactured by Top Flames Europe BV, Rustenburgerweg 3, 1646 WJ Ursem Gem, Alkmaar, the Netherlands, which—

- (a) comprise 29% paraffin wax, 20% plant derived wax, 17% 6mm diameter wood pellets and 34% sawdust (by weight);
- (b) were manufactured from those constituents by a process of mixing and extruding;
- (c) are approximately 172 millimetres in length, 75 millimetres in depth and 75 millimetres in height with 6 grooves;
- (d) have an average weight of 0.8 kilograms; and
- (e) have a sulphur content not exceeding 0.1% of the total weight.

6. Big K Fire Log, manufactured by Top Flames Europe BV, Rustenburgerweg 3, 1646 WJ Ursem Gem, Alkmaar, the Netherlands, which—

- (a) comprise 29% paraffin wax, 20% plant derived wax, 17% 6mm diameter wood pellets and 34% sawdust (by weight);

- (b) were manufactured from those constituents by a process of mixing and extruding;
- (c) are approximately 193 millimetres in length, 75 millimetres in depth and 75 millimetres in height with 6 grooves;
- (d) have an average weight of 0.9 kilograms; and
- (e) have a sulphur content not exceeding 0.1% of the total weight.

7. Big K Fire Log manufactured by Top Flames Europe BV, Rustenburgerweg 3, 1646 WJ Ursem Gem, Alkmaar, the Netherlands, which—

- (a) comprise 29% paraffin wax, 20% plant derived wax, 17% 6mm diameter wood pellets and 34% sawdust (by weight);
- (b) were manufactured from those constituents by a process of mixing and extruding;
- (c) are approximately 215 millimetres in length, 75 millimetres in depth and 75 millimetres in height with 6 grooves;
- (d) have an average weight of 1 kilograms; and
- (e) have a sulphur content not exceeding 0.1% of the total weight.

8. Big K Instant Lighting Fire Logs, manufactured by Allspan BV at Macroweg 4, 5804 CL Venray, the Netherlands, which—

- (a) comprise slack wax (as to approximately 58 to 59% of the total weight), and hardwood sawdust (as to the remaining weight);
- (b) were manufactured from those constituents by a process of heat treatment and extrusion;
- (c) are approximately 235 millimetres in length and 80 millimetres in depth and with grooves along their faces;
- (d) have an average weight of 1.1 kilograms; and
- (e) have a sulphur content not exceeding 0.1% of the total weight.

9. Big K Restaurant Grade Charcoal, manufactured by Big K Products UK Limited at Parque Industrial Alvear, 2126 Alvear, Provincia de Santa Fe, Argentina, which—

- (a) comprise pyrolised white quebracho wood;
- (b) were manufactured using a kiln pyrolysis process at approximately 450°C;
- (c) are unmarked charcoal pieces of between 30 millimetres to 150 millimetres; and
- (d) have a sulphur content not exceeding 2% of the total weight.

10. Big K Restaurant Grade Charcoal Briquettes manufactured by Big K Esereso Carbon Products Ltd, PO Box 15469, Accra North, Ghana which—

- (a) comprises pyrolised Terminalia Superba (Ofram);
- (b) were manufactured using an extrusion process followed by a retort pyrolysis process at approximately 450 °C;
- (c) are hexagonal shaped briquettes with a diameter of between 4.5 centimetres and 5.5 centimetres and length of between 5 centimetres and 20 centimetres. The briquettes have a hollow core about 1.5 centimetres diameter; and
- (d) have a sulphur content not exceeding 0.1% of the total weight on a dry basis.

11. Black Diamond Gem briquettes, manufactured by Coal Products Limited at Immingham Briquetting Works, Immingham, North East Lincolnshire, which—

- (a) comprise anthracite duff (as to approximately 20 to 30% of the total weight), petroleum coke (as to approximately 40 to 45% of the total weight), bituminous coal (as to approximately 12 to 22% of the total weight) and molasses and phosphoric acid binder (as to the remaining weight);
- (b) were manufactured from those constituents by a process involving roll-pressing and heat treatment at about 300°C;
- (c) are pillow-shaped briquettes marked with two parallel indented lines running latitudinally around the briquette;
- (d) have an average weight of 160 grams; and
- (e) have a sulphur content not exceeding 1.5% of the total weight.

12. Bord na Móna Firelogs, manufactured by Bord na Móna Fuels Limited, Newbridge, County Kildare, Ireland, which—

- (a) comprise slack wax (as to approximately 55% of the total weight) and hardwood sawdust (as to the remaining weight);
- (b) were manufactured from those constituents by a process of heat treatment and extrusion;
- (c) are approximately 255 millimetres in length and 75 millimetres in diameter, and with grooves along one longitudinal face;
- (d) have an average weight of 1.3 kilograms (net); and
- (e) have a sulphur content not exceeding 0.1% of the total weight.

13. Bord na Móna Firepak briquettes (also marketed as Arigna Special coal briquettes), manufactured by

Bord na Móna Fuels Limited, Newbridge, County Kildare, Ireland, which—

- (a) comprise anthracite (as to approximately 50% of the total weight), petroleum coke (as to approximately 20 to 40% of the total weight), bituminous coal (as to approximately 10 to 30% of the total weight) and starch based binder (as to the remaining weight);
- (b) were manufactured from those constituents by a process involving roll-pressing and heat treatment;
- (c) are unmarked pillow-shaped briquettes;
- (d) have an average weight of 50 grams; and
- (e) have a sulphur content not exceeding 1.5% of the total weight.

14. Brand Choice Fire Log manufactured by Top Flames Europe BV, Rustenburgerweg 3, 1646 WJ Ursem Gem, Alkmaar, The Netherlands which—

- (a) comprise 29% paraffin wax, 20% plant derived wax, 17% 6mm diameter wood pellets and 34% sawdust (by weight);
- (b) were manufactured from those constituents by a process of mixing and extruding;
- (c) are firelogs that are approximately 172 millimetres in length and 75 millimetres in depth, 75 millimetres in height with 6 grooves;
- (d) have an average weight of 0.8 kilograms per firelog; and
- (e) have a sulphur content not exceeding 0.1% of the total weight.

15. Brazier briquettes manufactured by Coal Products Limited at Immingham Briquetting Works, Immingham, North East Lincolnshire which—

- (a) comprise anthracite fines (as to approximately 60 to 80% of the total weight), petroleum coke (as to approximately 10 to 30% of the total weight), bituminous coal (as to approximately 0 to 17% of the total weight) and molasses/acid or an organic binder (as the remaining weight);
- (b) were manufactured from those constituents by a process involving roll-pressing and heat treatment of up to 300°C;
- (c) are either unmarked pillow-shaped briquettes or, pillow-shaped briquettes marked with a single indented line running longitudinally along each face, off-set from its counterpart by 10 millimetres;
- (d) have an average weight of 55 or 80 grams per briquette; and

- (e) have a sulphur content not exceeding 2% of the total weight.

16. Briteflame briquettes, manufactured by Maxibrite Limited at Mwyndy Industrial Estate, Llantrisant, Rhondda Cynon Taf, which—

- (a) comprise bituminous coal (as to approximately 10 to 15% of the total weight), petroleum coke (as to approximately 10 to 15% of the total weight), anthracite duff (as to approximately 70 to 80% of the total weight), and starch binder (as to the remaining weight);
- (b) were manufactured from those constituents by a process involving roll-pressing and heat treatment at about 260°C;
- (c) are unmarked pillow-shaped briquettes;
- (d) have an average weight of 140 grams; and
- (e) have a sulphur content not exceeding 1.9% sulphur on a dry basis.

17. Briteheat briquettes, manufactured by Coal Products Limited at Immingham Briquetting Works, North East Lincolnshire, which—

- (a) comprise anthracite (as to approximately 60 to 85% of the total weight), petroleum coke (up to approximately 30% of the total weight), bituminous coal (up to approximately 15% of the total weight), and a molasses and phosphoric acid binder (as to the remaining weight);
- (b) were manufactured from those constituents by a process involving roll-pressing and heat treatment at about 300°C;
- (c) are cushion-shaped briquettes with an indented line running longitudinally around the briquette;
- (d) have an average weight of 30 grams; and
- (e) have a sulphur content not exceeding 2% of the total weight.

18. Briteheat Plus briquettes, manufactured by Coal Products Limited at Immingham Briquetting Works, Immingham, North East Lincolnshire, which—

- (a) comprise anthracite duff (as to approximately 75 to 95% of the total weight), petroleum coke (up to approximately 20% of the total weight) and an organic binder (as to the remaining weight);
- (b) were manufactured from those constituents by a process involving roll-pressing;
- (c) are unmarked pillow shaped briquettes;
- (d) have an average weight of 80 grams; and

- (e) have a sulphur content not exceeding 2% of the total weight.

19. Bryant and May Firelogs, manufactured by Swedish Match at Kostenetz, Bulgaria, which—

- (a) comprise paraffin wax (as to approximately 50% of the total weight), ground poplar wood (as to approximately 25% of the total weight), wheatflour (as to approximately 15% of the total weight), ignitable solids dispersed in gelled paraffin wax (as to approximately 1% of the total weight) and water, swelling agents and preservative (as to the remaining weight);
- (b) were manufactured from those constituents by a process involving extrusion;
- (c) are of quadrant cross sections with a radius of approximately 80 millimetres, and length approximately 265 millimetres with an ignition strip along one edge;
- (d) have an approximate weight of 1.15 kilograms; and
- (e) have a sulphur content not exceeding 0.1% of the total weight.

20. Charglow briquettes, manufactured by Polchar Spolka z ograniczona odpowiedzialnoscia, Police, Zachodniopomorskie, Poland, which—

- (a) comprise bituminous coal char (as to approximately 45 to 95% of the total weight), anthracite (as to approximately 0 to 20% of the total weight), petroleum coke (as to approximately 0 to 20% of the total weight), bituminous coal (as to approximately 0 to 10% of the total weight) and an organic binder (as to the remaining weight);
- (b) were manufactured from those constituents by a process involving roll pressing and heat treatment at about 110°C;
- (c) are unmarked pillow-shaped briquettes;
- (d) have an average weight of 100 grams; and
- (e) have a sulphur content not exceeding 1.5% of the total weight.

21. Coalite, manufactured by Coalite Products Limited at Bolsover, near Chesterfield, Derbyshire and at Grimethorpe, South Yorkshire using a low temperature carbonisation process.

22. Coalite Ovals briquettes, manufactured by Maxibrite Limited at Mwyndy Industrial Estate, Llantrisant, Rhondda Cynon Taf, which—

- (a) comprise bituminous coal (as to approximately 10 to 15% of the total weight), petroleum coke (as to approximately 10 to 15% of the total weight), anthracite duff (as to

approximately 70 to 80% of the total weight) and starch binder (as to the remaining weight);

- (b) were manufactured from those constituents by a process involving roll-pressing and heat treatment at about 260°C;
- (c) are unmarked pillow-shaped briquettes that are approximately 84 millimetres in length, 38 millimetres in width and 62 millimetres in height;
- (d) have an average weight of 118 grams; and
- (e) have a sulphur content not exceeding 1.9% of the total weight on a dry basis.

23. Coke, manufactured by—

- (a) Coal Products Limited at Cwm Coking Works, Llantwit Fardre, Pontypridd, Rhondda Cynon Taf, and sold as “Sunbrite”;
- (b) Monckton Coke & Chemical Company Limited at Royston, near Barnsley, South Yorkshire, and sold as “Sunbrite” or “Monckton Boiler Beans”;
- (c) Corus UK Limited at Teesside Works, Redcar & Cleveland, and sold as “Redcar Coke Nuts (Doubles)”;
- (d) Coal Products Limited at Cwm Coking Works, Llantwit Fardre, Pontypridd, Rhondda Cynon Taf, and sold as “Cwm Coke Doubles”.

24. Cosycoke (also marketed as Lionheart Crusader or Sunbrite Plus), manufactured by Monckton Coke & Chemical Company Limited at Royston, near Barnsley, South Yorkshire and Aimcor Supercoke (also marketed as Supercoke), manufactured by M & G Fuels Limited at Hartlepool Docks, Hartlepool, which in each case—

- (a) comprise sized hard coke (as to approximately 45 to 65% of the total weight) and sized petroleum coke (as to the remaining weight);
- (b) were manufactured from those constituents by blending;
- (c) are unmarked random shapes; and
- (d) have a sulphur content not exceeding 2% of the total weight.

25. Cosyglo Smokeless briquettes, manufactured by Arigna Fuels at Arigna, Carrick-on-Shannon, County Roscommon, Ireland, which—

- (a) comprise anthracite (as to approximately 35 to 50% of the total weight), petroleum coke (up to approximately 45% of the total weight), bituminous coal (up to approximately 20% of

the total weight) and a starch or other organic binder (up to 5% of the total weight);

- (b) are manufactured from those constituents by a process involving roll-pressing and heat treatment at approximately 250°C;
- (c) are unmarked pillow-shaped briquettes that are approximately 80 millimetres in length, 60 millimetres in width and 40 millimetres in height;
- (d) have an average weight of 110 grams; and
- (e) have a sulphur content not exceeding 1.8% of the total weight on a dry basis.

26. CPL Restaurant Grade Charcoal, manufactured by Kunfayakun Global Treasures Limited (KGT) at Kunfayakun Stores, No. 1, Aranse Street, Station, Sagamu, Orgub State E17, Shagamu International Market, Nigeria, which—

- (a) comprises pyrolised Anogeissus Leiocarpus, Burkea Africana, Distemonanthus Benthamianus and Viteloria Paracloxum;
- (b) was manufactured using a kiln pyrolysis process at approximately 450°C to 550°C;
- (c) are unmarked charcoal pieces of between 50-180 millimetres; and
- (d) has a sulphur content not exceeding 1.9% of the total weight on a dry basis.

27. Direct Charcoal Blue Bag Premium Grade Restaurant Charcoal, manufactured by Direct Charcoal at Ekamanzi Road, Dalton, KwaZulu Natal, Republic of South Africa, which—

- (a) comprise pyrolised Acacia mercii wood;
- (b) were manufactured using a kiln pyrolysis process at approximately 420 to 480°C;
- (c) are unmarked charcoal pieces of between 30 millimetres to 150 millimetres; and
- (d) have a sulphur content not exceeding 2% of the total weight.

28. Direct Charcoal Blue Bag Restaurant Charcoal, manufactured by Direct Charcoal Limited at Ruta 25, km. 9,5 -Pilar (cp1629) Buenos Aires, Argentina, which—

- (a) comprise pyrolised white quebracho and guayacan wood;
- (b) were manufactured using a kiln pyrolysis process at approximately 420 to 480°C;
- (c) are unmarked charcoal pieces of between 30 millimetres to 150 millimetres; and
- (d) have a sulphur content not exceeding 2% of the total weight.

29. Dragonbrite briquettes, manufactured by Tower Colliery Limited at Aberdare, Rhondda Cynon Taf, which—

- (a) comprise tower duff (as to approximately 95% of the total weight) and a resin-based binder (as to the remaining weight);
- (b) were manufactured from those constituents by a process involving cold cure roll pressing;
- (c) are pillow-shaped briquettes marked with the letter “T” on one side;
- (d) have an average weight of 50 grams; and
- (e) have a sulphur content not exceeding 1% of the total weight.

30. Dragonglow briquettes, manufactured by Tower Colliery Limited at Aberdare, Rhondda Cynon Taf, which—

- (a) comprise tower duff (as to approximately 95% of the total weight) and a resin-based binder (as to the remaining weight);
- (b) were manufactured from those constituents by a process involving cold cure roll pressing;
- (c) are unmarked pillow-shaped briquettes;
- (d) have an average weight of 100 grams; and
- (e) have a sulphur content not exceeding 1% of the total weight.

31. Dual briquettes manufactured by Coal Products Limited at Immingham Briquetting Works, Immingham, North East Lincolnshire which—

- (a) comprise petroleum coke (as to approximately 55 to 80% of the total weight), anthracite (as to approximately 8 to 20% of the total weight), bituminous coal (as to approximately 8 to 20% of the total weight) and an organic binder (as the remaining weight);
- (b) manufactured from those constituents by a process involving roll-pressing and cold cure;
- (c) are unmarked square pillow-shaped briquettes;
- (d) have an average weight of 100 grams per briquette; and
- (e) have a sulphur content not exceeding 2% of the total weight.

32. Duraflame Firelogs, manufactured by Paramelt BV, Costerstraat 18, PO Box 86, 1700 AB Heerhugowaard, the Netherlands, which—

- (a) comprise mineral-based petroleum wax (as to approximately 55% of the total weight) and ground hardwood fibre (as to the remaining weight);

- (b) were manufactured from those constituents by a process of heat treatment and extrusion;
- (c) are approximately 320 millimetres in length, 90 millimetres in height and 85 millimetres wide;
- (d) have an average weight of 1.45 kilograms; and
- (e) have a sulphur content not exceeding 0.1% of the total weight.

33. Ecoal briquettes (also marketed as Homefire Ecoal briquettes and Supertherm 30), manufactured by Coal Products Limited at Immingham Briquetting Works, Immingham, North East Lincolnshire, which—

- (a) comprise anthracite fines (as to approximately 40 to 65% of the total weight), petroleum coke (as to approximately 20 to 40% of the total weight), bituminous coal (as to approximately 0 to 20% of the total weight), biomass (as to approximately 5 to 20% of the total weight), biomass char (as to approximately 0 to 10% of the total weight) and molasses and phosphoric acid as binder (as to a maximum of 20% of the total weight);
- (b) were manufactured from those constituents by a process involving roll-pressing and heat treatment at approximately 300°C;
- (c) are unmarked pillow shaped briquettes that are typically 72 millimetres in length, 58 millimetres in width and 42 millimetres in height or are unmarked hexagonal briquettes that are typically 70 millimetres in length, 73 millimetres in width and 39 millimetres in height;
- (d) have an average weight of 125 grams; and
- (e) have a sulphur content not exceeding 2% of the total weight.

34. Ecoal 50 briquettes, manufactured by Coal Products Limited at Immingham Briquetting Works, Immingham, North East Lincolnshire, which—

- (a) comprise anthracite fines (as to approximately 30 to 55% of the total weight), biomass (as to approximately 25 to 35% of the total weight), petroleum coke (as to approximately 10 to 40% of the total weight), bituminous coal (as to approximately 0 to 5% of the total weight) and natural organic binder (as to the remaining weight);
- (b) were manufactured from those constituents by a process involving roll pressing followed by heat treatment at approximately 300°C in a controlled, reduced oxygen environment;

- (c) are hexagonal-shaped briquettes with a single stripe on one side across the flats;
- (d) have an average weight of 135 grams; and
- (e) have a sulphur content not exceeding 2% of the total weight.

35. Ecoal Briquettes manufactured by Coal Products Limited at Immingham Briquetting Works, Immingham, North East Lincolnshire which–

- (a) comprise anthracite fines (as to approximately 40 to 65% of the total weight), petroleum coke (as to approximately 20 to 40% of the total weight), bituminous coal (as to approximately 0 to 20% of the total weight), biomass (as to approximately 5 to 20% of the total weight), biomass char (as to approximately 0 to 10% of the total weight) and an organic binder or, molasses and acid binder (as to a maximum of 20% of the total weight);
- (b) were manufactured from those constituents by a process involving roll-pressing and heat treatment up to 300°C;
- (c) are unmarked-pillow shaped briquettes or, unmarked hexagonal briquettes or, pillow-shaped ovoids with two parallel indented lines running latitudinally around each briquette or, hexagonal briquettes with a single stripe on one side across the flat;
- (d) have an average weight of 125 to 135 grams per briquette; and
- (e) have a sulphur content not exceeding 2% of the total weight.

36. Ecoal Briquettes manufactured by CPL Fuels Ireland, Foynes Briquetting Works, Foynes Port, Foynes, Co. Limerick, Ireland which–

- (a) comprise anthracite fines (as to approximately 40 to 65% of the total weight), petroleum coke (as to approximately 20 to 40% of the total weight), bituminous coal (as to approximately 0 to 20% of the total weight), biomass (as to approximately 5 to 20% of the total weight), biomass char (as to approximately 0 to 10% of the total weight) and an organic binder or, molasses and acid binder (as to a maximum of 20% of the total weight);
- (b) were manufactured from those constituents by a process involving roll-pressing and heat treatment up to 300°C;
- (c) are unmarked-pillow shaped briquettes or, unmarked hexagonal briquettes or, pillow-shaped ovoids with two parallel indented lines running latitudinally around each briquette or,

hexagonal briquettes with a single stripe on one side across the flat;

- (d) have an average weight of 125 to 135 grams per briquette; and
- (e) have a sulphur content not exceeding 2% of the total weight.

37. Ecobrite briquettes, manufactured by Arigna Fuels Limited at Arigna, Carrick-on-Shannon, County Roscommon, Ireland, which—

- (a) comprise anthracite fines (as to approximately 96% of the total weight) and starch as binder (as to the remaining weight);
- (b) were manufactured from those constituents by a process involving roll-pressing and heat treatment at about 250°C;
- (c) are unmarked pillow-shaped briquettes in two sizes;
- (d) have an average weight of 37 grams for the smaller size and 48 grams for the larger size; and
- (e) have a sulphur content not exceeding 1.5% of the total weight.

38. EDF Fuel Briquettes, manufactured by TheGreenFactory at the Laboratoire de Chimie Agro-industrielle UMR 1010 INRA/INP-ENSIACET AGROMAT, Site de l'ENIT 47, Avenue D'Azereiz, - BP 1629 65016 Tarbes Cedex, France, which—

- (a) comprise approximately 100 grams of unprocessed Miscanthus (as to approximately 45% of the total weight), approximately 95 grams of Copra ester (as to approximately 43% of the total weight), and approximately 25 grams of a binder produced from Miscanthus (processed with calcium oxide as to approximately 0.5% of the total weight) as to the remaining weight;
- (b) are manufactured from those constituents by a process involving Miscanthus processing, mixing, hot pressing and soaking in an ester bath;
- (c) are unmarked cylinder-shaped briquettes of 120 millimetres in height and 60 millimetres in diameter with a star-shaped hole running centrally through the longer length of the briquette;
- (d) have an average weight of 220 grams; and
- (e) have a sulphur content not exceeding 2% of the total weight.

39. Excel+ briquettes, manufactured by Oxbow Coal BV at Newfield Works, Bishop Auckland, County Durham, which—

- (a) comprise petroleum coke (as to 65 to 70% of the total weight), anthracite (as to 25% of the total weight) and a cold setting resin binder, hardener and low temperature stabiliser (as to the remaining weight);
- (b) are produced at ambient temperature by a process involving roll pressing and cold curing;
- (c) are unmarked square pillow-shaped briquettes;
- (d) have an average weight of 100 grams; and
- (e) have a sulphur content not exceeding 1.9% of the total weight.

40. Extracite briquettes, manufactured by Sophia-Jacoba Handelsgesellschaft GmbH at Hückelhoven, Germany, which—

- (a) comprise anthracite duff (as to approximately 95.5% of the total weight) and ammonium lignosulphonate lye as binder (as to the remaining weight);
- (b) were manufactured from those constituents by a process involving roll-pressing and heat treatment at about 260°C;
- (c) are cushion-shaped briquettes with a silvery appearance and are marked with the letters “S” and “J”;
- (d) have an average weight of 40 grams; and
- (e) have a sulphur content of approximately 1.2% of the total weight.

41. Fire Drops manufactured by OU TrendSteel Products, Anri, Ropažu novads, Rīgas rajons, Rīgas, LV-2133, Latvia which—

- (a) comprise crushed anthracite (as to approximately 65.3% per cent of the total weight), long-flame bituminous coal (as to approximately 25.7% per cent of the total weight) and molasses and orthophosphoric acid binder (as to the remaining weight);
- (b) are manufactured from those constituents by a process involving roll pressing followed by heat treatment at a temperature of approximately 250-280°C;
- (c) are almost round pillow shaped briquettes that are 70mm in diameter and about 41mm thick at the centre of the briquette;
- (d) have an average weight of 115 grams per briquette; and
- (e) have a sulphur content not exceeding 0.5% of the total weight.

42. Fireglo briquettes, manufactured by Les Combustibles de Normandie at Caen, France, and by

La Soci t  Rouennaise de D fumage at Rouen, France, which—

- (a) comprise washed Welsh duffs (as to approximately 92% of the total weight) and coal pitch binder (as to the remaining weight);
- (b) were manufactured from those constituents by a process involving roll-pressing and heat treatment at about 330 C;
- (c) are ovoids with three lines on one side and are smooth on the other side;
- (d) have an average weight of 30 grams; and
- (e) have a sulphur content not exceeding 0.8% of the total weight.

43. Fireglow firelog manufactured by Woodflame Moerdijk BV, Apolloweg 4, 4782 SB, Moerdijk, The Netherlands which—

- (a) comprise slack wax (as to approximately 55 to 60% of the total weight) and hardwood sawdust (as to approximately 40 to 45% of the total weight);
- (b) were manufactured from those constituents by a process of heat treatment and extrusion;
- (c) are firelogs that are approximately 180 millimetres in length and 80 millimetres in width and 70 millimetres in height, with a single groove running along three of the four faces;
- (d) have an average weight of 0.80 kilograms per firelog; and
- (e) have a sulphur content not exceeding 0.1% of the total weight.

44. Firegold briquettes, manufactured by Coal Products Limited at Immingham Briquetting Works, Immingham, North East Lincolnshire, which—

- (a) comprise anthracite (as to approximately 36 to 51% of the total weight), petroleum coke (as to approximately 40 to 55% of the total weight) and an organic binder or a molasses and phosphoric acid binder (as to a maximum of 20% of the total weight);
- (b) were manufactured from those constituents by a process involving roll-pressing;
- (c) are unmarked pillow shaped briquettes that are typically 54 millimetres in length, 58 millimetres in width and 34 millimetres in height;
- (d) have an average weight of 87 grams; and
- (e) have a sulphur content not exceeding 2% of the total weight on a dry basis.

45. Flamefast firelog manufactured by Woodflame Moerdijk BV, Apolloweg 4, 4782 SB, Moerdijk, The Netherlands which—

- (a) comprise slack wax (as to approximately 55 to 60% of the total weight) and hardwood sawdust (as to approximately 40 to 45% of the total weight);
- (b) were manufactured from those constituents by a process of heat treatment and extrusion;
- (c) are firelogs that are approximately 215 millimetres in length and 80 millimetres in width and 70 millimetres in height, with a single groove running along three of the four faces; and
- (d) have an average weight of 0.95 kilograms per firelog.

46. Gardeco Fire Log, manufactured by Top Flames Europe BV, Rustenburgerweg 3, 1646 WJ Ursem Gem, Alkmaar, the Netherlands, which—

- (a) comprise 29% paraffin wax, 20% plant derived wax, 17% 6mm diameter wood pellets and 34% sawdust (by weight);
- (b) were manufactured from those constituents by a process of mixing and extruding;
- (c) are approximately 172 millimetres in length, 75 millimetres in depth and 75 millimetres in height with 6 grooves;
- (d) have an average weight of 0.8 kilograms; and
- (e) have a sulphur content not exceeding 0.1% of the total weight.

47. Gardeco Fire Log, manufactured by Top Flames Europe BV, Rustenburgerweg 3, 1646 WJ Ursem Gem, Alkmaar, the Netherlands, which—

- (a) comprise 29% paraffin wax, 20% plant derived wax, 17% 6mm diameter wood pellets and 34% sawdust (by weight);
- (b) were manufactured from those constituents by a process of mixing and extruding;
- (c) are approximately 237 millimetres in length, 75 millimetres in depth and 75 millimetres in height with 6 grooves;
- (d) have an average weight of 1.1 kilograms; and
- (e) have a sulphur content not exceeding 0.1% of the total weight.

48. G N Grosvenor (Fuel Express) Restaurant Charcoal, manufactured by Pabensa SA Aviadores del Chaco, Asuncion, Paraguay, which—

- (a) comprises pyrolised *Prosopis nigra*, *Cordia alliodora*, *Centrolobium*, *Prosopis kuntzei*,

Caesalpinia, Goncalo alves and Tabebuia hardwoods;

- (b) were manufactured using a kiln pyrolysis process at approximately 800°C;
- (c) are unmarked charcoal pieces of between 20 and 120 millimetres; and
- (d) has a sulphur content not exceeding 2% of the total weight on a dry basis.

49. Homefire Ecoal briquettes manufactured by Coal Products Limited at Immingham Briquetting Works, Immingham, North East Lincolnshire which–

- (a) comprise anthracite fines (as to approximately 40 to 65% of the total weight), petroleum coke (as to approximately 20 to 40% of the total weight), bituminous coal (as to approximately 0 to 20% of the total weight), biomass (as to approximately 5 to 20% of the total weight), biomass char (as to approximately 0 to 10% of the total weight) and an organic binder or, molasses and acid binder (as to a maximum of 20% of the total weight);
- (b) were manufactured from those constituents by a process involving roll-pressing and heat treatment up to 300°C;
- (c) are unmarked-pillow shaped briquettes or, unmarked hexagonal briquettes or, pillow-shaped ovoids with two parallel indented lines running latitudinally around each briquette or, hexagonal briquettes with a single stripe on one side across the flat;
- (d) have an average weight of 125 to 135 grams per briquette; and
- (e) have a sulphur content not exceeding 2% of the total weight.

50. Homefire Ecoal briquettes manufactured by CPL Fuels Ireland, Foynes Briquetting Works, Foynes Port, Foynes, Co. Limerick, Ireland which–

- (a) comprise anthracite fines (as to approximately 40 to 65% of the total weight), petroleum coke (as to approximately 20 to 40% of the total weight), bituminous coal (as to approximately 0 to 20% of the total weight), biomass (as to approximately 5 to 20% of the total weight), biomass char (as to approximately 0 to 10% of the total weight) and an organic binder or, molasses and acid binder (as to a maximum of 20% of the total weight);
- (b) were manufactured from those constituents by a process involving roll-pressing and heat treatment up to 300°C;

- (c) are unmarked-pillow shaped briquettes or, unmarked hexagonal briquettes or, pillow-shaped ovoids with two parallel indented lines running latitudinally around each briquette or, hexagonal briquettes with a single stripe on one side across the flat;
- (d) have an average weight of 125 to 135 grams per briquette; and
- (e) have a sulphur content not exceeding 2% of the total weight.

51. Homefire briquettes, manufactured by Coal Products Limited at Immingham Briquetting Works, Immingham, North East Lincolnshire, which—

- (a) comprise anthracite fines (as to approximately 40 to 70% of the total weight), petroleum coke (as to approximately 20 to 45% of the total weight), char (as to approximately 0 to 10% of the total weight), bituminous coal (as to approximately 5 to 30% of the total weight) and an organic binder or a molasses and phosphoric acid binder (as to the remaining weight);
- (b) were manufactured from those constituents by a process involving roll-pressing;
- (c) have a volatile matter content in the finished briquette of neither less than 9% nor more than 15% of the total weight on a dry basis;
- (d) are unmarked hexagonal briquettes;
- (e) have an average weight of 140 grams; and
- (f) have a sulphur content not exceeding 2% of the total weight.

52. Homefire Fire Logs, manufactured by De Lange BV, Rustenburgerweg 3, 1646 WJ Ursem, the Netherlands, which—

- (a) comprise slack wax (as to approximately 50% of the total weight) and sawdust (as to approximately 50% of the total weight);
- (b) were manufactured from those constituents by a process of heat treatment and extrusion;
- (c) are approximately 280 millimetres in length, 75 millimetres in width and 75 millimetres in height, with a single groove running along each of the four 280 millimetre length faces;
- (d) have an average weight of 1.1 kilograms; and
- (e) have a sulphur content not exceeding 0.2% of the total weight.

53. Homefire Fire Log manufactured by Top Flames Europe BV, Rustenburgerweg 3, 1646 WJ Ursem Gem, Alkmaar, the Netherlands, which—

- (a) comprise 29% paraffin wax, 20% plant derived wax, 17% 6mm diameter wood pellets and 34% sawdust (by weight);
- (b) were manufactured from those constituents by a process of mixing and extruding;
- (c) are approximately 172 millimetres in length, 75 millimetres in depth and 75 millimetres in height with 6 grooves;
- (d) have an average weight of 0.8 kilograms; and
- (e) have a sulphur content not exceeding 0.1% of the total weight.

54. Homefire Fire Log manufactured by Top Flames Europe BV, Rustenburgerweg 3, 1646 WJ Ursem Gem, Alkmaar, the Netherlands, which—

- (a) comprise 29% paraffin wax, 20% plant derived wax, 17% 6mm diameter wood pellets and 34% sawdust (by weight);
- (b) were manufactured from those constituents by a process of mixing and extruding;
- (c) are approximately 215 millimetres in length, 75 millimetres in depth and 75 millimetres in height with 6 grooves;
- (d) have an average weight of 1 kilograms; and
- (e) have a sulphur content not exceeding 0.1% of the total weight.

55. Homefire Ovals, manufactured by Coal Products Limited at Immingham Briquetting Works, Immingham, North East Lincolnshire, which—

- (a) comprise anthracite duff (as to approximately 57% of the total weight), petroleum coke (as to approximately 17% of the total weight), bituminous coal (as to approximately 13% of the total weight) and molasses and phosphoric acid as binder (as to the remaining weight);
- (b) were manufactured from those constituents by a process involving roll-pressing and heat treatment at about 300°C;
- (c) are pillow-shaped briquettes with two parallel indented lines running latitudinally around the briquette;
- (d) have an average weight of 135 grams; and
- (e) have a sulphur content not exceeding 2% of the total weight.

56. Homefire Ovals (R), manufactured by Coal Products Limited at Immingham Briquetting Works, Immingham, North East Lincolnshire, which—

- (a) comprise anthracite fines (as to approximately 50 to 75% of the total weight), petroleum coke (as to approximately 20 to 45% of the total weight), bituminous coal (as to

approximately 5 to 17% of the total weight) and an organic binder (as to the remaining weight);

- (b) were manufactured from those constituents by a process involving roll-pressing;
- (c) are pillow-shaped briquettes with two parallel indented lines running latitudinally around the briquette;
- (d) have an average weight of 130 grams; and
- (e) have a sulphur content not exceeding 2% of the total weight.

57. Homefire Ovals (R) manufactured by Coal Products Limited at Immingham Briquetting Works, Immingham, North East Lincolnshire which—

- (a) comprise anthracite fines (as to approximately 50 to 75% of the total weight), petroleum coke (as to approximately 20 to 45% of the total weight), bituminous coal (as to approximately 5 to 17% of the total weight) and an organic binder or, molasses and acid binder (as to the remaining weight);
- (b) were manufactured from those constituents by a process involving roll-pressing and heat treatment up to about 300°C;
- (c) are pillow-shaped briquettes with two parallel indented lines running latitudinally around the briquette;
- (d) have an average weight of 130 grams per briquette; and
- (e) have a sulphur content not exceeding 2% of the total weight.

58. Homefire Ovals (R) manufactured by CPL Fuels Ireland, Foynes Briquetting Works, Foynes Port, Foynes, Co. Limerick, Ireland which—

- (a) comprise anthracite fines (as to approximately 50 to 75% of the total weight), petroleum coke (as to approximately 20 to 45% of the total weight), bituminous coal (as to approximately 5 to 17% of the total weight) and an organic binder or, molasses and acid binder (as to the remaining weight);
- (b) were manufactured from those constituents by a process involving roll-pressing and heat treatment up to about 300°C;
- (c) are pillow-shaped briquettes with two parallel indented lines running latitudinally around the briquette;
- (d) have an average weight of 130 grams per briquette; and
- (e) have a sulphur content not exceeding 2% of the total weight.

59. Homeflame briquettes manufactured by Maxibrite Limited at Mwyndy Industrial Estate, Llantrisant, Mid Glamorgan, South Wales which—

- (a) comprise of bituminous coal and petroleum coke (each as to approximately 10 to 15% of the total weight) and anthracite duff and cold setting binder (as to the remaining weight);
- (b) are manufactured from those constituents by a process involving roll pressing and cold curing;
- (c) are unmarked pillow-shaped briquettes that are approximately 68 millimeters in length, 63 millimeters in width and 38 millimetres in height;
- (d) have an average weight of 110g per briquette; and
- (e) have a sulphur content not exceeding 1.9% on a dry basis.

60. Hot Drops, manufactured by EU Zeme Limited at Riga, Eksporta Street 15, LV-1045, Latvia, which—

- (a) comprise crushed anthracite (as to approximately 73% of the total weight), bituminous coal (as to approximately 18% of the total weight) and a molasses and orthophosphoric acid binder (as to the remaining weight);
- (b) were manufactured from those constituents by a process involving roll pressing followed by heat treatment at about 250 to 280°C;
- (c) are almost round pillow-shaped briquettes that are 40 millimetres in diameter and approximately 21 millimetres thick at the centre of the briquette;
- (d) have an average weight of 23 grams; and
- (e) have a sulphur content not exceeding 0.5% of the total weight.

61. Hot Rocks, manufactured by EU Zeme Limited at Riga, Eksporta Street 15, LV-1045, Latvia, which—

- (a) comprise crushed anthracite (as to approximately 73% of the total weight), bituminous coal (as to approximately 18% of the total weight) and a molasses and orthophosphoric acid binder (as to the remaining weight);
- (b) were manufactured from those constituents by a process involving roll-pressing followed by heat treatment at a temperature of approximately 250 to 280°C;
- (c) are almost round pillow-shaped briquettes that are 40 millimetres in diameter and about 21 millimetres thick at the centre of the briquette;

- (d) have an average weight of 23 grams; and
- (e) have a sulphur content not exceeding 0.5% of the total weight.

62. HouseFuel Smokeless Ovals, manufactured by Maxibrite Limited at Mwyndy Industrial Estate, Llantrisant, Rhondda Cynon Taf, which—

- (a) comprise anthracite fines (as to approximately 84% of the total weight), petroleum coke (as to approximately 12% of the total weight) and starch as binder (as to the remaining weight);
- (b) were manufactured from those constituents by a process involving roll-pressing and heat treatment at about 260°C;
- (c) are unmarked pillow-shaped briquettes;
- (d) have an average weight of 78 grams; and
- (e) have a sulphur content not exceeding 2% of the total weight.

63. HouseFuel Smokeless Ovals, manufactured by Maxibrite Limited at Mwyndy Industrial Estate, Llantrisant, Rhondda Cynon Taf, which—

- (a) comprise bituminous coal and petroleum coke (each as to approximately 10 to 15% of the total weight) and anthracite duff and starch binder (as to the remaining weight);
- (b) were manufactured from those constituents by a process involving roll-pressing and heat treatment at about 260°C;
- (c) are unmarked pillow-shaped briquettes with approximate maximum dimensions 68 millimetres, 63 millimetres and 38 millimetres;
- (d) have an average weight of 110 grams; and
- (e) have a sulphur content not exceeding 1.9% on a dry basis.

64. Island Lump and Island Nuts, manufactured by Unocal Refinery, California, the United States of America, which—

- (a) comprise petroleum coke;
- (b) were manufactured from the petroleum coke by a process involving heat treatment and steam injection;
- (c) are unmarked random shapes;
- (d) have an average weight of 80 grams (Island Lump) or 30 grams (Island Nuts); and
- (e) have a sulphur content not exceeding 2% of the total weight.

65. Jewel briquettes, manufactured by Eldon Colliery Limited at Newfield Works, Bishop Auckland, County Durham, which—

- (a) comprise anthracite (as to approximately 30 to 50% of the total weight), Long Beach petroleum coke (as to approximately 50 to 70% of the total weight) and a carbohydrate binder (as to the remaining weight);
- (b) were manufactured from those constituents by a process involving roll-pressing and heat treatment at about 150°C;
- (c) are unmarked pillow-shaped briquettes;
- (d) have an average weight of 33 grams; and
- (e) have a sulphur content not exceeding 1.5% of the total weight.

66. La Hacienda Easy Logs, manufactured by Allspan BV at Macroweg 4, 5804 CL Venray, the Netherlands, which—

- (a) comprise slack wax (as to approximately 58 to 59% of the total weight), and hardwood sawdust (as to the remaining weight);
- (b) were manufactured from those constituents by a process of heat treatment and extrusion;
- (c) are approximately 235 millimetres in length and 80 millimetres in depth, with grooves along their faces;
- (d) have an average weight of 1.1 kilograms; and
- (e) have a sulphur content not exceeding 0.1% of the total weight.

67. La Hacienda Fire Log manufactured by Top Flames Europe BV, Rustenburgerweg 3, 1646 WJ Ursem Gem, Alkmaar, the Netherlands, which—

- (a) comprise 29% paraffin wax, 20% plant derived wax, 17% 6mm diameter wood pellets and 34% sawdust (by weight);
- (b) were manufactured from those constituents by a process of mixing and extruding;
- (c) are approximately 172 millimetres in length, 75 millimetres in depth and 75 millimetres in height with 6 grooves;
- (d) have an average weight of 0.8 kilograms; and
- (e) have a sulphur content not exceeding 0.1% of the total weight.

68. La Hacienda Fire Log manufactured by Top Flames Europe BV, Rustenburgerweg 3, 1646 WJ Ursem Gem, Alkmaar, the Netherlands, which—

- (a) comprise 29% paraffin wax, 20% plant derived wax, 17% 6mm diameter wood pellets and 34% sawdust (by weight);
- (b) were manufactured from those constituents by a process of mixing and extruding;

- (c) are approximately 237 millimetres in length, 75 millimetres in depth and 75 millimetres in height with 6 grooves;
- (d) have an average weight of 1.1 kilograms; and
- (e) have a sulphur content not exceeding 0.1% of the total weight.

69. Long Beach Lump nuts (otherwise known as LBL nuts), manufactured by Aimcor Carbon Corporation at Long Beach, California, the United States of America, or manufactured by Oxbow Carbon & Minerals LLC, 330 Golden Shore, Suite 210, Long Beach, California 90802, the United States of America, which—

- (a) comprise petroleum coke (as to approximately 85 to 100% of the total weight), limestone (as to approximately 0 to 10% of the total weight) and coal tar pitch (as to the remaining weight);
- (b) were manufactured from those constituents by a process involving heat treatment and steam injection;
- (c) are unmarked random shapes; and
- (d) have a sulphur content not exceeding 2% of the total weight.

70. Maxibrite briquettes, manufactured by Maxibrite Limited at Mwyndy Industrial Estate, Llantrisant, Rhondda Cynon Taf, which—

- (a) comprise anthracite fines (as to approximately 84% of the total weight), petroleum coke (as to approximately 12% of the total weight) and starch as binder (as to the remaining weight);
- (b) were manufactured from those constituents by a process involving roll-pressing and heat treatment at 250°C;
- (c) are cushion-shaped briquettes marked with the letter “M”;
- (d) have an average weight of 35 grams; and
- (e) have a sulphur content not exceeding 2% of the total weight.

71. Mr Charcoal: Grade A Restaurant Grill Charcoal manufactured by Grupo Paben SA, Avda. Madame Lynch No 2833 c/ Punta Brava, Barrio Salvador del Mundo, Asunción, Paraguay which—

- (a) comprises pyrolised *Aspidosperma Quebracho Blanco* wood;
- (b) were manufactured using a kiln pyrolysis process at approximately 450 to 600 °C;
- (c) are unmarked charcoal pieces between approximately 30 millimetres and 130 millimetres in length; and

- (d) have a sulphur content not exceeding 0.1% of the total weight on a dry basis.

72. Multiheat briquettes manufactured by Coal Products Limited at Immingham Briquetting Works, Immingham, North East Lincolnshire which—

- (a) comprise anthracite fines (as to approximately 60 to 80% of the total weight), petroleum coke (as to approximately 10 to 30% of the total weight), bituminous coal (as to approximately 0 to 17% of the total weight) and molasses/acid or an organic binder (as the remaining weight);
- (b) were manufactured from those constituents by a process involving roll-pressing and heat treatment of up to 300°C;
- (c) are either unmarked pillow-shaped briquettes or, pillow-shaped briquettes marked with a single indented line running longitudinally along each face, off-set from its counterpart by 10 millimetres;
- (d) have an average weight of 55 or 80 grams per briquette; and
- (e) have a sulphur content not exceeding 2% of the total weight.

73. Newburn briquettes, manufactured by ECL Mineral Processing Limited of Newfield Works, Newfield, Bishop Auckland, County Durham, which—

- (a) comprise petroleum coke (as to approximately 56 to 57% of the total weight), anthracite (as to approximately 37 to 38% of the total weight), and a dry powder binder (as to the remaining weight);
- (b) were manufactured from those constituents by a cold cure process using a roller press;
- (c) are unmarked pillow-shaped briquettes that are 70 millimetres in length, 62 millimetres in width and 42 millimetres in height;
- (d) have an average weight of 110 grams; and
- (e) have a sulphur content not exceeding 2% of the total weight.

74. Newburn briquettes, manufactured by M&G Solid Fuels LLP, Wilton International, Wilton, Middlesbrough, TS90 8WS, which—

- (a) comprise petroleum coke (as to approximately 56 to 57% of the total weight), anthracite (as to approximately 37 to 38% of the total weight), and a dry powder binder (as to the remaining weight);
- (b) were manufactured from those constituents by a cold cure process using roller press;

- (c) are unmarked pillow shape briquettes of 70 millimetres x 62 millimetres x 42 millimetres;
- (d) have an average weight of 110 grams; and
- (e) have a sulphur content not exceeding 2% of the total weight.

75. Newflame briquettes, manufactured by Maxibrite Limited at Mwyndy Industrial Estate, Llantrisant, Rhondda Cynon Taf, which—

- (a) comprise anthracite fines (as to approximately 84% of the total weight), petroleum coke (as to approximately 12% of the total weight) and starch as binder (as to the remaining weight);
- (b) were manufactured from those constituents by a process involving roll-pressing and heat treatment at about 260°C;
- (c) are unmarked pillow-shaped briquettes;
- (d) have an average weight of 78 grams; and
- (e) have a sulphur content not exceeding 2% of the total weight.

76. Newflame Plus briquettes, manufactured by Maxibrite Limited, Mwyndy Industrial Estate, Llantrisant, Rhondda Cynon Taf, which—

- (a) comprise bituminous coal (as to approximately 10 to 15% of the total weight), petroleum coke (as to approximately 10 to 15% of the total weight), anthracite duff (as to approximately 70 to 80% of the total weight) and starch binder (as to the remaining weight);
- (b) were manufactured from those constituents by a process involving roll-pressing and heat treatment at about 260°C;
- (c) are unmarked pillow-shaped briquettes that are approximately 68 millimetres in length, 63 millimetres in width and 38 millimetres in height;
- (d) have an average weight of 110 grams; and
- (e) have a sulphur content not exceeding 1.9% of the total weight on a dry basis.

77. Newheat briquettes, manufactured by Oxbow Coal BV at Newfield Works, Bishop Auckland, County Durham, which—

- (a) comprise petroleum coke (as to approximately 60 to 65% of the total weight), anthracite (as to approximately 30 to 35% of the total weight) and a cold setting resin binder, hardener and low temperature stabiliser (as to the remaining weight);
- (b) are produced at ambient temperature by a process involving roll pressing and cold curing;

- (c) are unmarked pillow-shaped oval briquettes;
- (d) have an average weight of approximately 100 grams; and
- (e) have a sulphur content not exceeding 1.9% of the total weight.

78. Optima Fire Logs, manufactured by Allspan BV at Macroweg 4, 5804 CL Venray, the Netherlands, which—

- (a) comprise slack wax (as to approximately 58 to 59% of the total weight), and hardwood sawdust (as to the remaining weight);
- (b) were manufactured from those constituents by a process of heat treatment and extrusion;
- (c) are approximately 235 millimetres in length and 80 millimetres in depth, with grooves along their faces;
- (d) have an average weight of 1.1 kilograms; and
- (e) have a sulphur content not exceeding 0.1% of the total weight.

79. Pagan Fuel's Restaurant Charcoal, manufactured by Pabensa SA Aviadores del Chaco, Asuncion, Paraguay, which—

- (a) comprises pyrolised *Prosopis nigra*, *Cordia alliodora*, *Centrolobium*, *Prosopis kuntzei*, *Caesalpinia*, *Goncalo alves* and *Tabebuia* hardwoods;
- (b) were manufactured using a kiln pyrolysis process at approximately 800°C;
- (c) are unmarked charcoal pieces of between 20-120 millimetres; and
- (d) have a sulphur content not exceeding 2% of the total weight on a dry basis.

80. Phurnacite briquettes, manufactured by Coal Products Limited at Immingham Briquetting Works, Immingham, North East Lincolnshire, which—

- (a) comprise anthracite duff (as to approximately 65 to 85% of the total weight), petroleum coke (as to approximately 20% of the total weight) and a molasses and phosphoric acid binder (as to the remaining weight);
- (b) were manufactured from those constituents by a process involving roll-pressing and heat treatment at about 300°C;
- (c) are ovoid-shaped briquettes with two parallel indented lines running longitudinally around the briquette;
- (d) have an average weight of 40 grams; and
- (e) have a sulphur content not exceeding 2% of the total weight.

81. Phurnacite briquettes manufactured by Coal Products Limited at Immingham Briquetting Works, Immingham, North East Lincolnshire which–

- (a) comprise anthracite duff (as to approximately 65 to 85% of the total weight), petroleum coke (as to approximately 20% of the total weight) and an organic binder or molasses and phosphoric acid binder (as to the remaining weight);
- (b) were manufactured from those constituents by a process involving roll-pressing and heat treatment up to 300°C;
- (c) are ovoid-shaped briquettes with two parallel indented lines running longitudinally around the briquette;
- (d) have an average weight of 40 grams per briquette; and
- (e) have a sulphur content not exceeding 2% of the total weight.

82. Phurnacite briquettes manufactured by CPL Fuels Ireland, Foynes Briquetting Works, Foynes Port, Foynes, Co. Limerick, Ireland which–

- (a) comprise anthracite duff (as to approximately 65 to 85% of the total weight), petroleum coke (as to approximately 20% of the total weight) and an organic binder or molasses and phosphoric acid binder (as to the remaining weight);
- (b) were manufactured from those constituents by a process involving roll-pressing and heat treatment up to 300°C;
- (c) are ovoid-shaped briquettes with two parallel indented lines running longitudinally around the briquette;
- (d) have an average weight of 40 grams per briquette; and
- (e) have a sulphur content not exceeding 2% of the total weight.

83. ProQ COCOCHA Coconut Shell Briquettes manufactured by Siantan Suryatama PT, Golden Boulevard W2/19, BSD City, Tangerang, Indonesia which–

- (a) comprised carbonised coconut shell powder (approximately 95% of total weight), natural plant starch (approximately 4.95% of total weight), benzoic acid (as the remaining weight);
- (b) were manufactured by a process involving carbonisation of raw coconut shell at up to 600 degrees Celsius producing the coconut shell powder which is milled, sieved, mixed

with the other constituents, extruded, cut then dried at up to 110 degrees Celsius;

- (c) are unmarked rectangular cuboids briquettes of size 50 x 40 x 30 mm or 40 x 30 x 25 mm;
- (d) have an average weight of between 54 and 56 grams per briquette or 26 and 28 grams per briquette; and
- (e) have a sulphur content not exceeding 1% of the total weight of the dry product.

84. Pyrobloc Fire Logs, manufactured by Allspan BV at Macroweg 4, 5804 CL Venray, the Netherlands, which—

- (a) comprise slack wax (as to approximately 58 to 59% of the total weight), and hardwood sawdust (as to the remaining weight);
- (b) were manufactured from those constituents by a process of heat treatment and extrusion;
- (c) are approximately 265 millimetres in length and 80 millimetres in depth, with grooves along their faces;
- (d) have an average weight of 1.3 kilograms; and
- (e) have a sulphur content not exceeding 0.1% of the total weight.

85. Red Drops manufactured by EU Zeme Limited, Lāčplēša street 48, Rīga, LV-1011, Latvia, which—

- (a) comprise crushed anthracite (as to approximately 73% of the total weight), bituminous coal (as to approximately 18% of the total weight) and a molasses and orthophosphoric acid binder (as to the remaining weight);
- (b) were manufactured from those constituents by a process involving roll-pressing followed by heat treatment at a temperature of approximately 250 to 280°C;
- (c) are almost round pillow-shaped briquettes that are 40 millimetres in diameter and about 21 millimetres thick at the centre of the briquette;
- (d) have an average weight of 23 grams; and
- (e) have a sulphur content not exceeding 0.5% of the total weight.

86. Safelight Firelogs, manufactured by Advanced Natural Fuels Limited, at Pocklington, East Riding of Yorkshire, which—

- (a) comprise woodchip (as to approximately 40 to 55% of the total weight) and palm wax binder (as to the remaining weight);
- (b) were manufactured from those constituents by a process involving pressing of the mixed ingredients at about 40°C to 50°C;

- (c) are rectangular hard finish firelogs with two deep overlapping slots in the top surface, a single continuous slot in the base surface;
- (d) have an average weight of 1.8 kilograms; and
- (e) have a sulphur content not exceeding 2% of the total weight.

87. Smokeless Coal No5 manufactured by Coal Products Limited at Immingham Briquetting Works, Immingham, North East Lincolnshire which—

- (a) comprise anthracite fines (as to approximately 60 to 80% of the total weight), petroleum coke (as to approximately 10 to 30% of the total weight), bituminous coal (as to approximately 0 to 17% of the total weight) and molasses/acid or an organic binder (as the remaining weight);
- (b) were manufactured from those constituents by a process involving roll-pressing and heat treatment of up to 300°C;
- (c) are either unmarked pillow-shaped briquettes or, pillow-shaped briquettes marked with a single indented line running longitudinally along each face, off-set from its counterpart by 10 millimetres;
- (d) have an average weight of 55 or 80 grams per briquette; and
- (e) have a sulphur content not exceeding 2% of the total weight.

88. Sovereign briquettes, manufactured by Monckton Coke & Chemical Company Limited at Royston, near Barnsley, South Yorkshire, which—

- (a) comprise anthracite (as to approximately 75% of the total weight), coal and reactive coke (as to approximately 21% of the total weight) and cold-setting resin binder (as to the remaining weight);
- (b) were manufactured from those constituents by a process involving extrusion;
- (c) are unmarked hexagonal briquettes;
- (d) have an average weight of 130 grams; and
- (e) have a sulphur content not exceeding 2% of the total weight.

89. Stoveheat Premium briquettes, manufactured by Coal Products Limited at Immingham Briquetting Works, Immingham, North East Lincolnshire, which—

- (a) comprise anthracite duff (as to approximately 65 to 85% of the total weight), petroleum coke (as to approximately 20% of the total weight) and a molasses and phosphoric acid binder (as to the remaining weight);

- (b) were manufactured from those constituents by a process involving roll-pressing and heat treatment at about 300°C;
- (c) are cushion shaped briquettes with an indented line running around the briquette;
- (d) have an average weight of 30 grams; and
- (e) have a sulphur content not exceeding 2% of the total weight.

90. Supabrite Coke Doubles, manufactured by H J Banks and Company Limited at Inkerman Road Depot, Tow Law, County Durham, which—

- (a) comprise metallurgical coke (as to approximately 40 to 60% of the total weight) and petroleum coke (as to the remaining weight);
- (b) were manufactured from those constituents by a process involving blending and screening;
- (c) are unmarked random shapes; and
- (d) have a sulphur content not exceeding 1.95% of the total weight.

91. Supacite briquettes, manufactured by Maxibrite Limited at Mwyndy Industrial Estate, Llantrisant, Rhondda Cynon Taf, which—

- (a) comprise anthracite fines (as to approximately 84% of the total weight), petroleum coke (as to approximately 12% of the total weight) and starch as binder (as to the remaining weight);
- (b) were manufactured from those constituents by a process involving roll-pressing and heat treatment at about 240°C;
- (c) are unmarked ovoids;
- (d) have an average weight of 45 grams; and
- (e) have a sulphur content not exceeding 2% of the total weight.

92. Superburn Xtra manufactured by Stafford Fuels Limited, Raheen, New Ross, County Wexford, Y34 H028, Ireland which—

- (a) comprises a blend of Anthracite (as to approximately 20 to 60% of the total weight), Petroleum Coke Fines (as to approximately 20 to 60% of the total weight) and Bituminous Coal fines (up to approximately 15% of the total weight) with a cold-setting organic binder (up to approximately 6% of the total weight as the remaining weight);
- (b) were manufactured from those constituents by a process involving cold roll-pressing;
- (c) are unmarked ovoids of approximate size 85 mm x 60 mm x 40 mm;

- (d) have an average weight of 130 grams per briquette; and
- (e) have a sulphur content not exceeding 2% of the total weight.

93. Supertherm briquettes, manufactured by Coal Products Limited at Immingham Briquetting Works, Immingham, North East Lincolnshire, which—

- (a) comprise a blend (in the proportion of 19:1) of anthracite and medium volatile coal (as to approximately 93% of the total weight) and cold-setting organic binder or a molasses and phosphoric acid binder (as to the remaining weight);
- (b) were manufactured from those constituents by a process involving roll-pressing;
- (c) are unmarked ovoids;
- (d) have an average weight of 160 grams; and
- (e) have a sulphur content not exceeding 1.5% of the total weight.

94. Supertherm II briquettes, manufactured by Coal Products Limited at Immingham Briquetting Works, Immingham, North East Lincolnshire, which—

- (a) comprise anthracite (as to approximately 36 to 51% of the total weight), petroleum coke (as to approximately 40 to 55% of the total weight) and an organic binder or a molasses and phosphoric acid binder (as to the remaining weight);
- (b) were manufactured from those constituents by a process involving roll-pressing;
- (c) are ovoids marked with a single latitudinal line running across one face of each briquette or unmarked ovoids;
- (d) have an average weight of 140 grams; and
- (e) have a sulphur content not exceeding 2% of the total weight on a dry basis.

95. Supertherm 30 manufactured by Coal Products Limited at Immingham Briquetting Works, Immingham, North East Lincolnshire which—

- (a) comprise anthracite fines (as to approximately 40 to 65% of the total weight), petroleum coke (as to approximately 20 to 40% of the total weight), bituminous coal (as to approximately 0 to 20% of the total weight), biomass (as to approximately 5 to 20% of the total weight), biomass char (as to approximately 0 to 10% of the total weight) and an organic binder or, molasses and acid binder (as to a maximum of 20% of the total weight);

- (b) were manufactured from those constituents by a process involving roll-pressing and heat treatment up to 300°C;
- (c) are unmarked-pillow shaped briquettes or, unmarked hexagonal briquettes or, pillow-shaped ovoids with two parallel indented lines running latitudinally around each briquette or, hexagonal briquettes with a single stripe on one side across the flat;
- (d) have an average weight of 125 to 135 grams per briquette; and
- (e) have a sulphur content not exceeding 2% of the total weight.

96. Supertherm 30 manufactured by CPL Fuels Ireland, Foynes Briquetting Works, Foynes Port, Foynes, Co. Limerick, Ireland which—

- (a) comprise anthracite fines (as to approximately 40 to 65% of the total weight), petroleum coke (as to approximately 20 to 40% of the total weight), bituminous coal (as to approximately 0 to 20% of the total weight), biomass (as to approximately 5 to 20% of the total weight), biomass char (as to approximately 0 to 10% of the total weight) and an organic binder or, molasses and acid binder (as to a maximum of 20% of the total weight);
- (b) were manufactured from those constituents by a process involving roll-pressing and heat treatment up to 300°C;
- (c) are unmarked-pillow shaped briquettes or, unmarked hexagonal briquettes or, pillow-shaped ovoids with two parallel indented lines running latitudinally around each briquette or, hexagonal briquettes with a single stripe on one side across the flat;
- (d) have an average weight of 125 to 135 grams per briquette; and
- (e) have a sulphur content not exceeding 2% of the total weight.

97. Taybrite briquettes (otherwise known as Surefire briquettes), manufactured by Coal Products Limited at Immingham Briquetting Works, Immingham, North East Lincolnshire, which—

- (a) comprise anthracite (as to approximately 60 to 80% of the total weight), petroleum coke (as to approximately 10 to 30% of the total weight) and a molasses and phosphoric acid binder (as to the remaining weight);
- (b) were manufactured from those constituents by a process involving roll-pressing and heat treatment at about 300°C;

- (c) are pillow-shaped briquettes marked with a single indented line running longitudinally along each face, offset from its counterpart by 10 millimetres, or unmarked;
- (d) have an average weight of 80 grams; and
- (e) have a sulphur content not exceeding 2% of the total weight.

98. Therma Briquettes, manufactured by Maxibrite Limited at Mwyndy Industrial Estate, Llantrisant, Rhondda Cynon Taf, which—

- (a) comprise anthracite fines (as to approximately 84% of the total weight) petroleum coke (as to approximately 12% of the total weight) and starch binder (as to the remaining weight);
- (b) were manufactured from those constituents by a process involving roll-pressing and heat treatment at 250°C;
- (c) are oval/tear shaped briquettes with a line through the centre;
- (d) have an average weight of 26 grams; and
- (e) have a sulphur content not exceeding 2% of the total weight.

99. Thermac briquettes, manufactured by Coal Products Limited at Immingham Briquetting Works, Immingham, North East Lincolnshire, which—

- (a) comprise anthracite (as to approximately 90% of the total weight) and cold-setting organic binder (as to the remaining weight);
- (b) were manufactured from those constituents by a process involving roll-pressing;
- (c) are unmarked pillow-shaped briquettes;
- (d) have an average weight of 48 grams; and
- (e) have a sulphur content not exceeding 1.5% of the total weight.

100. Tiger Tim Firelogs, manufactured by De Lange BV, Rustenburgerweg 3, 1646 WJ Ursem, the Netherlands, which—

- (a) comprise slack wax (as to approximately 50% of the total weight) and sawdust (as to the remaining weight);
- (b) were manufactured from those constituents by a process of heat treatment and extrusion;
- (c) are approximately 280 millimetres in length, 75 millimetres in width and 75 millimetres in height, with a single groove running along each of the four 280 millimetre length faces;
- (d) have an average weight of 1.1 kilograms; and
- (e) have a sulphur content not exceeding 0.2% of the total weight.

101. Unicite, manufactured by DJ Davies Fuels Limited at Blaenau Fuel Depot, Ammanford, Carmarthenshire, or manufactured by AI Simson at Cabby Latch, Logie by Kirriemuir, Angus, which—

- (a) is a mixture of the following separate fuels—
 - (i) anthracite large nuts, and
 - (ii) Union briquettes of the description in sub paragraph (d) manufactured by RWE Power AG at Cologne, Germany (as to no more than approximately 40 to 42% of Unicite's total weight);
- (b) has a sulphur content not exceeding 0.5% of the total weight;
- (c) is declared to be an authorised fuel only in so far as the proportion of Union briquettes combusted in the use of Unicite does not exceed the percentage range specified in sub paragraph (a)(ii); and
- (d) in so far as it is constituted by the Union briquettes referred to in sub paragraph (a)(ii), consists of compressed lignite with each briquette measuring approximately 75 millimetres wide, 60 millimetres high and 55 millimetres thick.

102. Zip 100% Natural Firelogs, manufactured by Standard Brands (Trading) Ireland Limited at Castlebellingham, County Louth, Ireland, which—

- (a) comprise naturally derived hydrogenated triglyceride waxes (as to approximately 53 to 57% of the total weight), willow fibre (as to approximately 23 to 27% of the total weight) and a natural molasses based binder (as to the remaining weight);
- (b) were manufactured from those constituents by a process of heat treatment and extrusion;
- (c) are approximately 210 millimetres in length, 80 millimetres in width and 75 millimetres in height;
- (d) have an average weight of between 1.085 and 1.115 kilograms; and
- (e) have a sulphur content not exceeding 0.2% of the total weight.

103. Zip 100% Natural Firelogs, manufactured by Standard Brands (Trading) Ireland Limited at Castlebellingham, County Louth, Ireland, which—

- (a) comprise naturally derived hydrogenated triglyceride waxes (as to approximately 53 to 57% of the total weight), willow fibre (as to approximately 23 to 27% of the total weight) and a natural molasses based binder (as to the remaining weight);

- (b) were manufactured from those constituents by a process of heat treatment and extrusion;
- (c) are approximately 245 millimetres in length, 75 millimetres in width and 68 millimetres in height;
- (d) have an average weight of between 0.985 and 1.015 kilograms; and
- (e) have a sulphur content not exceeding 0.2% of the total weight.

104. ZIP 100% Natural Stove Logs, manufactured by Standard Brands (Trading) Ireland Limited at Castlebellingham, County Louth, Ireland, which—

- (a) comprise naturally derived hydrogenated triglyceride waxes (as to approximately 53 to 57% of the total weight), willow fibre (as to approximately 23 to 27% of the total weight) and natural molasses based binder (as to the remaining weight);
- (b) were manufactured from those constituents by a process of heat treatment and extrusion;
- (c) are approximately 165 millimetres in length, 80 millimetres in width and 75 millimetres in height;
- (d) have an average weight of between 0.835 and 0.865 kilograms; and
- (e) have a sulphur content not exceeding 0.2% of the total weight.

105. ZIP Cracklelog Firelogs, ZIP Crackle-log Firelogs and ZIP Crackling Log Firelogs, manufactured by Allspan BV, Macroweg 4, 5804 CL Venray, the Netherlands, which—

- (a) comprise slack wax (as to approximately 55% of the total weight), hardwood sawdust (as to approximately 42% of the total weight) and crackle seeds (as to approximately 3.2% of the total weight);
- (b) were manufactured from those constituents by a process of heat treatment and extrusion;
- (c) are approximately 235 millimetres in length and 80 millimetres in diameter, with grooves along the faces;
- (d) have an average weight of 1.1 kilograms; and
- (e) have a sulphur content not exceeding 0.1% of the total weight.

106. ZIP Firelogs, manufactured by Allspan BV, Macroweg 4, 5804 CL Venray, the Netherlands, which—

- (a) comprise slack wax (as to approximately 58 to 59% of the total weight) and hardwood sawdust (as to the remaining weight);

- (b) were manufactured from those constituents by a process of heat treatment and extrusion;
- (c) are approximately 265 millimetres in length and 80 millimetres in depth, with grooves along the faces;
- (d) have an average weight of 1.3 kilograms; and
- (e) have a sulphur content not exceeding 0.1% of the total weight.

107. ZIP Firelogs, manufactured by Allspan BV, Macroweg 4, 5804 CL Venray, the Netherlands, which—

- (a) comprise slack wax (as to approximately 58 to 59% of the total weight) and hardwood sawdust (as to the remaining weight);
- (b) were manufactured from those constituents by a process of heat treatment and extrusion;
- (c) are approximately 235 millimetres in length and 80 millimetres in depth, with grooves along the faces;
- (d) have an average weight of 1.1 kilograms; and
- (e) have a sulphur content not exceeding 0.1% of the total weight.

108. ZIP Firelogs, manufactured by Woodflame Moerdijk BV, Apolloweg 4, Harbour No: M189A, 4782 SB Moerdijk, the Netherlands, which—

- (a) comprise slack wax (as to approximately 55 to 60% of the total weight) and hardwood sawdust (as to the remaining weight);
- (b) were manufactured from those constituents by a process of heat treatment and extrusion;
- (c) are approximately 255 millimetres in length and 75 millimetres in diameter, with grooves along one longitudinal face;
- (d) have an average weight of 1.3 kilograms; and
- (e) have a sulphur content not exceeding 0.1% of the total weight.

EXPLANATORY MEMORANDUM TO THE SMOKE CONTROL AREAS (AUTHORISED FUELS) (WALES) REGULATIONS 2019

This Explanatory Memorandum has been prepared by the Department for Environment, Energy and Rural Affairs and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Smoke Control Areas (Authorised Fuels) (Wales) Regulations 2019.

Lesley Griffiths AM
Minister for Environment, Energy and Rural Affairs
16 January 2019

1. Description

The Smoke Control Areas (Authorised Fuels) (Wales) Regulations 2019 (“the 2019 Regulations”) revoke and replace the Smoke Control Areas (Authorised Fuels) (Wales) Regulations 2017 (SI 2017 No.421 (W.89)). The 2019 Regulations update the current legislation with newly authorised fuels for the purposes of Part III of the Clean Air Act 1993 (“the 1993 Act”).

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

There are no matters of special interest for the Committee.

3. Legislative Background

The enabling power is contained in section 20(6) of the 1993 Act.

This power was originally conferred on the Secretary of State but was, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales by virtue of Article 2 of and Schedule 1 to the National Assembly for Wales (Transfer of Functions) Order 1999/672. This power is now exercisable by the Welsh Ministers by virtue of section 162 of and paragraph 30 of Schedule 11 to the Government of Wales Act 2006.

This Statutory Instrument is subject to the negative resolution procedure.

4. Purpose and intended effect of the legislation

The 1993 Act (a consolidation of The Clean Air Act 1956 and The Clean Air Act 1968) aims to safeguard public health from emissions of smoke. It empowers local authorities to declare Smoke Control Areas in which it is an offence to emit smoke from chimneys. Households in those areas must use an “authorised” smokeless fuel or use an “exempt” appliance capable of operating without emitting smoke, regardless of the fuel used.

The 1993 Act provides the Welsh Ministers with the power to authorise fuels and appliances for use in Wales’ designated Smoke Control Areas. Authorised fuels are prescribed in regulations.

The fuels listed in the Schedule to the 2019 Regulations have been recently approved as suitable for inclusion on the list of fuels authorised for use in designated Smoke Control Areas. They are included in the Schedule to the 2019 Regulations, alongside fuels previously authorised. The 2019 Regulations revoke and replace The Smoke Control Areas (Authorised Fuels) (Wales) Regulations 2017 and provide a consolidated, up-to-date list of authorised fuels.

5. Implementation

Updating the lists of authorised fuels in the 2019 Regulations will ensure the legislation keeps pace with the development of new smokeless fuels, making them available to households in designated Smoke Control Areas.

Air quality can have fundamental impacts on human health, affecting both the quality and duration of people's lives. A more effective air quality regime will have an important contributory impact in terms of the goals of "A healthier Wales" under the Well-being of Future Generations (Wales) Act 2015.

Updating the lists of authorised fuels also contributes to the achievement of the Healthy and Active strategy within Prosperity for All, the Welsh Government's national strategy as improving air quality improves the health and wellbeing of individuals, families and communities.

6. Consultation

It was considered neither necessary nor appropriate to publicly consult on the 2019 Regulations as they leave the nature of the smoke control regime in Wales unchanged. The 2019 Regulations simply update the list of fuels authorised for use within Wales' designated Smoke Control Areas.

7. Regulatory Impact Assessment (RIA)

The 2019 Regulations do not impose costs on the public, private, or voluntary sectors. An RIA is not therefore deemed necessary.

Agenda Item 6.1

SL(5)303 – The Agricultural Holdings (Units of Production) (Wales) Order 2019

Background and Purpose

This Order prescribes units of production for the assessment of the productive capacity of land situated in Wales and sets out the amount which is to be regarded as the net annual income from each such unit for the year 12 September 2018 to 11 September 2019 for certain purposes of the Agricultural Holdings Act 1986.

Procedure

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

The Order defines “eligible hectare” by reference to European Union legislation, namely Regulation (EU) 1307/2013 of the European Parliament and the Council which establishes rules for direct payments to farmers under support schemes within the framework of the common agricultural policy.

Under the European Union (Withdrawal) Act 2018, EU Regulation 1307/2013 will form part of retained EU law on exit day.

Government Response

No government response is required.

Legal Advisers

Constitutional and Legislative Affairs Committee

23 January 2019



Proposed Negative Statutory Instruments with Clear Reports

28 January 2019

Pn(5)011 – The Environmental Assessment of Plans and Programmes and the Environmental Impact Assessment (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019

Procedure: Negative

These Regulations make amendments to legislation relevant to both the environmental assessment of plans and programmes and to the environmental impact assessment in the matters of town and country planning and agriculture.

The changes made by the instrument are necessary to ensure that the current regulatory regimes continue to operate effectively after the UK's exit from the EU.

The amendments made under the European Union (Withdrawal) Act 2018 include:

- Changing references to EU legislation to references to retained EU law/obligations;
- Substituting references to EU legislation with references to the domestic legislation which transposed the EU legislation;
- Changing references to “Member States”, particularly in the context of the law at Member State level, to ‘any law of any part of the UK’;
- Updating the provision which requires the UK to notify ‘other EU Member states’ about transboundary environmental impacts to reflect



- the UK's new status outside of the EU;
- Including text from the EIA Directive;
- Under the regime for agriculture, substituting the reference to the European Commission with a reference to the Welsh Ministers and inserting a requirement for them to consult specified bodies before making a decision (see regulation 5(9)).

The remaining amendments are made under the European Communities Act 1972, including correcting out-of-date references to European law.

These Regulations were laid for the purposes of sifting under the EU (Withdrawal) Act 2018 in accordance with Standing Order 27.9A

Parent Act: European Union (Withdrawal) Act 2018

Sift Requirements Satisfied: Yes

Pn(5)012 – The Exotic Diseases in Animals (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019

Procedure: Negative

These Regulations make amendments to subordinate legislation, which apply in relation to Wales, in the field of control and prevention of exotic diseases in animals. The instrument ensures that the subordinate legislation applicable in Wales which relates to control and prevention of exotic diseases in animals will continue to be operable in Wales after the United Kingdom leaves the European Union.

These Regulations were laid for the purposes of sifting under the EU (Withdrawal) Act 2018 in accordance with Standing Order 27.9A

Parent Act: European Union (Withdrawal) Act 2018

Sift Requirements Satisfied: Yes



Pn(5)013 – The Zoonotic Disease Eradication and Control (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019

Procedure: Negative

This instrument makes amendments to the Zoonoses (Monitoring) (Wales) Regulations 2007 and the Tuberculosis (Wales) Order 2010. These amendments are to ensure that the statute book remains operable following the UK's exit from the EU and will address deficiencies in domestic legislation arising from EU Exit.

The Zoonoses (Monitoring) (Wales) Regulations 2007 provide inspectors with the powers of entry onto premises to monitor zoonoses and antimicrobial resistance to agents which pose a threat to public health. Regulation 3 contains a reference to the appointment of a competent authority for the purpose of the Directive. As the Directive will not be part of domestic law post exit day, the reference is removed. A minor drafting change is also made as to the meaning of "Directive" which, following this change, is only referred to in regulation 2(2). Regulation 5 of the 2007 Regulations enables an inspector exercising a power of entry under the 2007 Regulations to take with them any representative of the European Commission. An example of when this might happen would be for an EU audit of zoonotic disease capability. The European Commission will no longer have an interest in activity post exit and so the reference is removed. The powers of the inspectors within Wales remain otherwise unchanged however, and the Welsh Government will ensure the same provision of inspectors' presence and duties in order to ensure effective controls of the food and feed chain remain in place.

The Tuberculosis (Wales) Order 2010 implement Directive 64/432/EEC on animal health problems affecting intra-Community trade in bovine animals and swine ("Directive 64/432/EEC"), in particular concerning the eradication of Tuberculosis. This Directive 64/432/EEC lays down rules regarding the health status in relation to animal diseases, including tuberculosis, and



provisions for tests to detect these diseases to be carried out by official veterinarians. Enforcement of these rules in Wales is given effect in Wales primarily by The Tuberculosis (Wales) Order 2010. The Order defines “tuberculosis free status” by reference to the Directive. The concept of “tuberculosis free status” is the inverse of a restricted herd and so appropriate changes are made to reflect this in the Order.

These Regulations were laid for the purposes of sifting under the EU (Withdrawal) Act 2018 in accordance with Standing Order 27.9A

Parent Act: European Union (Withdrawal) Act 2018

Sift Requirements Satisfied: Yes

Pn(5)014 – The Nutrition (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019

Procedure: Negative

This instrument is being made using the powers conferred by paragraph 1(1) of Schedule 2 and paragraph 21(b) of Schedule 7 to the European Union (Withdrawal) Act 2018, in order to address failures of retained EU law to operate effectively or other deficiencies arising from the withdrawal of the United Kingdom from the EU.

The Regulations make amendments to secondary legislation for Wales in the field of nutrition.

The minor and technical changes made by the instrument are designed to ensure that the domestic EU legislation enforcing retained EU legislation (the Welsh Regulations) continue to operate effectively. The changes made include the removal of references to “member state”, EU law/obligations and definitions of “EEA Agreement”, “EEA State”, and “free circulation in member States”. It is also designed to fix references to EU Directives where necessary and replaces references to EU bodies with the names of competent UK authorities.



These Regulations were laid for the purposes of sifting under the EU (Withdrawal) Act 2018 in accordance with Standing Order 27.9A

Parent Act: European Union (Withdrawal) Act 2018

Sift Requirements Satisfied: Yes





WRITTEN STATEMENT BY THE WELSH GOVERNMENT

TITLE **The Environment and Wildlife (Legislative Functions) (EU Exit) Regulations 2019**

DATE **11 January 2019**

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

The Environment and Wildlife (Legislative Functions) (EU Exit) Regulations 2019

The 2019 Regulations amend retained direct EU legislation within the field of: persistent organic pollutants; timber; the European Pollutant Release and Transfer Register; transfrontier shipments of waste; the Nagoya Protocol on access to genetic resources and the fair and equitable sharing of benefits; mercury; leghold traps; and the Convention on the International Trade in Endangered Species. The 2019 Regulations also provides for one legislative function which is currently contained in an EU Directive on industrial emissions relating to best available techniques (BAT).

The 2019 Regulations make amendments to a mix of devolved and reserved legislative areas and follow amendments made by earlier Defra UK SIs laid for scrutiny in late 2018.

European Directly Applicable Instruments amended by the 2019 Regulations

1. Regulation (EC) No 850/2004 of the European Parliament and of the Council on persistent organic pollutants
2. Regulation (EC) No 166/2006 of the European Parliament and of the Council concerning the establishment of a European Pollutant Release and Transfer Register
3. Regulation EU 2017/852 of the European Parliament and of the Council on mercury
4. Regulation (EU) No 511/2014 of the European Parliament and of the Council on compliance measures for users from the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization in the Union
5. Council Regulation (EC) No 2173/2005 on the establishment of a FLEGT licensing scheme for imports of timber into the European Community
6. Regulation (EU) No 995/2010 of the European Parliament and of the Council laying down the obligations of operators who place timber and timber products on the market
7. Regulation (EC) No 1013/2006 of the European Parliament and of the Council on shipments of waste

8. Council Regulation (EEC) No 3254/91 prohibiting the use of leghold traps in the Community and the introduction into the Community of pelts and manufactured goods of certain wild animal species originating in countries which catch them by means of leghold traps or trapping methods which do not meet international humane trapping standards
9. Commission Regulation (EC) No 35/97 laying down provisions on the certification of pelts and goods covered by Council Regulation (EEC) No 3254/91
10. Council Regulation (EC) No 338/1997 on the protection of species of wild fauna and flora by regulating trade therein

Other provisions

1. Directive 2010/75/EU of the European Parliament and of the Council on industrial emissions (integrated pollution prevention and control) – functions are being replicated from within the Directive, as directives are not being retained under the European Union (Withdrawal) Act 2018

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

There is no impact on the Assembly’s legislative competence. Under the 2019 Regulations, functions of the EU Commission are transferred to Welsh Ministers for areas within competence including:

- persistent organic pollutants (Regulation (EC) No 850/2004);
- the Pollutant Release and Transfer Register (Regulation (EC) No 166/2006);
- mercury (Regulation EU 2017/852); and
- adopting BAT conclusions (Directive 2010/75/EU).

Alternatively, the 2019 Regulations provide for these functions to be exercised by the Secretary of State in relation to Wales, but only with the consent of the Welsh Ministers.

The Nagoya Protocol on access to genetic resources and the fair and equitable sharing of benefits arising from their utilization in the Union (Regulation (EU) No 511/2014) is an area of mixed competence. However, since it is not possible practically for the Welsh Ministers to exercise these functions independently, there is no divergence in policy and a UK wide system would be preferable, the 2019 Regulations maintain the status quo under existing legislation with functions exercised solely by the Secretary of State.

The remainder of the European Regulations being amended transfer EU Commission functions solely to the Secretary of State because they concern reserved legislative areas.

The purpose of the amendments

This affirmative procedure SI addresses the failures of retained EU law to operate effectively and other deficiencies arising from the withdrawal of the UK from the EU.

The 2019 Regulations make a number of corrections to retained EU law, relating to legislative functions, which are necessary to preserve the underpinning legislation for the areas set out above and below, and that the EU legislation can continue to work across the UK once the UK leaves the EU. It brings together changes to legislative functions which triggers the affirmative resolution procedure whereas the non-legislative functions were included in earlier negative Defra SIs laid in late 2018 for each of the legislative areas.

The 2019 Regulations make corrections to address deficiencies within the legislation to enable the legislation to function post exit day. The 2019 Regulations change the identity of bodies carrying out the specified functions of a legislative nature and converts the EU procedures to UK procedures as appropriate.

The 2019 Regulations amend:

- Regulation (EC) No. 850/2004 of the European Parliament and of the Council on persistent organic pollutants to maintain the operability of Regulations, which implement the Stockholm Convention through the elimination and restriction of the use of chemicals that have been internationally recognised as toxic, persistent, bio-accumulative and highly mobile. The provisions in this instrument are related to amendments made by the Persistent Organic Pollutants (Amendment) (EU Exit) Regulations 2018.
- Regulation (EC) No 166/2006 of the European Parliament and of the Council concerning the establishment of a European Pollutant Release and Transfer Register to maintain a UK wide register post EU Exit and to continue to meet international obligations such as the United Nations Economic Commission for Europe (UNECE) PRTR Protocol. The provisions in this instrument are related to amendments made by the Air Quality (Miscellaneous Amendment and Revocation of Retained Direct EU Legislation) (EU Exit) Regulations 2018.
- Regulation (EU) 2017/852 of the European Parliament and of the Council on mercury to maintain the operability of Regulations, which implement the Minamata Convention, which controls mercury and compounds of mercury that may be released into the environment as a result of human activities to protect human health and the environment. The provisions in this instrument are related to amendments made by the Control of Mercury (Amendment) (EU Exit) Regulations 2018.
- Regulation (EU) No 511/2014 of the European Parliament and of the Council on compliance measures for users from the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization in the Union. The amendments ensure that the Regulations enable continued UK compliance with an international agreement, the Nagoya Protocol and create certainty for the research and development institutions carrying out their activities. The provisions in this instrument are related to amendments made by the Nagoya Protocol (Compliance) (Amendment) (EU Exit) Regulations 2018.

- Council Regulation (EC) No 2173/2005 on the establishment of a Forest Law Enforcement, Governance and Trade (FLEGT) licensing scheme; and Regulation (EU) No 995/2010 of the European Parliament and of the Council laying down the obligations of operators who place timber and timber products on the market. The amendments maintain the operability of Regulations relating to the import of timber and placing timber and timber products on the market. The provisions in this instrument are related to amendments made by the Timber and Timber Products and FLEGT (EU Exit) Regulations 2018.
- Regulation (EC) No 1013/2006 of the European Parliament and of the Council on shipments of waste to maintain the operability of the Regulations which establish procedures and control regimes for the shipment of waste and the treatment to be applied at its destination. The provisions in this instrument are related to, and supplement, the amendments made by the International Waste Shipments (Amendment) (EU Exit) Regulations 2018.
- Council Regulation (EEC) No 3254/91 prohibiting the use of leghold traps in the Community; and Commission Regulation (EC) No 35/97 laying down provisions on the certification of pelts and goods covered by Council Regulation (EEC) No 3254/91. The amendments maintain the operability of Regulations in terms of the prohibition of leghold traps and the introduction into the UK of pelts and manufactured goods of certain wild animal species originating in countries which catch them by means of leghold traps or trapping methods which do not meet international humane trapping standards. The provisions in this instrument are related to amendments made by the Leghold Trap and Pelt Imports (Amendment etc.) (EU Exit) Regulations 2018.
- Council Regulation (EC) No 338/97 on the protection of species of wild fauna and flora to maintain the operability of the Regulations which regulate trade to protect species of wild fauna and flora and to guarantee their conservation by regulating their trade. The provisions in this instrument are related to amendments made by the Trade in Endangered Species of Wild Fauna and Flora (Amendment) (EU Exit) Regulations 2018.

The 2019 Regulations also transfer an EU Commission function contained in:

- Directive 2010/75/EU of the European Parliament and of the Council on industrial emissions (integrated pollution prevention and control) which lays down rules on integrated prevention and control of pollution arising from specified industrial activities. The inclusion of the function in the 2019 Regulations will enable the domestic legislation to operate effectively to maintain the operation of a single UK wide, post EU, Best Available Techniques (BAT) establishment and review process for industrial activities to eliminate or minimise pollution. The provisions in this instrument are related to amendments made by the Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2018.

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

Why consent was given

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

UK MINISTERS ACTING IN DEVOLVED AREAS

75 - The Environment and Wildlife (Legislative Functions) (EU Exit) Regulations 2019

Laid in the UK Parliament: 8 January 2019

Sifting

Subject to sifting in UK Parliament?	No
Procedure:	Affirmative
Date of consideration by the House of Commons European Statutory Instruments Committee	N/A
Date of consideration by the House of Lords Secondary Legislation Scrutiny Committee	21/01/2019
Date sifting period ends in UK Parliament	N/A
Written statement under SO 30C:	Paper 9
SICM under SO 30A (because amends primary legislation)	Not required

Scrutiny procedure

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

Commentary

These Regulations are proposed to be made by the UK Government pursuant to section 8(1) of, and paragraph 21(b) of Schedule 7 to, the European Union (Withdrawal) Act 2018.

These Regulations transfer legislative functions from the EU Commission to public authorities in the UK. The functions relating to devolved policy areas are currently set out in EU Regulations (and one EU Directive) covering persistent organic pollutants, timber, the European Pollutant Release and Transfer Register, mercury and industrial emissions. As regards devolved policy areas in Wales, certain functions are conferred on the Welsh Ministers.

Legal Advisers make the following comments in relation to the Welsh Government's statement dated 10 December 2018 regarding the effect of these Regulations:

1. The Nagoya Protocol relates to access to genetic resources (EU Regulation 511/2014). The Welsh Government states that it is not practically possible for the Welsh Ministers to exercise functions relating to the Nagoya Protocol independently from the UK Government. Therefore, functions are conferred solely on the Secretary of State. The Welsh Government offers no explanation as to why this is the case. **We invite the Welsh Government to give further detail.**
2. As regards the remaining EU Regulations (and the one Directive) which relate to devolved policy areas, namely–
 - Persistent Organic Pollutants (EC Regulation 850/2004);
 - European Pollutant Release and Transfer Register (EC Regulation 166/2006);
 - Mercury (EU Regulation 2017/852); and
 - Industrial Emissions (EU Directive 2010/75 (described in the Welsh Government's statement as "adopting BAT conclusions"))the Welsh Government states that there is "no impact on the Assembly's legislative competence". However, it is not clear whether this assertion is correct and **we invite further explanation.** Our reasoning is as follows.
3. Where a function is conferred on the Secretary of State in an area which falls within the legislative competence of the National Assembly for Wales, this may have the effect of restricting the Assembly's ability to legislate in this area.
4. An Assembly Act cannot remove or modify a function of a Minister of the Crown that relates (among other things) to control of pollution of water resources unless the Minister consents (see paragraph 11(1)(c) of Schedule 7B to the Government of Wales Act 2006).
5. If these Regulations confer functions on the Secretary of State that relate to control of such pollution, then the Assembly will not have competence to remove that function without the consent of the UK Government. This is despite the fact that the function will operate in a devolved area.
6. **We request further detail from the Welsh Government** as to whether any of the functions conferred on the Secretary of State relate to the control of pollution of water resources (or any other matter listed in paragraph 11(1) of Schedule 7B to the Government of Wales Act 2006). Without further detail, we are not able to confirm the accuracy of the Welsh Government's assertion that there is no impact on the Assembly's legislative competence.

7. Additionally, there is a very small error in paragraph 10 of the Welsh Government's statement: it should read Council Regulation (EC) No 338/97 (not 338/1997).
8. Save for the points made above in paragraphs 3–6, the above summary and the content of the Explanatory Memorandum to these Regulations confirm their effect. We are satisfied that the Regulations are making corrections rather than new policy in devolved areas.
9. To confirm the position as regards points 3–6 above, we would need the additional information described above.
10. Legal Advisers do not consider that any significant issues arise under paragraph 8 of the Memorandum on the European Union (Withdrawal) Bill and the Establishment of Common Frameworks in relation to these Regulations.



WRITTEN STATEMENT BY THE WELSH GOVERNMENT

TITLE **The REACH etc. (Amendment etc.) (EU Exit) Regulations 2019**

DATE **11 January 2019**

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

The REACH etc. (Amendment etc.) (EU Exit) Regulations 2019 (“2019 Regulations”)

The law which is being amended

European Directly Applicable Instruments

- “the REACH Regulation,” meaning Regulation (EC) 1907/2006 of the European Parliament and of the Council concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC, and 2000/21/EC
- “the Test Methods Regulation,” meaning Commission Regulation (EC) No 440/2008 of 30 May 2008 laying down test methods pursuant to Regulation (EC) No 1907/2006 of the European Parliament and of the Council concerning REACH;
- “the Data Regulation,” meaning Commission Implementing Regulation (EU) 2016/9 of 5 January 2016 on joint submission of data and data-sharing in accordance with Regulation (EC) No 1907/2006 of the European Parliament and of the Council concerning REACH;
- “the Fees Regulation,” meaning Commission Regulation (EC) no 340/2008 on the fees and charges payable to the European Chemicals Agency pursuant to Regulation (EC) No 1907/2006 of the European Parliament and of the Council concerning REACH;
- Commission Implementing Decision C(2017) 3439 of 24.5.2017 granting an authorisation for a use of chromium trioxide under REACH, and
- the EEA agreement;

Summary of secondary legislation to be corrected

- the REACH Enforcement Regulations 2008;
- the Environmental Protection (Disposal of Polychlorinated Biphenyls and other Dangerous Substances) (England and Wales) Regulations 2000; and
- the Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009

The following retained direct EU law is repealed—

- Commission Regulation (EC) No 506/2007 of 8 May 2007 imposing testing and information requirements on the importers or manufacturers of certain priority substances in accordance with Council Regulation (EEC) No 793/93 on the evaluation and control of the risks of existing substances;
- Commission Regulation (EC) No 1238/2007 of 23 October 2007 on laying down rules on the qualifications of the members of the Board of Appeal of the European Chemicals Agency.
- Commission Regulation (EC) No 465/2008 of 28 May 2008 imposing, pursuant to Council Regulation (EEC) No 793/93, testing and information requirements on importers and manufacturers of certain substances that may be persistent, bioaccumulating and toxic and are listed in the European Inventory of Existing Commercial Chemical Substances;
- Commission Regulation (EC) No 466/2008 of 28 May 2008 imposing testing and information requirements on the importers and manufacturers of certain priority substances in accordance with Council Regulation (EEC) No 793/93 on the evaluation and control of the risks of existing substances;
- Commission Regulation (EC) No 771/2008 of 1 August 2008 laying down the rules of organisation and procedure of the Board of Appeal of the European Chemicals Agency;
- Commission Decision 2010/226/EU of 20 April 2010 on the re-examination of the restriction concerning short-chain chlorinated paraffins (SCCPs) listed in Annex XVII to Regulation (EC) No 1907/2006 of the European Parliament and of the Council.

Revocation of Secondary legislation

- The REACH (Appointment of Competent Authorities) Regulations 2007

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

The REACH regime covers both devolved and reserved matters, as it has been designed to protect the health and safety of workers (a reserved matter in Wales and Scotland) as well as public health and the environment (which are devolved).

Schedule 1 of the 2019 Regulations amends Regulation (EC) No 1907/2006. The Regulations provide for functions of the Commission relating to the Registration, Evaluation, Authorisation and Restriction of Chemicals ("the REACH Regulation), to be carried out by the Secretary of State, with the consent of the Welsh Ministers if, or to the extent that, the exercise of those functions is within devolved competence (within the meaning of section 58A(7) and (8) of the Government of Wales Act 2006) whether or not the exercise of the functions also relates to a part of the UK other than Wales.

The devolved administrations have worked with the UK Government and the HSE to conceive, through these regulations, a functional standalone UK REACH regime that maintains the harmonised approaches of EU REACH while at the same time respecting the devolution settlement, by providing for UK-wide decisions in devolved areas made with the consent of the devolved administrations, underpinned by articles allowing each administration to act unilaterally where necessary for the protection of human health and the environment.

The purpose of the amendments

The 2019 Regulations make the modifications necessary to continue to apply the current rules set out in law post-EU Exit. They are particularly important to facilitating the operation of chemical supply chains, which are critical to manufacturing and other chemical-using industries, because they set out the conditions that must be met before importing chemical substances and mixtures into the UK, manufacturing them or placing them on the market

The Regulations and accompanying Explanatory Memorandum, setting out the effect of amendments is available here: <https://beta.parliament.uk/work-packages/1VgjAPt3>

Why consent was given

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

UK MINISTERS ACTING IN DEVOLVED AREAS

76 - The REACH etc. (Amendment etc) (EU Exit) Regulations 2019

Laid in the UK Parliament: 9 January 2019

Sifting

Subject to sifting in UK Parliament?	No
Procedure:	Affirmative
Date of consideration by the House of Commons European Statutory Instruments Committee	N/A
Date of consideration by the House of Lords Secondary Legislation Scrutiny Committee	21/01/2019
Date sifting period ends in UK Parliament	N/A
Written statement under SO 30C:	Paper 11
SICM under SO 30A (because amends primary legislation)	Not required

Scrutiny procedure

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

Commentary

These Regulations are proposed to be made by the UK Government pursuant to sections 8, 14(1) of, and paragraph 1, Schedule 4 of the European Union (Withdrawal) Act 2018.

These Regulations correct deficiencies in retained EU law relating to the registration, evaluation, authorisation and restriction of chemicals, known as 'REACH'. The instrument also ensures that EU legislation will operate effectively in the domestic context after the UK leaves the EU and the creation of a UK regulatory system for chemicals (similar to the current EU 'REACH' regime) by making amendments to European directly applicable instruments and also to domestic, secondary legislation. These Regulations also make transitional provisions to minimise the disruption to existing supply chains.

The REACH regime covers both devolved and reserved matters, as it is has been designed to protect the health and safety of workers (a reserved matter in Wales) as well as public health and the environment (which are devolved).

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

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

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

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



**WRITTEN STATEMENT
BY
THE WELSH GOVERNMENT**

TITLE **The Nutrition (Amendment etc) (EU Exit) Regulations 2019**
DATE **18 January 2019**
BY **Rebecca Evans AM, Minister for Finance and Trefnydd**

The Nutrition (Amendment etc) (EU Exit) Regulations 2019 (“the Regulations”) – affirmative

The retained EU law which is being amended

- Regulation (EC) 1924/2206 sets out the legal framework businesses must comply with if they want to make nutrition or health claims to ensure that claims are accurate and consumers are not misled.
- Regulation (EC) 353/2008 which established implementation rules for applications for the authorisation of health claims.
- Regulation (EC) 2013/63 adopted guidelines for the implementation of specific conditions for health claims.
- Regulation (EC) 907/2013 set rules for applications concerning the use of generic descriptors.
- Regulation (EC) 984/2009 refusing to authorise certain health claims made on food, other than those referring to the reduction of disease and to children’s development and health.
- Regulation (EC) 1024/2009 on the authorisation and refusal of authorisation of certain health claims made on food and referring to the reduction of disease risk and to children’s development and health.
- Regulation (EC) 1025/2009 refusing to authorise certain health claims made on food, other than those referring to the reduction of disease risk and to children’s development and health.
- Regulation (EC) No 1167/2009 refusing to authorise certain health claims made on foods, other than those referring to the reduction of disease risk and to children’s development and health.
- Regulation (EC) No 1168/2009 refusing to authorise a health claim made on foods, other than those referring to the reduction of disease risk and to children’s development and health.
- Regulation (EU) No 375/2010 refusing to authorise a health claim made on foods, other than those referring to the reduction of disease risk and to children’s development and

health.

- Regulation (EU) No 382/2010 refusing to authorise certain health claims made on foods, other than those referring to the reduction of disease risk and to children's development and health.
- Regulation (EC) 1925/2006 which stipulates which vitamins, minerals, and certain other substances may be added to foods; sets out how new substances may be assessed and approved; and outlines compositional and labelling requirements for foods that have substances added to them.
- Regulation (EC) 307/2012 establishes implementing rules for the application of power to prohibit, restrict, or place a substance under scrutiny.
- Regulation (EU) No 489/2012 which established implementing rules for the application of Article 16 of Regulation (EC) No 1925/2006 on the addition of vitamins and minerals and of certain other substances to foods is revoked.
- Regulation (EC) 609/2013 sets general compositional and labelling rules for four food categories those being infant and follow-on formula, processed cereal-based food and baby foods, food for special medical purposes (foods necessary for the management of particular medical conditions) and total diet replacement for use in energy restricted diets for weight reduction.
- Regulation (EC) 983/2009 sets out requirements on substances that may be added for specific nutritional purposes in foods for particular nutritional uses.
- Regulation (EC) No 953/2009 sets out requirements on substances that may be added for specific nutritional purposes in foods for particular nutritional uses.
- Delegated Regulation (EU) 2016/128: supplements Regulation (EU) No 609/2013 with regards to the specific compositional and information requirements for food for special medical purposes

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

The Regulations contain provision which enable the Welsh Ministers to exercise functions in relation to Wales without encumbrance. It also contains provision whereby the Welsh Ministers could provide consent to the Secretary of State to exercise functions in relation to Wales on their behalf.

Functions transferred to the Secretary of State with consent would constitute functions of a Minister of the Crown for the purposes Schedule 7B to Government of Wales Act 2006. This therefore may be a relevant consideration in the context of the Assembly's competence to legislate in the future in these areas.

The purpose of the amendments

The purpose of the amendments is to correct deficiencies arising from the UK leaving the European Union in the retained direct EU legislation relating to nutrition. The Regulations will make technical amendments to the retained direct EU law without making any material

change in the level of protection given to human health or to the high standard of food consumers expect from both domestically produced and imported products.

The Regulations will make technical fixes such as removing references to EU institutions and other Member States and will define 'third countries' as any country outside of the UK.

The main corrections proposed by these Regulations involve the transfer of scientific advisory functions currently undertaken by European Food Safety Authority (EFSA) to existing appropriate UK bodies or to a newly established UK Nutrition and Health Claims Committee (UKNHCC). This new committee will be established under the remit of Public Health England and will be responsible for the scientific substantiation and providing advice to the four UK administrations on any new nutrition and health claims made within the UK post exit.

The SI and accompanying Explanatory Memorandum, setting out the effect of each amendment is available here: <https://beta.parliament.uk/work-packages/Bdvh0XZU>

Why consent was given

There is no divergence between the Welsh Government and the UK Government (Department of Health and Social Care) on the policy for the corrections. Therefore, making separate SIs in Wales and England would lead to duplication, and unnecessary complication of the statute book. Consenting to a UK wide SI ensures that there is a single legislative framework across the UK which promotes clarity and accessibility during this period of change. In these exceptional circumstances, the Welsh Government considers it appropriate that the UK Government legislates on our behalf in this instance.

UK MINISTERS ACTING IN DEVOLVED AREAS

77 - The Nutrition (Amendment etc) (EU Exit) Regulations 2019

Laid in the UK Parliament: 16 January 2019

Sifting

Subject to sifting in UK Parliament?	No
Procedure:	Affirmative
Date of consideration by the House of Commons European Statutory Instruments Committee	N/A
Date of consideration by the House of Lords Secondary Legislation Scrutiny Committee	21/01/2019
Date sifting period ends in UK Parliament	N/A
Written statement under SO 30C:	Paper 13
SICM under SO 30A (because amends primary legislation)	Not required

Scrutiny procedure

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

Commentary

The Written Statement refers to Regulations which were laid before the UK Parliament on 16 January 2019. The Regulations were subsequently withdrawn and a new version of the Regulations were laid on 17 January. It is not clear why the Welsh Government Written Statement, laid on 18 January, refers to the Regulations that were withdrawn. A query has been raised with Welsh Government officials.

These Regulations are proposed to be made by the UK Government pursuant to sections 8(1) and 23 of, and paragraph 21 of Schedule 7 to, of the European Union (Withdrawal) Act 2018.

The purpose of this instrument is to remedy deficiencies in UK legislation relating to nutrition, arising from the withdrawal of the UK from the European Union ("EU"), in the event that the UK leaves without a deal having been agreed. This instrument amends existing domestic, and retained EU, legislation as well as revoking some pieces of related EU

tertiary legislation which will no longer have any application to the UK after withdrawal.

The subject areas covered by this nutrition legislation are: nutrition and health claims made on food; the addition of vitamins, minerals and certain other substances to foods; composition and labelling of food supplements; the composition and labelling of food for specific groups; and the sale of products containing Kava-kava.

Legal Advisers make the following comments in relation to the Welsh Government's statement dated 18 January 2019 regarding the effect of these Regulations:

1. The statement does not make clear that the list of retained EU law which is being amended by the instrument, as provided in the statement, is not an exhaustive list. There is a series of retained EU law which are subject to minor and technical amendments by this instrument which have not been included in the list within the Welsh Government's statement.
2. Also, the following retained EU law has been included in the list of retained EU law which is being amended, when in reality they are being revoked by this instrument:
 - 2013/63/EU: Commission Implementing Decision (named Regulation (EC) 2013/63 in error in the Welsh Government's statement) adopting guidelines for the implementation of specific conditions for health claims laid down in Article 10 of Regulation (EC) No 1924/2006 of the European Parliament and of the Council;
 - Regulation (EU) No 907/2013 setting the rules for applications concerning the use of generic descriptors (denominations);
 - Regulation (EU) No 489/2012 establishing implementing rules for the application of Article 16 of 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 (although in this instance, Legal Advisers do note that the description in the list makes clear that Regulation (EU) No 489/2012 is to be revoked).
3. Additionally, there is an error in the Welsh Government's statement, in the list of amended retained EU law. The first bullet point should read Regulation (EC) 1924/2006 (not 1924/2206).
4. While these Regulations contain provision which enable the Welsh Ministers to exercise functions in relation to Wales without encumbrance, they also contain provision whereby the Welsh Ministers could provide consent to the Secretary of State to exercise functions in relation to Wales on their behalf.
5. Functions transferred to the Secretary of State with consent would constitute functions of a Minister of the Crown for the purposes of Schedule 7B to the Government of Wales Act 2006. This therefore may be a relevant consideration in the context of the Assembly's

competence to legislate in the future in the subject areas outlined in the summary to this report.

Save for the points mentioned above in paragraphs 1-5, the above summary and the content of the Explanatory Memorandum to these Regulations confirm their effect.

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

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Eich cyf/Your ref: EJ/CE
Ein cyf/Our ref:FM -/00858/18

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11 January 2019

Dear Elin

I am writing in response to your letter of 4 December to my predecessor as First Minister, regarding the scrutiny of Brexit-related legislation and how to ensure that the National Assembly can play a full part in legislating for Brexit.

The Welsh Government's approach reflects the real and pressing need to respond to the extraordinary circumstances surrounding Brexit, rather than any attempt to limit or frustrate the Assembly's role as a legislature.

I can confirm that the corrections to the legislation made in Wales by the Assembly and the Welsh Ministers, so that the Welsh statute book remains operable at the point of EU exit, are being delivered in up to 50 SIs, to be made by the Welsh Ministers, and are being laid in the Assembly. This will facilitate the full scrutiny of the Assembly and will ensure that the corrections are made in both official languages.

However, it has been necessary to work with the UK Government on other aspects of the process of legislating for Brexit.

It is indeed the case that the Welsh Ministers are seeking delegated powers under three Brexit Bills currently before the UK Parliament, and that we are pursuing this approach in preference, under the circumstances, to bringing forward Bills to the Assembly. I agree that the Legislative Consent procedure set out in Standing Order 29 does not allow Members to carry out the same detailed level of scrutiny that they are able to do for an Assembly Bill. However, when we talk about taking legislative decisions on grounds of efficiency, it must be recognised that this not just an administrative convenience. We simply would not have

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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.

been able to bring this volume of legislation before the Assembly in such a compressed time period. The Welsh Government will, as far as is possible in the timescales involved, seek to enable Assembly scrutiny through timely and responsive engagement.

As you know, since May 2016, the Assembly has passed ten Bills (of which one is awaiting Royal Assent), and there are currently four Bills in front of the Assembly for consideration. In terms of subordinate legislation, in a typical year around 150 SIs are laid in the Assembly.

If we had taken the decision that all EU Exit legislation in devolved areas was to be made in Wales, then between September 2018 and March 2019 it would have required an additional 200 SIs and 4-6 Bills to be laid in the Assembly. Even if it were possible to suspend all other business of the Government and the Assembly for this period, the Brexit legislation programme would have required six months of the Assembly's and the Government's time to be spent making more legislation than is normally made in a year in Wales. It would only be possible to pass the necessary Bills in that time by following a fast track procedure which would limit their scrutiny by the Assembly.

I currently expect 140-150 UK Government EU Exit SIs to be made in areas devolved to Wales ahead of exit day, though this number is subject to change as SIs are merged or disaggregated and new ones emerge. Almost all of these will require the consent of the Welsh Ministers through the process set out in the Intergovernmental Agreement.

The Welsh Ministers only consent to the UK SIs where there is no divergence on policy between Wales and the UK, and on that basis the SIs are not politically sensitive. These SIs are for the purpose of making the corrections so that the statute book will be operable at the point of EU exit and are being made by the UK Government, with the consent of the Welsh Ministers.

The Scottish Government is adopting the same approach as we have in Wales with a similar number of SIs being taken forward by the UK Government on behalf of Scotland.

Your letter mentions the use of concurrent powers. Decisions on who should exercise powers currently conferred on EU entities after exit are being considered in the context of each SI, depending on the nature of the power in question, and whether factors exist that mean that it is not desirable for an administration to exercise that power without the involvement of another administration. Our default position is that where there is a function within an area devolved to Wales, the relevant function should be conferred on the Welsh Ministers or on an appropriate public body in Wales. However, there are a number of circumstances where the default position may not be appropriate or practical. These are likely to arise, for example, where:

- The cross-border nature of service provision requires close co-operation across both nations, for the benefit of citizens or to avoid placing unnecessary burdens on organisations. This could be due to the way people or goods travel across the border, or the particular geographical features of the border.
- The devolved and non-devolved aspects of policy delivery are so intertwined, that it is not workable for the devolved elements to be delivered without reference to the non-devolved elements, or vice versa.

In these cases, there is a range of options for how functions can be exercised, and Ministers are reaching a decision on each individual UK Government SI following a full consideration of all of the relevant issues. One result of requiring the involvement of both administrations in exercising functions is the creation of concurrent powers.

The Assembly has amended Standing Orders to facilitate scrutiny of the UK EU Exit SIs, to which my officials have responded by laying 76 written statements about them when they are laid in Parliament and also 14 Statutory Instrument Consent Memoranda. I understand that the Constitutional and Legislative Affairs Committee is intending to produce a report on the written statements laid so far. I look forward to receiving that report and to considering any improvements the Committee recommends.

I am copying this letter to the Chairs of the Assembly's committees, the Minister for Finance and Trefnydd and the Counsel General Designate and Brexit Minister.

I hope that the contents of this letter provide reassurance that the decisions made by Welsh Ministers are designed to balance the extraordinary set of demands created by Brexit, and that the Welsh Government remains committed to providing the greatest possible practical opportunities for scrutiny of those legislative actions which have a material, rather than simply technical, purpose. We remain committed, of course, to keeping all this under review and greatly welcome the dialogue on these matters which your letter has prompted.

Yours sincerely

A handwritten signature in black ink that reads "Mark Drakeford". The signature is written in a cursive, slightly slanted style.

MARK DRAKEFORD



Elin Jones AC, Llywydd

Cynulliad Cenedlaethol Cymru

Elin Jones AM, Presiding Officer

National Assembly for Wales

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

Your ref:
Our ref: EJ/CE

4 December 2018

Dear Carwyn

At the Chairs' Forum meeting, on 28 November 2018, we discussed the role of the Assembly and its committees in scrutinising Brexit-related legislation. Chairs raised an emerging concern about the role of the Assembly in the process of legislating for Brexit.

Chairs reported that the Welsh Government has sought delegated powers for Welsh Ministers in a number of Brexit-related UK Bills, rather than bringing forward its own Bills for scrutiny by the Assembly. In terms of the subordinate legislation needed to correct the statute book ahead of leaving the European Union, I understand that you have agreed to a significant proportion of this legislation being made by UK Ministers, using concurrent powers on behalf of Welsh Ministers.

Whilst I, and the Chairs' Forum, understand that you have made these decisions on the grounds of efficiency for the governments involved in the process, the concern expressed by Chairs is that this comes at a cost of the Assembly's role and therefore Members' ability to effectively represent the interests of the people of Wales in the process of legislating for Brexit.

In representing the views expressed to me by Chairs, and acting in the interests of the Assembly's position in the Brexit process, I have concerns that the cumulative effect of these Welsh Government decisions is an inadvertent bypassing of the Assembly's role.

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

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Elin Jones AC, Llywydd

Cynulliad Cenedlaethol Cymru

Elin Jones AM, Presiding Officer

National Assembly for Wales

I am sure that you would agree that the scrutiny of legislation that falls within the competence of the Assembly or Welsh Ministers, particularly relating to important areas of policy affecting citizens, benefits from far greater Wales-specific scrutiny when considered by the Assembly.

The limited opportunity for scrutiny offered by legislative consent conventions and associated procedures is incomparable with the Assembly's full legislative scrutiny processes.

Further, legislative scrutiny by the Assembly offers a more accessible and transparent process for Welsh stakeholders and the public, and also ensures the law is made in both of our official languages.

Just as you have striven to ensure a role for the Welsh Government in the Brexit process, I must ensure that the Assembly, and its Members, are enabled to play the full role they were elected to perform.

I understand that Assembly committees are planning to undertake further work in this area and I am sure that they will continue to raise issues with you and the Welsh Ministers.

In the meantime, I ask that you consider the concerns that have been raised and I would be grateful for your thoughts on how you might ensure that the Welsh Government does all it can to enable the Assembly to play its full part in legislating for Brexit.

I have copied this letter to Chairs of the Assembly's committees, the Leader of the House, and the Cabinet Secretary for Finance (in light of his role in the Brexit process).

Yours sincerely

Elin Jones AM
Llywydd

Agenda Item 13

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

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