

# Agenda – Constitutional and Legislative Affairs Committee

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Meeting Venue:

Committee Room 1 – Senedd

Meeting date: 17 June 2019

Meeting time: 14.45

For further information contact:

**Gareth Williams**

Committee Clerk

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**1 Introduction, apologies, substitutions and declarations of interest**  
14.45

**2 Instruments that raise issues to be reported to the Assembly  
under Standing Order 21.2 or 21.3**  
14.45–14.55

Negative Resolution Instruments

**2.1 SL(5)415 – The Regulation and Inspection of Social Care (Wales) Act 2016  
(Consequential and Miscellaneous Amendments) Regulations 2019**

(Pages 1 – 9)

CLA(5)–19–19 – Paper 1 – Report

CLA(5)–19–19 – Paper 2 – Regulations

CLA(5)–19–19 – Paper 3 – Explanatory Memorandum

Affirmative Resolution Instruments

**2.2 SL(5)416 – The Regulated Advocacy Services (Service Providers and  
Responsible Individuals) (Wales) (Amendment) Regulations 2019**

(Pages 10 – 19)

CLA(5)–19–19 – Paper 4 – Report

CLA(5)–19–19 – Paper 5 – Regulations

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

**3 Written Statements under Standing Order 30C**  
14.55–15.00



- 3.1 WS-30C(5)132 – The Environment and Rural Affairs (Amendment) (EU Exit) Regulations 2019**  
(Pages 20 – 24)  
CLA(5)-19-19 – Paper 7 – Statement  
CLA(5)-19-19 – Paper 8 – Commentary
- 4 Paper(s) to note**  
15.00-15.10
- 4.1 Letter from the Counsel General: Joint Ministerial Committee (Europe)**  
(Page 25)  
CLA(5)-19-19 – Paper 9 – Letter from the Counsel General, 12 June 2019
- 4.2 Letter from the Llywydd to the Chair: Senedd and Elections (Wales) Bill**  
(Pages 26 – 29)  
CLA(5)-19-19 – Paper 10 – Letter from the Llywydd, 13 June 2019
- 4.3 Letter from the Minister for Health and Social Services: The National Health Service (Welsh Language in Primary Care Services) (Miscellaneous Amendments) (Wales) Regulations 2019**  
(Pages 30 – 31)  
CLA(5)-19-19 – Paper 11 – Letter from the Minister for Health and Social Services, 13 June 2019
- 5 Motion under Standing Order 17.42 to resolve to exclude the public from the meeting for the following business:**  
15.10
- 6 Forward Work Programme**  
15.10-15.30 (Pages 32 – 37)  
CLA(5)-19-19 – Paper 12 – Options paper
- 7 Legislative Consent Memorandum on the Census (Return Particulars and Removal of Penalties) Bill: Draft report**  
15.30-15.40 (Pages 38 – 39)  
CLA(5)-19-19 – Paper 13 – Draft report

## **8 Senedd and Elections (Wales) Bill: Draft report**

15.40-16.40

(Pages 40 – 178)

CLA(5)-19-19 – Paper 14 – Draft report

**Date of the next meeting – 24 June 2019**

# SL(5)415 – The Regulation and Inspection of Social Care (Wales) Act 2016 (Consequential and Miscellaneous Amendments) Regulations 2019

## Background and Purpose

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These Regulations make amendments to the Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (Wales) Regulations 2006 and the Independent Review of Determinations (Adoption and Fostering) (Wales) Regulations 2010 in order to correct minor errors which were made to those instruments by the Regulation and Inspection of Social Care (Wales) Act 2016 (Consequential Amendments to Secondary Legislation) Regulations 2019.

These Regulations also make a minor amendment to the Regulated Services (Penalty Notices) (Wales) Regulations 2019 to correct a cross-referencing error in regulation 8(1) of that instrument.

## Procedure

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Negative.

## Technical Scrutiny

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

## Merits Scrutiny

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

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

1. The Explanatory Memorandum to these Regulations omits section 187(1) of the Regulation and Inspection of Social Care (Wales) Act 2016 when listing the enabling powers for these Regulations.
2. The Regulations correct minor errors that were identified by the Committee during technical scrutiny. The Regulated Services (Penalty Notices) (Wales) Regulations 2019, which contained a cross-referencing error, is due to come into force on 1 July 2019. The Regulations have been timed to come into effect on the same date.

## Implications arising from exiting the European Union

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

## Government Response

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A government response is not required.

### **Legal Advisers**

**Constitutional and Legislative Affairs Committee**

**12 June 2019**



**2019 No. (W. )**

**SOCIAL CARE, WALES**

**The Regulation and Inspection of  
Social Care (Wales) Act 2016  
(Consequential and Miscellaneous  
Amendments) Regulations 2019**

**EXPLANATORY NOTE**

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

The Regulation and Inspection of Social Care (Wales) Act 2016 (Consequential Amendments to Secondary Legislation) Regulations 2019 (S.I. 2019/237 (W. 56)) and the Regulated Services (Penalty Notices) (Wales) Regulations 2019 (S.I. 2019/887 (W. 159)) were made using powers in the Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2) (“the 2016 Act”).

These Regulations make amendments to the Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (Wales) Regulations 2006 (S.I. 2006/1715 (W. 177)) and the Independent Review of Determinations (Adoption and Fostering) (Wales) Regulations 2010 (S.I. 2010/746 (W. 75)) in order to correct minor errors which were made to those instruments by the Regulation and Inspection of Social Care (Wales) Act 2016 (Consequential Amendments to Secondary Legislation) Regulations 2019.

These Regulations also make a minor amendment to the Regulated Services (Penalty Notices) (Wales) Regulations 2019 to correct a cross-referencing error in regulation 8(1) of that instrument.

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

**2019 No. (W.)**

**SOCIAL CARE, WALES**

The Regulation and Inspection of  
Social Care (Wales) Act 2016  
(Consequential and Miscellaneous  
Amendments) Regulations 2019

*Made* 31 May 2019

*Laid before the National Assembly  
for Wales* 3 June 2019

*Coming into force* 1 July 2019

The Welsh Ministers make the following Regulations in exercise of the powers conferred upon them by sections 52(1), 186 and 187(1) of the Regulation and Inspection of Social Care (Wales) Act 2016<sup>(1)</sup>.

**Title and commencement**

1. The title of these Regulations is the Regulation and Inspection of Social Care (Wales) Act 2016 (Consequential and Miscellaneous Amendments) Regulations 2019 and they come into force on 1 July 2019.

**Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (Wales) Regulations 2006**

2. In regulation 4(3) of the Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (Wales) Regulations 2006<sup>(2)</sup>, for “individual placement plan” substitute “individual placement agreement”.

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(1) 2016 anaw 2; *see* section 189 for the definition of “prescribed”.  
(2) S.I. 2006/1715 (W. 177); relevant amending instruments are S.I. 2016/216 (W. 85), 2019/237 (W. 56).

**Independent Review of Determinations (Adoption and Fostering) (Wales) Regulations 2010**

3. In regulation 4(b) of the Independent Review of Determinations (Adoption and Fostering) (Wales) Regulations 2010(1), for “9(7)(a)” substitute “9(7)”.

**The Regulated Services (Penalty Notices) (Wales) Regulations 2019**

4. In regulation 8(1) of the Regulated Services (Penalty Notices) (Wales) Regulations 2019(2), for “regulation 12” substitute “section 52(1) of the Act”.

*Julie Morgan*

Deputy Minister for Health and Social Services, under authority of the Minister for Health and Social Services, one of the Welsh Ministers  
31 May 2019

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(1) S.I. 2010/746 (W. 75); relevant amending instruments are S.I. 2016/211 (W. 84), 2019/237 (W. 56).  
(2) S.I. 2019/887 (W. 159).

**Explanatory Memorandum to:**

**The Regulation and Inspection of Social Care (Wales) Act 2016 (Consequential and Miscellaneous Amendments) Regulations 2019**

This Explanatory Memorandum has been prepared by the Health and Social Services Department 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 Regulation and Inspection of Social Care (Wales) Act 2016 (Consequential and Miscellaneous Amendments) Regulations 2019.

Julie Morgan  
**Deputy Minister for Health and Social Services**  
3 June 2019



## **PART 1**

### **1. Description**

In 2011 the Welsh Government published the white paper Sustainable Social Services: A Framework for Action, which set out an ambitious plan to create a new integrated and person-centred approach to social services provision in Wales. To achieve this new approach, in the last assembly term, the Welsh Government made two pieces of primary legislation: the Social Services and Well-being (Wales) Act 2014 and the Regulation and Inspection of Social Care (Wales) Act 2016 ('the 2016 Act').

The 2016 Act reforms the regulation and inspection regime for social care in Wales, and provides the statutory framework for the regulation and inspection of social care services and the social care workforce. It also enables the Welsh Ministers to put in place regulations, publish guidance and issue codes of practice.

This Explanatory Memorandum relates to The Regulation and Inspection of Social Care (Wales) Act 2016 (Consequential and Miscellaneous Amendments) Regulations 2019, which will come into force on 1 July 2019. These Regulations make amendments to *The Regulated Services (Penalty Notices) (Wales) Regulations 2019* and to instruments which were amended by *The Regulation and Inspection of Social Care (Wales) Act 2016 (Consequential Amendments to Secondary Legislation) Regulations 2019*.

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

The Regulations make amendments in response to minor errors in some of the references within the two sets of regulations identified above, which were identified during technical scrutiny by the Constitutional and Legislative Affairs Committee. The Regulations are timed to come into effect to coincide with the coming into effect of *The Regulated Services (Penalty Notices) (Wales) Regulations 2019*, which they are amending.

### **3. Legislative background**

These Regulations are made using powers under sections 52(1) and 186 of the 2016 Act and are subject to the National Assembly for Wales' negative procedure.

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

The purpose of these Regulations is to make the following minor amendments:

The Regulation and Inspection of Social Care (Wales) Act 2016 (Consequential Amendments to Secondary Legislation) Regulations 2019 made minor errors in relation to the following statutory instruments which need to be addressed:

- a) An amendment made to regulation 4(3) of the Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (Wales) Regulations 2006 included an erroneous reference to an “individual placement plan”; the reference should have been to an “individual placement agreement”.
  
- b) An amendment made to regulation 4(b)(ii) of the Independent Review of Determinations (Adoption and Fostering) (Wales) Regulations 2010 substituted a reference to “9(7)(a)”. The substitution should be corrected to read “9(7)”.

#### The Regulated Services (Penalty Notices) (Wales) Regulations 2019

- c) Regulation 8(1) of these Regulations (Offences under the Advocacy Services Regulations) made a cross-reference to ‘regulation 12’; whereas the correct reference is “section 52(1) of the Act”. The corrected text will read:

‘The offences under the provisions of the Advocacy Services Regulations listed in the first column of the table in Schedule 4 are prescribed as offences for the purposes of section 52(1) of the Act.’

The overall purpose of these amending Regulations is to address the issues raised by the Constitutional and Legislative Affairs Committee and to make the minor corrections (as listed above) to ensure that the policy aims of the principal Regulations are secured.

## **5. Consultation**

No consultation has been undertaken on these amending Regulations, which only make minor technical corrections to *The Regulated Services (Penalty Notices) (Wales) Regulations 2019* and to instruments which were originally amended by *The Regulation and Inspection of Social Care (Wales) Act 2016 (Consequential Amendments to Secondary Legislation) Regulations 2019*.

## **6. Regulatory Impact Assessment (RIA)**

A regulatory impact assessment has not been prepared in respect of The Regulation and Inspection of Social Care (Wales) Act 2016 (Consequential and Miscellaneous Amendments) Regulations 2019 as they simply make minor amendments to correct errors in the above regulations and do not impose costs for businesses, charities or voluntary bodies or the public sector.

The relevant Explanatory Memoranda can be found via the following links.

The Regulation and Inspection of Social Care (Wales) Act 2016 (Consequential Amendments to Secondary Legislation) Regulations 2019:

<http://www.assembly.wales/laid%20documents/sub-ld12157-em/sub-ld12157-em-e.pdf>

The Regulated Services (Penalty Notices) (Wales) Regulations 2019:

<http://www.assembly.wales/laid%20documents/sub-ld12505-em/sub-ld12505-em-e.pdf>

# Agenda Item 2.2

## SL(5)416 – The Regulated Advocacy Services (Service Providers and Responsible Individuals) (Wales) (Amendment) Regulations 2019

### Background and Purpose

These Regulations make minor, corrective amendments to references in the Regulated Advocacy Services (Service Providers and Responsible Individuals) (Wales) Regulations 2019 (the “2019 Regulations”).

The Regulations address technical issues previously reported by the Committee during its scrutiny of the 2019 Regulations.

### Procedure

Affirmative.

### Technical Scrutiny

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

### Merits Scrutiny

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

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

The Explanatory Memorandum to these Regulations contains the following errors:

1. In the third paragraph under the heading “Description” on page 2, the 2019 Regulations are defined as “The Regulated Advocacy (Service Providers and Responsible Individuals) (Wales) Regulations 2019” – the correct title is “The Regulated Advocacy Services (Service Providers and Responsible Individuals) (Wales) Regulations 2019”.
2. In the paragraph under the heading “Legislative background” on page 2, the Explanatory Memorandum incorrectly refers to these Regulations being made using powers under sections 27 and 186 of the Regulation and Inspection of Social Care (Wales) Act 2016, whereas the enabling powers relied upon for these Regulations are sections 27 and 187 of that Act.

### 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 not required.





*Draft Regulations laid before the National Assembly for Wales under section 187(2)(f) of the Regulation and Inspection of Social Care (Wales) Act 2016, for approval by resolution of the National Assembly for Wales.*

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DRAFT WELSH STATUTORY  
INSTRUMENTS

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**2019 No. (W.)**

**SOCIAL CARE, WALES**

**The Regulated Advocacy Services  
(Service Providers and Responsible  
Individuals) (Wales) (Amendment)  
Regulations 2019**

**EXPLANATORY NOTE**

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

These Regulations make minor amendments to the Regulated Advocacy Services (Service Providers and Responsible Individuals) (Wales) Regulations 2019 (S.I. 2019/165 (W. 41)) (“the Advocacy Services Regulations”) in order to correct errors in that instrument.

Regulation 6(4)(c) of the Advocacy Services Regulations provides that whenever the responsible individual is unable to fulfil their duties, the service provider must ensure that there are arrangements in place for the compliance of the service with the requirements of the regulations in Parts 3 to 15. Regulation 2(a) of these Regulations amends regulation 6(4)(c) of the Advocacy Services Regulations to require the service provider to ensure that there are also arrangements in place for the compliance of the service with the requirements of the regulations in Part 2 in such circumstances.

Regulation 7(3)(c) of the Advocacy Services Regulations provides that whenever a service provider who is an individual is absent, that individual must ensure that there are arrangements in place for the compliance of the service with the requirements of the regulations in Parts 3 to 15. Regulation 2(b) of these Regulations amends regulation 7(3)(c) of the Advocacy Services Regulations to require the individual to ensure that there are also arrangements in

place for the compliance of the service with the requirements of the regulations in Part 2 in such circumstances.

Regulation 2(c) amends regulation 15(2)(d) of the Advocacy Services Regulations to substitute the reference to “commissioning authorities” with “service commissioners”.

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

*Draft Regulations laid before the National Assembly for Wales under section 187(2)(f) of the Regulation and Inspection of Social Care (Wales) Act 2016, for approval by resolution of the National Assembly for Wales.*

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DRAFT WELSH STATUTORY  
INSTRUMENTS

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**2019 No. (W.)**

**SOCIAL CARE, WALES**

**The Regulated Advocacy Services  
(Service Providers and Responsible  
Individuals) (Wales) (Amendment)  
Regulations 2019**

*Made*

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*Coming into force*

*1 July 2019*

The Welsh Ministers make the following Regulations in exercise of the powers conferred upon them by sections 27 and 187(1) of the Regulation and Inspection of Social Care (Wales) Act 2016<sup>(1)</sup>.

A draft of these Regulations was laid before and approved by resolution of the National Assembly for Wales in accordance with section 187(2)(f) of that Act.

**Title and commencement**

**1.** The title of these Regulations is the Regulated Advocacy Services (Service Providers and Responsible Individuals) (Wales) (Amendment) Regulations 2019 and they come into force on 1 July 2019.

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(1) 2016 anaw 2.



**Amendments to the Regulated Advocacy Services  
(Service Providers and Responsible Individuals)  
(Wales) Regulations 2019**

2. The Regulated Advocacy Services (Service Providers and Responsible Individuals) (Wales) Regulations 2019<sup>(1)</sup> are amended as follows—

- (a) in regulation 6(4)(c), for “Parts 3 to 15” substitute “Parts 2 to 15”;
- (b) in regulation 7(3)(c), for “Parts 3 to 15” substitute “Parts 2 to 15”;
- (c) in regulation 15(2)(d), for “commissioning authorities” substitute “service commissioners”.

*Name*

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

*Date*

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<sup>(1)</sup> S.I. 2019/165 (W. 41).

**Explanatory Memorandum to:**

**The Regulated Advocacy Services (Service Providers and Responsible Individuals) (Wales) (Amendment) Regulations 2019**

This Explanatory Memorandum has been prepared by the Health and Social Services Department 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 Regulated Advocacy Services (Service Providers and Responsible Individuals) (Wales) (Amendment) Regulations 2019.

Julie Morgan  
**Deputy Minister for Health and Social Services**  
4 June 2019

## **PART 1**

### **1. Description**

In 2011 the Welsh Government published the white paper Sustainable Social Services: A Framework for Action, which set out an ambitious plan to create a new integrated and person-centred approach to social services provision in Wales. To achieve this new approach, in the last assembly term, the Welsh Government made two pieces of primary legislation: the Social Services and Well-being (Wales) Act 2014 and the Regulation and Inspection of Social Care (Wales) Act 2016 ('the 2016 Act').

The 2016 Act reforms the regulation and inspection regime for social care in Wales, and provides the statutory framework for the regulation and inspection of social care services and the social care workforce. It also enables the Welsh Ministers to put in place regulations, publish guidance and issue codes of practice.

This Explanatory Memorandum relates to The Regulated Advocacy Services (Service Providers and Responsible Individuals) (Wales) (Amendment) Regulations 2019, which will come into force on 1 July 2019. These Regulations make amendments to *The Regulated Advocacy (Service Providers and Responsible Individuals) (Wales) Regulations 2019* ("the 2019 Regulations").

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

The Regulations make amendments in response to errors in some of the references within the above regulations that were identified during technical scrutiny by the Constitutional and Legislative Affairs Committee. The Regulations are timed in order to come into effect prior to 31 August 2019, which is the registration deadline for providers of advocacy services who were already operating before the requirement to register first came into force on 29 April 2019.

### **3. Legislative background**

These Regulations are made using powers under sections 27 and 186 of the 2016 Act and are subject to the National Assembly for Wales' affirmative procedure. The Welsh Ministers have not consulted on these regulations because, pursuant to section 27(6) of the 2016 Act, these regulations only amend other regulations which have been made under that section and do not, in the opinion of the Welsh Ministers, effect any substantial changes in the provision made by the regulations to be amended.

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

The purpose of these Regulations is to make the following minor amendments:

##### The Regulated Advocacy (Service Providers and Responsible Individuals) (Wales) Regulations 2019

- Regulation 6(4)(c) of the 2019 Regulations (Requirements in relation to the responsible individual) refers incorrectly in the text to 'Part 3' instead of 'Part 2'. The correct text should be:

'the compliance of the service with the requirements of the regulations in Parts 2 to 15'

- Regulation 7(3)(c) of the 2019 Regulations (Requirements in relation to the responsible individual where the service provider is an individual) also refers incorrectly in the text to 'Part 3' instead of 'Part 2'. The correct text should be:

'the compliance of the service with the requirements of the regulations in Parts 2 to 15'

- Regulation 15(1)(d) of the 2019 Regulations (Information about the service) erroneously referred to "commissioning authorities", the correct reference is to "service commissioners".

The overall purpose of these amending Regulations is to address the issues raised by the Constitutional and Legislative Affairs Committee and to make the minor corrections (as listed above) to ensure that the policy aims of the 2019 Regulations are secured.

#### **5. Consultation**

No consultation has been undertaken on these amending Regulations, which only make minor technical corrections to the above 2019 Regulations.

#### **6. Regulatory Impact Assessment (RIA)**

A regulatory impact assessment has not been prepared in respect of these consequential amendment regulations as they simply make minor amendments to the 2019 Regulations and do not impose costs for businesses, charities or voluntary bodies or the public sector.

An Explanatory Memorandum to support The Regulated Advocacy (Service Providers and Responsible Individuals) (Wales) Regulations 2019 has been completed and can be found here for information:

<http://www.assembly.wales/laid%20documents/sub-ld12200-em/sub-ld12200-em-e.pdf>



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## WRITTEN STATEMENT BY THE WELSH GOVERNMENT

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<b>TITLE</b>	<b>The Environment and Rural Affairs (Amendment) (EU Exit) Regulations 2019</b>
<b>DATE</b>	<b>3 June 2019</b>
<b>BY</b>	<b>Rebecca Evans AM, Minister for Finance and Trefnydd</b>

### **The Environment and Rural Affairs (Amendment) (EU Exit) Regulations 2019 (“2019 Regulations”)**

#### **The Law which is being amended**

- The Environment, Food and Rural Affairs (Environmental Impact Assessment) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/25) (“the EIA (EU Exit) Regulations”).
- The Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/39) (“the EPR (EU Exit) Regulations”).
- The Waste (Miscellaneous Amendments) (EU Exit) (No. 2) Regulations 2019 (S.I. 2019/188) (“Waste (EU Exit) (No. 2) Regulations”).
- The Waste (Miscellaneous Amendments) (EU Exit) Regulations 2019 (S.I. 2019/620) (“the Waste (EU Exit) Regulations”).

#### **The purpose of the amendments**

The four instruments listed above are made under section 8(1) of the European Union (Withdrawal) Act 2018. Amendments to these instruments are necessary to correct minor errors and/or to ensure consistency with other EU exit related amendments in order to ensure the appropriate functioning of the legislation amended by those other instruments after the UK leaves the EU.

The EIA (EU Exit) Regulations correct EU exit related deficiencies in the domestic regulations that implemented the EIA Directive in the field of: land drainage improvement works, forestry, water resources, agriculture and marine works.

The EPR (EU Exit) Regulations correct EU exit related deficiencies in the Environmental Permitting (England and Wales) Regulations 2016 to ensure that relevant permitting requirements are delivered as intended via conditions in environmental permits, and give regulators the power to ensure compliance with those conditions.

The Waste (EU Exit) (No. 2) Regulations and the Waste (EU Exit) Regulations were part of three EU Exit instruments (along with the International Waste Shipments (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/590)) which taken together ensure that the UK waste legislation continues to operate as intended after the UK leaves the EU.

Regulation 2 of this instrument corrects a minor error in the EIA (EU Exit) Regulations. In that instrument the definition of “public” as contained in the EIA Directive has been inserted, with amendment, into the principal regulations being amended by that instrument. It has since been reported that the definition of “public” differs across the individual regulations. The definition of “public” in regulations 5(2)(a)(ii) (for agriculture) and 6(2)(b) (for marine works) is, therefore, being amended so that it is consistent with the clearer definition in regulations 2(2)(a)(ii) (for land drainage improvement works) and 4(2)(c) (for water resources).

Regulation 3 of this instrument makes amendments to the EPR (EU Exit) Regulations. It updates cross-references to the Medical Devices Regulations 2002 (S.I. 2002/618). The Medical Devices (Amendment etc) (EU Exit) Regulations 2019 (S.I. 2019/791) created additional definitions of “medical device”, “in vitro diagnostic medical device” and “active implantable medical device” in the 2002 Regulations. Regulation 3 of this instrument updates the cross-references in those definitions in the new Schedule 1A to the Environmental Permitting (England and Wales) Regulations 2016 that is inserted by the EPR (EU Exit) Regulations so that in each case both definitions in the 2002 Regulations are referenced. This is consistent with regulation 4T of the Medical Devices Regulations 2002 as inserted by S.I. 2019/791, which modifies the same definitions in regulation 2(1) of the Waste Electrical and Electronic Equipment Regulations 2013 (S.I. 2013/3113) in the same way.

Regulation 4 of this instrument makes minor amendments to the Waste (EU Exit) (No. 2) Regulations as follows:

- Regulation 4(2) of this instrument amends regulation 9(10) of the Waste (EU Exit) (No. 2) Regulations. Regulation 9(10) amends regulation 33 of the End of Life Vehicle Regulations 2003 (S.I. 2003/2635). Regulation 4(2) of this instrument inserts new amendments into regulation 9(10) in order to correct additional deficiencies resulting from EU Exit in regulation 33 of the 2003 Regulations;
- Regulation 4(3) of this instrument omits regulation 13(3) of the Waste (EU Exit) (No. 2) Regulations. Regulation 13(3) amends regulation 3(1) of the Batteries and Accumulators (Placing on the Market) Regulations 2008 by inserting a reference to “regulation 2A”. However, regulation 13(3) was included in error and is to be omitted;
- Similarly, regulation 4(3) of this instrument omits regulation 14(2)(b) of the Waste (EU Exit) (No. 2) Regulations. Regulation 14(2)(b) purports to amend the definition of “the Waste Directive” in regulation 2 of the Waste Batteries and Accumulators Regulations 2009. However, there is no such definition. Regulation 14(2)(b) was included in error and is to be omitted.
- Regulation 4(4) of this instrument amends regulation 16 of the Waste (EU Exit) (No. 2) Regulations. Regulation 16 amends the Waste (England and Wales) Regulations 2011.

- Regulation 4(4)(b) of this instrument inserts new provisions that amend paragraph 4 of Part 1 of Schedule 1 to the 2011 Regulations to correct deficiencies resulting from EU exit in that paragraph. Following exit from the EU, it is no longer appropriate for the objectives relating to the principles of self-sufficiency and proximity in national waste management plans to refer to the EU. Therefore the amendments ensure that the principles of self-sufficiency and proximity will continue to apply at a UK level.
- Regulation 4(4)(a) amends regulation 16(3) of the Waste (EU Exit) No. 2 Regulations by replacing the text of the new regulation 3D(8)(b)(i) that is inserted into the 2011 Regulations. This amendment is necessary to ensure a consistent approach between the text of the modification of Article 16 of the Waste Framework Directive (Article 16 contains the principle of self-sufficiency and proximity is derived) and the text of the amendment made by regulation 4(4)(b) of this instrument.
- Regulation 4(5) of the instrument amends regulation 18(25)(c) of the Waste (EU Exit) (No. 2) Regulations. Regulation 18(25)(c) inserts a new Part 4 into Schedule 1 to the Restriction of the Use of Certain Hazardous Substances in Electrical and Electronic Equipment Regulations 2012. Paragraph 26(c)(vi) of that new Part 4 is unnecessary in light of paragraphs 26(c)(iv) and 26(c)(v) of that Part. The new paragraph 26(c)(vi) was included in error and is to be omitted.

Regulation 5 of the instrument amends regulation 17(3) of the Waste (EU Exit) Regulations. Regulation 17(3) inserts new Articles 1A to 1F into Commission Decision 2009/335/EC on technical guidelines for the establishment of the financial guarantee in accordance with Directive 2006/21/EC of the European Parliament and of the Council concerning the management of waste from extractive industries. Regulation 5 of this instrument replaces new Article 1B(8)(b)(i), which modifies Article 16 of the Waste Framework Directive, to ensure a consistent approach with the amendments made by regulation 4(4) of the instrument as outlined above.

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

#### **Any impact the SI may have on the Welsh Ministers' executive competence**

The 2019 Regulations do not impact on the Welsh Ministers ability to exercise functions in relation to Wales and this will continue without encumbrance.

#### **Any impact the SI may have on the legislative competence of the National Assembly for Wales**

The 2019 Regulations have no impact on the National Assembly for Wales' legislative competence.

#### **Why consent was given**

As set out above, the 2019 Regulations are being made in order to correct minor errors and/or to ensure consistency between those instruments and other EU Exit SIs, to ensure the effectiveness and continuity of UK legislation following our exit from the EU.



## UK MINISTERS ACTING IN DEVOLVED AREAS

### 132 - The Environment and Rural Affairs (Amendment) (EU Exit) Regulations 2019

*Laid in the UK Parliament: 23 May 2019*

#### **Sifting**

Subject to sifting in UK Parliament?	Yes
Procedure:	Proposed negative
Date of consideration by the House of Commons European Statutory Instruments Committee	18 June 2019
Date of consideration by the House of Lords Secondary Legislation Scrutiny Committee	Not known
Date sifting period ends in UK Parliament	12 July 2019
Written statement under SO 30C:	Paper 7
SICM under SO 30A (because amends primary legislation)	Not required

#### **Scrutiny procedure**

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

#### **Commentary**

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

These Regulations make a number of minor, technical amendments to ensure consistency between the below listed instruments and other EU Exit SIs, so as to ensure the effectiveness and continuity of UK legislation, after the UK leaves the EU.

- The Environment, Food and Rural Affairs (Environmental Impact Assessment) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/25).
- The Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/39).
- The Waste (Miscellaneous Amendments) (EU Exit) (No. 2) Regulations 2019 (S.I. 2019/188).

- The Waste (Miscellaneous Amendments) (EU Exit) Regulations 2019 (S.I. 2019/620).

Legal Advisers agree with the statement laid by the Welsh Government dated 3 June 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.

**Jeremy Miles AC/AM**  
Y Cwnsler Cyffredinol a Gweinidog Brexit  
Counsel General and Brexit Minister

## Agenda Item 4.1



Llywodraeth Cymru  
Welsh Government

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

12 June 2019

Dear Mick,

I am writing to inform you that the Joint Ministerial Committee (Europe) will meet in London on 13 June.

The agenda will cover the upcoming European Council, the Finnish Presidency of the European Council and the Daylight savings directive.

I will report to the Committee on the outcome of the meeting.

Yours sincerely,



**Jeremy Miles AM**  
Y Cwnsler Cyffredinol a Gweinidog Brexit  
Counsel General and Brexit Minister

Bae Caerdydd • Cardiff Bay  
Caerdydd • Cardiff  
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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.

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

Your ref:  
Our ref: EJ/TJ

13 June 2019

Dear Mick

### **Financing and accountability of the Electoral Commission**

When I gave evidence to your committee on 7 May, I undertook to share with you more detailed information about the proposed policy direction relating to the financing and accountability of the Electoral Commission in relation to devolved elections in Wales.

I would welcome your Committee's views on this matter, and look forward to reading - and responding to - your stage 1 report in the coming weeks.

To assist your consideration, the following is an update on the work undertaken by my officials in discussion with the Welsh Government, Electoral Commission and Wales Audit Office.

The Assembly Commission considered this matter at its meeting on 10 June. Whilst there was broad agreement on a proposed approach, the Commission also recognised the need for discussions with the Counsel General to continue, and for account to be taken of the views of your Committee and the Finance Committee.

The existing arrangements for the financing and accountability for the Electoral Commission and the role of the Speaker's Committee are set out in the Political Parties, Elections and Referendums Act 2000 (PPERA). I anticipate that the

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



**Elin Jones AC, Llywydd**

Cynulliad Cenedlaethol Cymru

**Elin Jones AM, Presiding Officer**

National Assembly for Wales

Counsel General will table amendments to the Senedd and Elections (Wales) Bill which will, in turn, amend the provisions in PPERA. My expectation is that the development of these amendments by the Counsel General will be informed by the view of the Commission. Further detail as to how the new arrangements for the financing and accountability of the Electoral Commission will operate in practice are more suited to Standing Orders, and will therefore need to be considered by Business Committee in due course.

Accountability arrangements

*Preferred option: a 'Llywydd's Committee'*

The Electoral Commission has emphasised its preference is to be accountable to a committee chaired by a politically impartial 'non-party representative' (i.e. the Llywydd or Dirprwy Lywydd).

I share this view, and anticipate that this new 'Llywydd's Committee' would meet two to three times per year, and have a broad membership including representation for smaller political groups within the Assembly.

Following our discussion during the evidence session on 7 May, my view is that the requirement for such a committee, and at least the principles on which its composition would be determined, should be set out in primary legislation by using the Senedd and Elections (Wales) Bill to amend PPERA. For example, it would be appropriate for legislation to enshrine the principle that the membership should reflect, as far as possible, the balance of the political groups to which Members belong.

Further membership requirements, for example, whether the Llywydd's Committee should include some ex-officio members, such as relevant committee chairs, would be better left for the Assembly to determine in Standing Orders.

The establishment of a 'Llywydd's Committee' would not, of course, prevent other Assembly committees from scrutinising the Electoral Commission on any particular issues within their remits.

*Alternative option: the Assembly Commission*

An alternative to establishing a Llywydd's Committee would be for the Electoral Commission to be accountable to the Assembly Commission. However, it is not



currently within the role of the Assembly Commission to hold external organisations to account. For that reason, the establishment of a separate committee to undertake this function is my preferred option.

#### Financing arrangements

Currently, the work of the Electoral Commission in relation to devolved elections in Wales is paid for by the UK Treasury via the Speaker's Committee. To enable the Assembly to be responsible for funding the Electoral Commission's work in Wales, I anticipate that provision for high-level budget and audit arrangements would be specified in primary legislation (again through amendments to PPERA).

#### *Funding through the Assembly Commission's budget*

One option would be for the Electoral Commission to be funded as part of the Assembly Commission's budget (which is scrutinised by the Finance Committee and agreed by the Assembly by the usual process). I understand that this approach would be consistent with that expected to be taken on this matter in Scotland.

However, if a separate Llywydd's Committee were to be established, then part of its role would be to scrutinise the Electoral Commission's budget. If the Electoral Commission's budget were to be included in the Assembly Commission's budget, this could give rise to an overlap with the Finance Committee's role in scrutinising the Assembly Commission's budget, leading to complex budgeting, reporting and audit arrangements and potential lack of clarity over the body which is primarily responsible for scrutinising the Electoral Commission.

#### *Preferred option: funding from the Welsh Consolidated Fund*

Consequently, my preferred option is for the Electoral Commission to be funded directly from the Welsh Consolidated Fund in a similar manner to the Wales Audit Office. Section 124 of the Government of Wales Act 2006 allows for payments to be made out of the Welsh Consolidated Fund to bodies other than those set out in subsection 124(3) if they are for the purposes of "meeting expenditure payable pursuant to a relevant enactment". A relevant enactment is an enactment which provides for payment out of the Welsh Consolidated Fund.



**Elin Jones AC, Llywydd**

Cynulliad Cenedlaethol Cymru

**Elin Jones AM, Presiding Officer**

National Assembly for Wales

Under this option, the Electoral Commission's budget and audit report would be scrutinised by the Llywydd's Committee, and there would be no overlap with the remit of the Finance Committee in respect of the Assembly Commission's budget.

My officials are exploring the legal and constitutional implications of this option further with the Welsh Government, Electoral Commission and Wales Audit Office.

#### Interinstitutional arrangements

Given the complexities of retaining a single UK body, funded separately by the Assembly, Scottish Parliament and Speaker's Committee, it would be important for the legislative provisions to be supplemented by a shared understanding between the three legislatures and the Electoral Commission on respective responsibilities for funding arrangements and apportionment of the Electoral Commission's costs relating to devolved matters.

I am aware that the Counsel General has also committed to write to you setting out the Welsh Government's position in relation to these issues. I am confident that we hold broadly similar views, and I will continue to work with him to ensure that the amendments brought forward result in clear and effective legislative proposals that will attract the support of a super-majority of Members.

I have copied this letter to the Chair of the Finance Committee and to the Counsel General.

Yours sincerely

Elin Jones AM  
Llywydd



Llywodraeth Cymru  
Welsh Government

Ein cyf/Our ref – MA-L/VG/0479/19

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

13 June 2019

Dear Mick,

Thank you for your letter of 29 May.

I have noted your concerns and endorsement of the points raised by the Culture, Welsh Language and Communications (CWLC) Committee in its letter to me of 10 May. I replied to that letter on 20 May recognising the interest of the CWLC Committee in the amendments and offered the CWLC Committee a technical briefing with my officials. That technical briefing took place on 6 June. Previous amendments to these Regulations have not gathered the same level of interest and I have asked my officials to ensure in future, if they involve the Welsh language, we alert and engage with CWLC earlier in the process.

With regard to your concern the Explanatory Memorandum attached to the regulations was laid in English, I and my officials regret the delay in the Welsh language version of the document not being available at the same time. This falls below our usual high standard and we regret if this oversight detracts from the benefits these duties will have for patients receiving healthcare in the primary care setting.

With respect to your further point on the Welsh Government's policy on translation of Explanatory Memoranda, officials have already discussed this matter with Assembly Commission officials and reached agreement in principle that we will progressively increase the number of explanatory memoranda for statutory instruments that are laid in Welsh before the Assembly. Further work is currently underway to look at the significance of this in relation to the time required for the delivery of legislation and supporting documents to be laid before the Assembly in both official languages.

These duties, in my view, are a significant step forward in promoting and supporting Welsh language awareness and services in primary care. Independent primary care contractors have not previously been subject to any form of Welsh language schemes and I am pleased the representative bodies, despite raising some challenges, have agreed with the approach we are taking.

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:  
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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.



Yours sincerely,

A handwritten signature in black ink that reads "Vaughan Gething". The signature is written in a cursive style with a prominent initial 'V'.

**Vaughan Gething AC/AM**

Y Gweinidog Iechyd a Gwasanaethau Cymdeithasol  
Minister for Health and Social Services

# Agenda Item 6

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

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# Agenda Item 7

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

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# Agenda Item 8

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

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