

Agenda – Constitutional and Legislative Affairs Committee

Meeting Venue:

Committee Room 1 – Senedd

Meeting date: 4 November 2019

Meeting time: 14.30

For further information contact:

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Committee Clerk

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- 1 Introduction, apologies, substitutions and declarations of interest**
14.30

- 2 Instruments that raise no reporting issues under Standing Order 21.2 or 21.3**
14.30–14.35 (Page 1)
CLA(5)–30–19 – Paper 1 – Statutory instruments with clear reports
Negative Resolution Instruments
- 2.1 SL(5)463 – The Non–Domestic Rating Contributions (Wales) (Amendment) Regulations 2019**

- 3 Instruments that raise issues to be reported to the Assembly under Standing Order 21.2 or 21.3**
14.35–14.40
Negative Resolution Instruments
- 3.1 SL(5)458 – The School Teachers’ Pay and Conditions (Wales) Order 2019**
(Pages 2 – 15)
CLA(5)–30–19 – Paper 2 – Report
CLA(5)–30–19 – Paper 3 – Order
CLA(5)–30–19 – Paper 4 – Explanatory Memorandum
- 3.2 SL(5)461 – The Plant Health etc. (Miscellaneous Fees) (Wales) (Amendment) Regulations 2019**
(Pages 16 – 39)



CLA(5)–30–19 – Paper 5 – Report

CLA(5)–30–19 – Paper 6 – Regulations

CLA(5)–30–19 – Paper 7 – Explanatory Memorandum

Affirmative Resolution Instruments

3.3 SL(5)457 – The Public Health (Minimum Price for Alcohol) (Minimum Unit Price) (Wales) Regulations 2019

(Pages 40 – 100)

CLA(5)–30–19 – Paper 8 – Report

CLA(5)–30–19 – Paper 9 – Regulations

CLA(5)–30–19 – Paper 10 – Explanatory Memorandum

CLA(5)–30–19 – Paper 11 – Written statement

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

14.40–14.45

4.1 SL(5)454 – The Genetically Modified Organisms (Deliberate Release) (Amendment) (Wales) Regulations 2019

(Pages 101 – 105)

CLA(5)–30–19 – Paper 12 – Report

CLA(5)–30–19 – Paper 13 – Government response

5 Standing Order 30B Report: The European Union (Withdrawal) Act and Common Frameworks

14.45–14.50

(Pages 106 – 126)

CLA(5)–30–19 – Paper 14 – Written statement

CLA(5)–30–19 – Paper 15 – Report

6 Written statements under Standing Order 30C

14.50–14.55

6.1 WS–30C(5)155 – The Rights, Equality and Citizenship Programme (Revocation) (EU Exit) Regulations 2019

(Pages 127 – 130)

CLA(5)–30–19 – Paper 16 – Written statement

CLA(5)–30–19 – Paper 17 – Commentary

- 6.2 WS-30C(5)156 – The Agricultural Products, Food and Drink (Amendment etc.)(EU Exit) Regulations 2019**
(Pages 131 – 136)
CLA(5)-30-19 – Paper 18 – Written statement
CLA(5)-30-19 – Paper 19 – Commentary
- 6.3 WS-30C(5)157 – The Common Agricultural Policy (Market Measures, Notifications and Direct Payments) (Miscellaneous Amendments) (EU Exit) Regulations 2019**
(Pages 137 – 140)
CLA(5)-30-19 – Paper 20 – Written statement
CLA(5)-30-19 – Paper 21 – Commentary
- 6.4 WS-30C(5)158 – The Persistent Organic Pollutants (Amendment) (EU Exit) Regulations 2019**
(Pages 141 – 144)
CLA(5)-30-19 – Paper 22 – Written statement
CLA(5)-30-19 – Paper 23 – Commentary
- 6.5 WS-30C(5)159 – The Creative Europe Programme and Europe for Citizens Programme (Revocation) (EU Exit) Regulations 2019**
(Pages 145 – 149)
CLA(5)-30-19 – Paper 24 – Written statement
CLA(5)-30-19 – Paper 25 – Commentary
- 7 Motion under Standing Order 17.42 to resolve to exclude the public from the meeting for the following business:**
14.55
- 8 Health and Social Care (Quality and Engagement) (Wales) Bill: Draft report**
14.55-15.10 (Pages 150 – 172)
CLA(5)-30-19 – Paper 26 – Draft report
- 9 National Health Service (Indemnities) (Wales) Bill: Draft report**
15.10-15.25 (Pages 173 – 189)
CLA(5)-30-19 – Paper 27 – Draft report

Date of the next meeting – 11 November

Statutory Instruments with Clear Reports

04 November 2019

SL(5)463 – The Non-Domestic Rating Contributions (Wales) (Amendment) Regulations 2019

Procedure: Negative

These Regulations amend the Non-Domestic Rating Contributions (Wales) Regulations 1992 (“the 1992 Regulations”).

Under Part 2 of Schedule 8 to the Local Government Finance Act 1988, billing authorities (in Wales, county and county borough councils) are required to pay amounts (called non-domestic rating contributions) to the Welsh Ministers. The 1992 Regulations contain rules for the calculation of those contributions for Welsh billing authorities.

These Regulations amend the 1992 Regulations by substituting a new Schedule 4 (Adult Population Figures).

Parent Act: Local Government Finance Act 1988

Date Made: 28 October 2019

Date Laid: 29 October 2019

Coming into force date: 31 December 2019



Agenda Item 3.1

SL(5)458 – The School Teachers’ Pay and Conditions (Wales) Order 2019

Background and Purpose

This Order makes provision for the determination of the remuneration of school teachers in Wales and other conditions of employment of school teachers in Wales which relate to their professional duties and working time.

The Order makes this provision by reference to section 2 of a document entitled “School Teachers’ Pay and Conditions (Wales) Document 2019 and guidance on school teachers’ pay and conditions” (“the Document”).

The Order makes retrospective provision, under section 123(3) of the Education Act 2002, to provide that the provisions set out in section 2 of the Document have effect on and after 1 September 2019 notwithstanding that the Order comes into force after that date (article 2).

Procedure

Negative.

Technical Scrutiny

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

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

Section 124(3)(a) of the Education Act 2002 says that when an order (such as this Order) refers to a document (such as the Document referred to in this Order) then the **order** must include **provision** about publication of the document.

In this Order, the reference to publication is made in a **footnote**. We do not believe that a statutory requirement to include provision in an order is properly satisfied by including it in a footnote in the order.

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

None.

Government Response

The technical scrutiny element of the draft report refers to one drafting point – that reference to publication of the School teachers pay and conditions (Wales) document (“the document”) is made in a footnote rather than the main body of the Order and as such the statutory requirement under section 124(3)(a) of the Education Act 2002, that the order must include provision about publication of the document, is not properly satisfied.



This point is noted. We consider that the purpose of that statutory requirement is to ensure that the user of the legislation is clear as to where the document is published. While the reference to publication is in the footnote rather than the main body of the Order, we think there is a reasonable argument that it would still be clear to the user of the legislation where the document is published. However, in the interests of accessibility and legal certainty the Government undertakes to amend the Order at the earliest possible opportunity.

Legal Advisers

Constitutional and Legislative Affairs Committee

23 October 2019



2019 No. (W.)

EDUCATION, WALES

**The School Teachers' Pay and
Conditions (Wales) Order 2019**

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision for the determination of the remuneration of school teachers (within the meaning of section 122 of the Education Act 2002 (c. 32)) in Wales and other conditions of employment of school teachers in Wales which relate to their professional duties and working time.

The Order makes this provision by reference to section 2 of a document entitled "School Teachers' Pay and Conditions (Wales) Document 2019 and guidance on school teachers' pay and conditions" ("the Document"). It can be found on the Welsh Government website, www.gov.wales.

The Order makes retrospective provision, under section 123(3) of the Education Act 2002, to provide that the provisions set out in section 2 of the Document have effect on and after 1 September 2019 notwithstanding that the Order comes into force after that date (article 2).

The Order revokes the School Teachers' Pay and Conditions Order 2018 as it applies in Wales (article 3).

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

2019 No. (W.)

EDUCATION, WALES

**The School Teachers' Pay and
Conditions (Wales) Order 2019**

Made 18 October 2019

Laid before the National Assembly for Wales
22 October 2019

Coming into force 12 November 2019

The Welsh Ministers, in exercise of the powers conferred on the Secretary of State by sections 122(1), 123 and 124 of the Education Act 2002⁽¹⁾, and now vested in them⁽²⁾, make the following Order.

The Welsh Ministers in accordance with section 126⁽³⁾ of that Act have consulted such of the persons and bodies referred to in that section as appeared to the Welsh Ministers to be appropriate.

Title, commencement, application and interpretation

1.—(1) The title of this Order is the School Teachers' Pay and Conditions (Wales) Order 2019 and it comes into force on 12 November 2019.

(2) This Order applies to school teachers⁽⁴⁾ in Wales.

(3) In this Order, “the Document” means the document entitled “School Teachers' Pay and Conditions (Wales) Document 2019 and guidance on school teachers' pay and conditions” dated September 2019⁽⁵⁾.

(1) 2002 c. 32. Sections 122 and 123 were amended by article 5(1) of, and paragraph 11 of Part 1 of Schedule 2 to, S.I. 2010/1158.

(2) The functions of the Secretary of State were transferred to the Welsh Ministers by article 39 of the Welsh Ministers (Transfer of Functions) Order 2018 (S.I. 2018/644).

(3) This function of the Secretary of State was transferred to the Welsh Ministers by article 39 of the Welsh Ministers (Transfer of Functions) Order 2018 (S.I. 2018/644).

(4) School teacher is defined for these purposes in section 122(3) to (6) of the Education Act 2002.

(5) Published online at <https://gov.wales/teaching-and-leadership>.

The Document

2. The provisions set out in section 2 of the Document have effect on and after 1 September 2019 for the purposes of determining—

- (a) the remuneration of school teachers, and
- (b) other conditions of employment of school teachers which relate to their professional duties and working time.

Revocation

3. The School Teachers' Pay and Conditions Order 2018⁽¹⁾ is revoked to the extent that it applies in relation to school teachers in Wales.

Kirsty Williams

Minister for Education, one of the Welsh Ministers
18 October 2019

(1) S.I. 2018/998.

Explanatory Memorandum to the School Teachers' Pay and Conditions (Wales) Order 2019.

This Explanatory Memorandum has been prepared by the Education and Public 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 School Teachers' Pay and Conditions (Wales) Order 2019. I am satisfied that the benefits justify the likely costs.

Kirsty Williams AM
Minister for Education
22 October 2019

PART 1

1. Description

The School Teachers' Pay and Conditions (Wales) Order 2019 ("the Order") makes provision for the remuneration and conditions of employment of school teachers in Wales, to be determined by reference to the provisions set out in section 2 of the School Teachers' Pay and Conditions (Wales) Document 2019 and guidance on school teachers' pay and conditions ("STPCD"). The Order will come into force on 12 November 2019. Provisions on teachers' pay and conditions under section 2 of the STPCD will have retrospective effect from 1 September 2019.

Responsibility for school teachers' pay and conditions was devolved to the Welsh Ministers on 30 September 2018 and is reviewed annually. The STPCD applies to teachers employed in local authority maintained schools in Wales. The STPCD is a replacement for the School Teachers' Pay and Conditions Document 2018 and guidance on school teachers' pay and conditions, which covered both England and Wales.

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

The provisions under section 2 of the STPCD will have effect retrospectively from 1 September 2019.

3. Legislative background

The Welsh Ministers have the power to set school teachers' pay and conditions in Wales by way of Order under sections 122 to 124 and 126 to 127 of the Education Act 2002 ("the Act"). These functions were transferred to the Welsh Ministers on 30 September 2018 from the Secretary of State for Education via the Welsh Ministers (Transfer of Functions) Order 2018.

Section 122(1) of the Act provides the Welsh Ministers with the power to make provision for the remuneration of school teachers in Wales and other conditions of employment related to their professional duties and working time.

Section 124(3) of the Act provides that an order made under section 122 can make provision through a document, which must also be published.

Section 123(3) of the Act provides that an order under section 122 may make retrospective provision, but not so as to—

- a. reduce remuneration in respect of a period wholly or partly before the making of the order, or

- b. alter a condition of employment to the detriment of a teacher in respect of a period wholly or partly before the making of the order.

Section 126 of the Act requires the Welsh Ministers to consult those appropriate bodies they feel relevant before making any order under section 122. The relevant bodies are: associations of local education authorities; local education authorities, those representing governing bodies of schools, and bodies representing school teachers (teacher unions).

These Regulations are being made under the negative resolution procedure.

4. Purpose and intended effect of the legislation

The Order applies to all school teachers (as defined in section 122(3) to (6) of the Act) in Wales. This Order is made annually and serves to introduce new pay and allowance ranges in the national pay framework for school teachers in maintained schools in Wales only. Non-maintained schools in Wales have the freedom and flexibility to adopt pay and allowance ranges for their teachers which best reflect their local circumstances.

The Secretary of State's functions regarding the determination of teachers' pay and conditions in Wales were transferred to the Welsh Ministers by the Welsh Ministers (Transfer of Functions) Order 2018 and the relevant provisions of that Order came into force on 30 September 2018. The Secretary of State has made his own separate 2019 Order (the School Teachers' Pay and Conditions (England) Order 2019) which covers school teachers in England only.

Following the transfer of powers over teachers' pay and conditions to the Welsh Ministers on 30 September 2018, a new annual process has been established. This process includes the following key stages:

- Teachers' Pay Partnership Forum (all teacher unions and employers) discusses scope of draft remit and makes recommendations to Welsh Ministers;
- Welsh Ministers issue a remit letter to the Independent Welsh Pay Review Body (IWPRB) which outlines areas of teachers' pay and conditions for potential change;
- IWPRB considers evidence submitted by stakeholders and provides recommendations to Welsh Ministers;
- Welsh Ministers consider recommendations and set teachers' pay and conditions following a written consultation with key stakeholders.

The introduction of a 'Wales only' STPCD via the Order is the final step in the new pay process for year 1.

Section 1 of the STPCD summarises the changes to pay and conditions and associated guidance since the School Teachers' Pay and Conditions Order 2018 and other relevant information about the STPCD. Section 2 of the STPCD is laid out in seven parts and two annexes. Parts 2 to 6 set out how pay and allowances for the various categories of teacher are to be determined. Part 7 sets out conditions of employment for the various categories of teacher that will have effect as terms of their contracts of employment. The Annexes to section 2 of the STPCD set out the performance standards for teachers and interpretation matters. Section 3 of the STPCD is statutory guidance to accompany the provisions in section 2 and replaces the previous section 3.

The revisions to the STPCD follow a review of teachers' pay in Wales by the newly established Independent Welsh Pay Review Body (IWPRB). The IWPRB put forward eight recommendations relating to teachers' pay in Wales for the 2019/20 academic year, for consideration by the Minister for Education. In accordance with section 126 of the Act, the Welsh Ministers then consulted with key stakeholders on the proposed changes to the STPCD.

The principal changes are to section 2 (pay section) of the STPCD which has been amended to include:

- i. a 5% uplift to the minimum of the teacher main pay range.
- ii. a 2.75% uplift to the statutory maximum of the main pay range and the statutory minima and maxima of the upper pay range; the leading practitioner pay range; the unqualified teacher pay range; the leadership pay ranges (including headteacher groups), and all allowances across all pay ranges.

There are also some miscellaneous changes and general updates, including the removal of references to England and amendments to references to legislation that is not applicable in Wales.

Section 3 (statutory guidance) of the STPCD has also been amended to provide that there is an expectation that any discretionary pay scale points would be uplifted by 2.75% also.

Historically, the UK Government would lay the pay Order by 10th August every year, (with the exception of 2018) to enable the pay award and any other changes to the STPCD to come into effect from 1st September – the date on which teachers' pay awards have always come into effect. However, due to a commitment made by the Welsh Ministers that there would be no detriment to pay for teachers in Wales following devolution of powers, this year the Welsh Government aligned its process with the Department for Education's. This was to ensure that the Welsh Ministers' final decision in relation to the pay award in Wales was fully informed, and that the Welsh Government was able to implement a fair pay award for school teachers in Wales. It was also necessary to consider

the teachers' pay award in the context of the wider public sector pay process and awards and provide a meaningful (8 week) consultation with stakeholders. As a result of this delay, the Welsh Ministers need to employ the power under section 123(3) of the Education Act 2002 to make the STPCD retrospective in effect so that once the Order comes into force on 12 November 2019, section 2 of the STPCD has effect from 1 September 2019. These are the same principles that were in place for the 2018 pay award.

The Order revokes the School Teachers' Pay and Conditions Order 2018 to the extent that it applies in relation to school teachers in Wales.

5. Consultation

An eight week stakeholder consultation ran from 22 July 2019 to 13 September on the Minister's proposals relating to teachers' pay for 2019/20. Further information is contained in the Regulatory Impact Assessment below.

PART 2 – REGULATORY IMPACT ASSESSMENT

6. Options

In order to achieve the policy objective of establishing a pay and conditions system for teachers in Wales, the following options were identified:

1. Do nothing.
2. Taking a legislative approach by implementing changes below those recommended by the Independent Welsh Pay Review Body (IWPRB).
3. Taking a legislative approach by implementing changes as recommended by the IWPRB.
4. Taking a legislative approach by implementing changes above those recommended by the IWPRB.

7. Costs and benefits

Option 1 – Do nothing

Benefits

The only identified benefit of taking this baseline option is potential immediate cost-saving across school budgets. The Welsh Government's evidence to the IWPRB was clear that whilst we could recommend pay increases of up to 2% for teachers, any increase is potentially unaffordable and could place undue pressures on school or local authority budgets. HMT were clear that government departments are free to implement pay increases across the public sector above 2%, but that these would not be funded by HMT.

Costs

There are no additional costs associated with this option. However, doing nothing was quickly discounted as a non-option and carries a high degree of risk. We consider that whilst there may be some immediate cost saving benefits, this would have a distinctly negative impact on the policy for the following reasons:

- As this is the first year that pay and conditions will be set by Welsh Government, there is a need and policy objective to establish a system that recognises and rewards the teaching profession in Wales.
- WG has made a political commitment that there will be 'no detriment' to the profession following devolution. There is therefore an expectation that we will at least match any increases awarded in England, which is a 2.75% increase to the minimum and maximum of all pay scales for 2019/20.
- The newly established pay process includes the appointment of an Independent Welsh Pay Review Body. The IWPRB has recommended 2.4% across the pay scales and a 5% uplift to the teacher main pay scale. To do nothing would be to ignore the advice of the IWPRB.

Option 2 - Taking a legislative approach by implementing changes *below* those recommended by the Independent Welsh Pay Review Body (IWPRB).

Benefits

Similarly to Option 1, there are financial benefits to implementing a pay award below that recommended by the IWPRB. The WG presented written evidence which supported its recommendation of an increase of up to 2% across the pay bill for teachers for 2019/20. A 2% increase would be in line with what we would expect LAs to have budgeted for in 2019/20, and would be comparable with other public sector pay awards (e.g, the Civil Service).

Costs

In the WG evidence to the IWPRB it was identified that a 2% increase in pay would have a projected annual cost of £24.6m. WG is not set to receive consequential funding and therefore any increase may place pressure on existing school budgets.

There is a potential risk to the recruitment and retention of teachers in Wales under this option since the proposed increase in pay is below the increase awarded in England.

Option 3 - Taking a legislative approach by implementing changes *as recommended* by the IWPRB.

Benefits

The IWPRB recommended a 5% uplift to the minimum of the main pay scale and a 2.4% uplift to the minima and maxima of other pay scales and allowances. Accepting the recommendations as prescribed by the IWPRB would demonstrate confidence in the new system and the role of the IWPRB.

Accepting an uplift to the minimum of the main pay scale that is higher than the uplift in England may have a positive effect on attracting newly qualified teachers to the profession in Wales.

Costs

The projected cost of a 2.4% increase is £31.0m annually.

The cost of increasing the statutory minimum of the main pay scale by 5% would be £640k annually. The additional cost of this option is therefore estimated to be £31.6m per annum. WG is not set to receive consequential funding and therefore any increase may place pressure on existing school budgets.

Option 4 - Taking a legislative approach by implementing changes *above* those recommended by the IWPRB.

Benefits

The First Minister and Minister for Education have previously committed that there will be 'no detriment' to the profession following devolution. The Department for Education has awarded an uplift to the minimum and maximum of pay scales and allowances for teachers in England of 2.75%. Whilst this is above the percentage recommended by the IWPRB, aligning increases with those in England would ensure pay parity, and meet the no detriment commitment. This option may also ensure that retention of teachers in Wales remains steady.

Additionally, this option would also include meeting the IWPRB recommended 5% uplift to the minimum of the main pay scale.

Accepting an uplift to the minimum of the main pay scale that is higher than the uplift in England may have a positive effect on attracting newly qualified teachers to the profession in Wales.

Costs

The projected cost of a 5% uplift to the minimum of the main pay scale and 2.75% uplift to all other minimum and maximum of pay scales and allowances would be £34.6m annually.

WG is not set to receive consequential funding and therefore any increase may place pressure on existing school budgets.

Summary of the preferred option

In summary, the chosen option is Option 4 but with a variation to include the IWPRB's recommendation of a 5% uplift to the minimum of the teacher main pay scale. To ensure that teachers in Wales are not disadvantaged post-devolution, the pay award for 2019/20 will be equal to the award in England, with a further increase to the minimum of the teacher main pay scale amounting to a 5% uplift. The cost of increasing the statutory minimum of the main pay scale by 5% would be an additional £640k annually.

This decision is made in view of the benefits to be gained as set out above, including:-

- Pay parity with the profession in England.
- A positive effect on attracting newly qualified teachers to the profession in Wales.

These legislative changes have no impact on business, charities or voluntary bodies.

The impact on the public sector relates to the budgets of maintained schools in England and Wales to the extent that it makes changes to the pay and conditions of teachers employed by local authorities and governing bodies.

8. Consultation

An eight week stakeholder consultation on the Minister's recommendations for changes to teachers' pay ran from 22 July 2019 to 13 September 2019. The organisations/individuals consulted are those key stakeholders agreed as part of the pay and conditions model established prior to devolution. The consultees include; local authorities, teacher unions and diocesan authorities, all of whom are represented on the Teachers' Pay and Conditions Partnership Forum.

There was broad agreement to the proposals to meet the 'no detriment' commitment, and to uplift the minima and maxima of pay scale points by 2.75%. There was also general agreement to uplift the minimum of the teacher main pay scale by 5%. Following consideration of the consultation responses, no evidence was provided that necessitated reconsideration of the Minister's proposals.

9. Competition Assessment

Not applicable

10. Post implementation review

This is an annual legislative process and these changes are applicable only for 2019/20. The pay process for year 2 has commenced, and this will determine amendments to the STPCD for 2020/21.

Agenda Item 3.2

SL(5)461 – The Plant Health etc. (Miscellaneous Fees) (Wales) (Amendment) Regulations 2019

Background and Purpose

These Regulations amend the Plant Health (Export Certification) (Wales) Order 2006 to provide for increases in the fees for services in respect of applications for phytosanitary certificates (including phytosanitary certificates for re-export) and related pre-export services, and to increase the maximum amount for services to which the concessionary rate for small exporters applies, from £250 to £750.

These Regulations also amend the Plant Health etc. (Fees) (Wales) Regulations 2018 (“2018 Regulations”), which specify fees payable to the Welsh Ministers in relation to plant health services and the certification of seed potatoes and fruit plants and fruit plant propagating material.

Procedure

Negative.

Technical Scrutiny

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

Merits Scrutiny

The following merits point is identified for reporting under Standing Order 21.3 in respect of this instrument.

- 1. Standing Order 21.3(i) – that it imposes a charge on the Welsh Consolidated Fund or contains provisions requiring payments to be made to that Fund or any part of the government or to any local or public authority in consideration of any licence or consent or of any services to be rendered, or prescribes the amount of any such charge or payment.**

These Regulations amend the fees payable to the Welsh Ministers in the circumstances described above.

Implications arising from exiting the European Union

These Regulations amend the 2018 Regulations which implement, in Wales, various EU obligations in relation to plant health. The amended 2018 Regulations will form part of retained EU law after exit day.

Government Response

A government response is not required.

Legal Advisers

Constitutional and Legislative Affairs Committee

29 October 2019



2019 No. (W.)

PLANT HEALTH, WALES

SEEDS, WALES

The Plant Health etc.
(Miscellaneous Fees) (Wales)
(Amendment) Regulations 2019

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Plant Health (Export Certification) (Wales) Order 2006 (the “2006 Order”) and the Plant Health etc. (Fees) (Wales) Regulations 2018 (the “2018 Regulations”).

These Regulations amend the 2006 Order to provide for increases in the fees for services in respect of applications for phytosanitary certificates (including phytosanitary certificates for re-export) and related pre-export services, and to increase the maximum amount for services to which the concessionary rate for small exporters applies, from £250 to £750.

These Regulations amend the 2018 Regulations, which specify fees payable to the Welsh Ministers in relation to plant health services and the certification of seed potatoes and fruit plants and fruit plant propagating material, as follows.

Regulation 3(2) amends regulation 3 of the 2018 Regulations to provide the fees payable for phytosanitary certificates (including fees for mixed consignments) and for sample testing.

Regulation 3(3) amends regulation 4 of the 2018 Regulations to provide for a reduced fee for a plant passport authorisation.

Regulation 3(6) amends regulation 9(2) of the 2018 Regulations to provide for an increased fee for certification of fruit plants and its propagating material.

Regulation 3(7) substitutes Schedule 1 to the 2018 Regulations, which sets out import inspection fees payable by the importer of a third country consignment for plant health checks in respect of certain plants and plant products.

Regulation 3(8) substitutes Schedule 2 to the 2018 Regulations, which sets out reduced rate fees for certain plants and plant products which are subject to reduced levels of plant health checks agreed under the procedure in Articles 13a(2) and 18(2) of Council Directive 2000/29/EC on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community (OJ No 169, 10.7.2000, p 1). This regulation gives effect to the latest notification published by the European Commission of the reduced plant health checks which are applicable to certain plants and plant products (published on 10 December 2018 and revised on 15 April 2019).

Regulation 3(10) substitutes Schedule 4 of the 2018 Regulations which sets out the fees for plant health licences and includes a change to the fee for monitoring compliance with licence terms and conditions which is being increased over separate periods.

Regulation 3(11) substitutes Schedule 5 of the 2018 Regulations which sets out fees for soil sampling and testing and certification of seed potatoes including the provision of labels.

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.)

PLANT HEALTH, WALES

SEEDS, WALES

The Plant Health etc.
(Miscellaneous Fees) (Wales)
(Amendment) Regulations 2019

Made 22 October 2019

Laid before the National Assembly for Wales
24 October 2019

*Coming into force in accordance with
regulation 1(2)*

The Welsh Ministers, with the consent of the Treasury, make these Regulations in exercise of the powers conferred by—

- (a) in relation to regulation 1, the provisions mentioned in paragraphs (b) and (c);
- (b) in relation to regulation 2, sections 3(1) and 4A of the Plant Health Act 1967⁽¹⁾;
- (c) in relation to regulation 3, section 56(1) and (2) of the Finance Act 1973⁽²⁾ and now vested in them⁽³⁾.

Title, commencement and application

1.—(1) The title of these Regulations is the Plant Health etc. (Miscellaneous Fees) (Wales) (Amendment) Regulations 2019.

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- (1) 1967 c. 8; section 3(1) was amended by paragraph 8(2)(a) and (b) of Schedule 4 to the European Communities Act 1972 (c. 68) and S.I. 2011/1043. Section 4A was inserted by section 3 of the Agriculture Act 1986 (c. 49). The powers conferred by sections 3 and 4A are conferred on a “competent authority”, which is defined in section 1(2). Section 1(2) was amended by paragraph 43 of Schedule 2 to S.I. 2013/755 (W. 90). Section 1(2), as amended, provides that the competent authority for Wales is the Welsh Ministers.
 - (2) 1973 c. 51; subsection (1) was amended by S.I. 2011/1043.
 - (3) By virtue of section 59(5) of the Government of Wales Act 2006 (c. 32).

(2) They come into force 21 days after the day on which they are laid.

(3) They apply in relation to Wales.

Amendment of the Plant Health (Export Certification) (Wales) Order 2006

2.—(1) The Plant Health (Export Certification) (Wales) Order 2006(1) is amended as follows.

(2) In article 5—

(a) in paragraph (2)—

(i) in sub-paragraph (a)—

(aa) for “£250” substitute “£750”;

(bb) for the words from “column 3” to the end substitute “column 2 of that table”;

(ii) in sub-paragraph (b), for the words from “column 4” to the end substitute “column 3 of that table”;

(b) in paragraph (3), for “columns 3 and 4” substitute “columns 2 and 3”;

(c) in paragraph (4)—

(i) in sub-paragraph (a)—

(aa) for “£250” substitute “£750”;

(bb) for “£7.43” substitute “£7.88”;

(ii) in sub-paragraph (b), for “£14.86” substitute “£15.76”.

(3) For Schedule 3 substitute—

“**SCHEDULE 3** Article 5(1)

Fees for export certification services and pre-export services

<i>(1)</i> <i>Service</i>	<i>(2)</i> <i>Fee (£)</i>	<i>(3)</i> <i>Fee (£)</i>
Inspection of consignment	31.90 for each 15 minutes (or part thereof), subject to a minimum fee of 63.80	63.80 for each 15 minutes (or part thereof), subject to a minimum fee of 127.60
Audit of a grain inspection	13.20 for each 15 minutes (or part thereof),	26.40 for each 15 minutes (or part thereof),

(1) S.I. 2006/1701 (W. 163), amended by S.I. 2013/1658 (W. 156), S.I. 2014/1759 (W. 174), S.I. 2016/1084 (W. 259) and S.I. 2018/772 (W. 156) .

carried out pursuant to article 3(3)	subject to a minimum fee of 26.40	subject to a minimum fee of 52.80
Laboratory examination	16.78 per sample tested	33.56 per sample tested
Issue of certificate	12.76 per certificate	25.52 per certificate
Amendment of a certificate at the request of the exporter	7.88 per certificate	15.76 per certificate”.

Amendment of the Plant Health etc. (Fees) (Wales) Regulations 2018

3.—(1) The Plant Health etc. (Fees) (Wales) Regulations 2018(1) are amended as follows.

(2) In regulation 3—

(a) in paragraph (1)—

- (i) for “which consists of” substitute “insofar as it includes”;
- (ii) at the end insert “or any machinery or vehicles which have been operated for agricultural or forestry purposes”;

(b) in paragraph (2)—

- (i) in sub-paragraph (a), for “£9.71” substitute “£10.51”;
- (ii) for sub-paragraphs (b) and (c) substitute—

“(b) in the case of—

(i) a Schedule 2 cut flower consignment which includes—

(aa) one lot of cut flowers, the fee specified in respect of those cut flowers in column 3 of the table in Schedule 2;

(bb) two or more lots of cut flowers, a fee equal to the amount of the highest of the fees specified in respect of those lots in column 3 of that table;

(ii) a Schedule 2 fruit or vegetable consignment which includes—

(aa) one lot of fruit or vegetables, the fee specified in respect of those fruit or vegetables in

(1) S.I. 2018/1179 (W. 238).

- column 3 of the table in Schedule 2;
- (bb) two or more lots of fruit or vegetables, a fee equal to the amount of the highest of the fees specified in respect of those lots in column 3 of that table;
- (c) in the case of a consignment which—
 - (i) includes cut branches of *Phoenix* spp. originating in Costa Rica and no other cut branches to which this regulation applies, the fee specified in respect of those cut branches in column 3 of the table in Schedule 2;
 - (ii) in the case of any other consignment to which this regulation applies—
 - (aa) where the consignment includes any machinery or vehicles that have been operated for agricultural or forestry purposes, a fee of £5.98;
 - (bb) where the consignment includes plants, plant products or other objects of a description specified in column 1 of the table in Schedule 1, the fee or fees specified in respect of those plants, plant products or other objects in column 2 of that table;”;
 - (iii) in sub-paragraph (d), for “£157.08” substitute “£147.35”;
- (c) in paragraph (3), after the definition of “controlled plant pest”, insert—
 - “(aa) “Europe” has the meaning given in article 2(1) of the 2018 Order;
 - (ab) “lot” means one or more units of a single commodity, identifiable by its homogeneity of composition and origin, which form part of a consignment;
 - (ac) “Schedule 2 cut flower consignment” means a consignment which includes cut flowers of a

description specified in column 1 of the table in Schedule 2 originating in a country specified in column 2 of that table and does not include any other cut flowers to which this regulation applies;

- (ad) “Schedule 2 fruit or vegetable consignment” means a consignment which includes fruit or vegetables of a description specified in column 1 of the table in Schedule 2 originating in a country specified in column 2 of that table and does not include any other fruit or vegetables to which this regulation applies;”.

(3) In regulation 4—

- (a) in paragraph (2), for “fees specified in the table in Schedule 3 are” substitute “fee specified in paragraph (3) is”;

- (b) for paragraph (3) substitute—

“(3) A fee of £61.58 is payable for each 15 minutes (or part thereof) spent in carrying out the inspection and any associated activities at the relevant premises, subject to a minimum fee of £123.16.”;

- (c) in paragraph (4), for “£18.78” substitute “£20.66”.

- (4) In regulation 6(1) for “£60.40” substitute “£70.83”.

(5) In regulation 8—

- (a) in paragraph (4), for “£14.76” substitute “£15.76”;

- (b) after paragraph (4) insert—

“(4A) Where a person submits an application for the provision of printed labels, the following additional fee is payable—

- (a) in the case of an application submitted online, £11.45;

- (b) in the case of an application submitted in paper form, £15.61.”.

(6) For regulation 9(2) substitute—

“(2) A fee of £26.00 per each 15 minutes (or part thereof) is payable in respect of time spent in carrying out an official examination and any associated activities at the relevant premises

for the purposes of certifying the material, subject to a minimum fee of £52.00.”.

(7) For Schedule 1 substitute—

“SCHEDULE 1 Regulation 3(1)

Import inspection fees

<i>Column 1</i>	<i>Column 2</i>
<i>Plant, plant product or other object</i>	<i>Fee (£)</i>
Cuttings, seedlings (except forestry reproductive material), young plants of strawberries or of vegetables	173.91
Shrubs, trees (other than cut Christmas trees), other woody nursery plants including forest reproductive material (other than seed)	182.38
Bulbs, corms, rhizomes, tubers, intended for planting (other than tubers of potatoes)	205.04
Seeds, tissue cultures	128.13
Other plants intended for planting, not specified elsewhere in this table	182.38
Cut flowers	42.75
Branches with foliage, parts of conifers (other than cut Christmas trees)	33.99
Cut Christmas trees	119.64
Leaves of plants, such as herbs, spices and leafy vegetables	71.68
Fruits, vegetables (other than leafy vegetables)	53.10
Tubers of potatoes	156.69

Soil and growing medium, bark	119.64
Grain	142.98
Other plants or plant products not specified elsewhere in this table, except forest trees	22.73”.

(8) For Schedule 2 substitute—

“SCHEDULE 2 Regulation 3(2)(c)

Import inspection fees: reduced rates

<i>Column 1</i> <i>Genus</i>	<i>Column 2</i> <i>County of origin</i>	<i>Column 3</i> <i>Fee (£)</i>
Cut flowers		
<i>Aster</i>	Zimbabwe	32.06
<i>Dianthus</i>	Colombia	1.28
	Ecuador	6.41
	Kenya	2.14
	Turkey	6.41
<i>Rosa</i>	Colombia	1.28
	Ecuador	0.43
	Ethiopia	2.14
	Kenya	4.28
	Tanzania	21.38
	Zambia	4.28
Branches with Foliage		
<i>Phoenix</i>	Costa Rica	17.00
Fruit		
<i>Actinidia</i>	Any third country	2.66
<i>Carica papaya</i>	Any third country	2.66
<i>Citrus</i>	Egypt	39.83
	Morocco	1.59
	Peru	5.31
	Turkey	1.59
	USA	13.28
<i>Citrus lemon and citrus aurantifolia</i>	Israel	13.28
<i>Cydonia</i>	Any third country in Europe	2.66

<i>Fragaria</i>	Any third country	2.66
<i>Malus</i>	Argentina	18.59
	Brazil	26.55
	Chile	2.66
	Any third country in Europe	2.66
	New Zealand	5.31
	South Africa	2.66
<i>Mangifera</i>	Brazil	26.55
<i>Passiflora</i>	Colombia	3.72
	Kenya	13.28
	South Africa	18.59
	Vietnam	13.28
	Zimbabwe	26.55
<i>Persea americana</i>	Any third country	2.66
<i>Prunus</i>	Argentina	39.83
	Chile	5.31
	Any third country in Europe	2.66
	Morocco	26.55
	Turkey	18.59
	USA	26.55
<i>Prunus other than prunus persica</i>	South Africa	2.66
<i>Pyrus</i>	Argentina	7.97
	Chile	7.97
	China	26.55
	Any third country in Europe	2.66
	South Africa	5.31
<i>Ribes</i>	Any third country in	2.66

	Europe	
<i>Rubus</i>	Any third country	2.66
<i>Vaccinium</i>	Argentina	13.28
	Any third country in Europe	2.66
<i>Vitis</i>	Any third country	2.66
Vegetables		
<i>Solanum lycopersicon</i>	Canary Islands	2.66
	Morocco	2.66
<i>Solanum melongena</i>	Turkey	13.28".

(9) Omit Schedule 3.

(10) For Schedule 4 substitute—

“**SCHEDULE 4** Regulation 5(1)

Plant health licence fees

In this Schedule—

“period 1” means the period ending on 31 March 2020;

“period 2” means the period beginning on 1 April 2020 and ending on 30 September 2020.

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Type of application or inspection</i>	<i>Date of application</i>	<i>Fee (£)</i>
Application for a licence for scientific or trial purposes, other than— — a licence in respect of the analysis of soil or other growing medium — a licence		995.36

for scientific or trial purposes covering 5 or more items		
Application for a licence for scientific or trial purposes covering 5 or more items		995.36, plus 52.45 per item in excess of 5 items
Application for a licence in respect of the analysis of soil or other growing medium, other than a licence in respect of the analysis of soil or other growing medium covering 5 or more items		745.41
Application for a licence in respect of the analysis of soil or other growing medium covering 5 or more items		745.41, plus 52.45 per item in excess of 5 items
Application for a variation of a licence with changes requiring scientific or technical assessment		380.25
Application for any other licence		42.50
Issue of an annual letter of authority		42.50

Monitoring compliance with licence terms and conditions	In the case of monitoring undertaken during period 1	69.75 for each 15 minutes (or part thereof), subject to a minimum fee of 139.50
	In the case of monitoring undertaken during period 2	81.25 for each 15 minutes (or part thereof), subject to a minimum fee of 162.50
	In the case of monitoring undertaken on or after 1 October 2020	92.67 for each 15 minutes (or part thereof), subject to a minimum fee of 185.34 ⁽¹⁾ .

(1) For Schedule 5 substitute—

“SCHEDULE 5 Regulation 8(1)

Seed potatoes: fees

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Activity</i>	<i>Fee (£)</i>	<i>Minimum fee (£)</i>
Soil sampling and testing for Potato Cyst Nematode		
Soil sampling and testing for the purposes of paragraph 4, 7 or 9 of Schedule 1 to the Seed Potatoes (Wales) Regulations 2016 ⁽¹⁾	24.75 for each hectare (or part thereof) sampled and tested	
Inspection of growing crop		
Certification	30.39 for	60.78

(1) S.I. 2016/106 (W. 52).

as pre-basic seed potatoes: Union grade PBTC	each 15 minutes (or part thereof)	
Certification as pre-basic seed potatoes: Union grade PB	12.16 per each 0.1 hectare (or part thereof) inspected	60.75
Certification as basic seed potatoes: Union grade S	10.57 per each 0.1 hectare (or part thereof) inspected	105.70
Certification as basic seed potatoes: Union grade SE	10.57 per each 0.1 hectare (or part thereof) inspected	105.70
Certification as basic seed potatoes: Union grade E	10.33 per each 0.1 hectare (or part thereof) inspected	103.30
Certification as certified seed potatoes: Union grade A or B	9.39 per each 0.1 hectare (or part thereof) inspected	93.90
Inspection of harvested tubers		
Inspection	40.55 for each 15 minutes (or part thereof)	81.10
Provision of labels and seals in respect of application		
Printed labels for bags holding 50 kgs of seed potatoes or less	0.05 per label	
Printed labels and seals for bags holding more than 50 kgs of seed	0.11 per label (including seal)	

potatoes		
Blank labels and seals	0.16 per label (including seal)".	

Lesley Griffiths

Minister for Environment, Energy and Rural Affairs,
one of the Welsh Ministers

22 October 2019

**EXPLANATORY MEMORANDUM TO THE PLANT HEALTH ETC.
(MISCELLANEOUS FEES) (WALES) (AMENDMENT) REGULATIONS 2019**

This Explanatory Memorandum has been prepared by the Plant Health and Environment Protection Branch within the Economy, Skills and Natural Resources 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 Plant Health etc. (Miscellaneous Fees) (Wales) (Amendment) Regulations 2019.

Lesley Griffiths

Minister for Environment, Energy and Rural Affairs

24 October 2019

1. Description

These Regulations amend the Plant Health (Export Certification) (Wales) Order 2006 (the “2006 Order”) which specify fees for export certification services. They also amend the Plant Health etc. (Fees) (Wales) Regulations 2018 (the “2018 Regulations”) which specify fees payable to the Welsh Ministers in relation to plant health services and the certification of seed potatoes and fruit plants and fruit plant propagating material.

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

There are no matters of special interest to the Constitutional and Legislative Affairs Committee.

3. Legislative background

These Regulations are made, in part, under powers conferred on the Welsh Ministers by sections 3(1) and 4A of the Plant Health Act 1967. The Welsh Ministers are the competent authority for Wales for the purposes of the Act pursuant to section 1(2) of the Act as amended by the Natural Resources Body for Wales (Functions) Order 2013. Section 3(1) provides the power to make provision in an Order which is considered expedient for preventing the spread of pests in Great Britain or the conveyance of pests by articles exported from Great Britain. Section 4A provides the power to make provision imposing reasonable fees or charges in connection with import and export licences and certificates.

These Regulations are also made, in part, in exercise of powers in section 56(1) and (2) of the Finance Act 1973 – those powers are conferred on the Welsh Ministers by virtue of section 59(5) of the Government of Wales Act 2006. The powers permit the Welsh Ministers to make regulations which require the payment of fees or other charges for the provision of any services or facilities or the issue of any authorisation, certificate or other document, in pursuance of any EU obligation.

Council Directive 2000/29/EC on protective measures against the introduction into the EU of organisms harmful to plants or plant products and against their spread within the EU (“the Plant Health Directive”) establishes the EU plant health regime. It contains measures to be taken in order to prevent the introduction into, and spread within, the EU of serious pests and diseases of plants and plant produce. The Plant Health Directive is implemented in Wales, for non-forestry matters, by the Plant Health (Wales) Order 2018. Similar but separate legislation operates in England, Scotland and Northern Ireland.

Article 13d of the Plant Health Directive requires Member States to recover the cost of the import inspections required by the Directive through fees. The 2018 Regulations implement that requirement in Wales. The Plant Health Directive, as amended, (Article 13a(2)), also contains a procedure for reducing the rate of

inspections of certain plant imports and for charging a correspondingly reduced fee for inspections.

In line with the principle that the costs of statutory services should be borne by users who benefit directly from a service, charges also apply for the following activities required by the Plant Health Directive:

- Sampling and testing of potatoes imported from Egypt and the Lebanon
- Plant passporting services
- Plant health licensing services

Seed potatoes produced and marketed in Wales and England must be certified under the Seed Potato Classification Scheme, which aims to provide assurance that seed potatoes delivered to buyers and growers meet the health and quality standards specified by the Seed Potatoes (Wales) Regulations 2016. The Regulations implement the requirements of Council Directive 2002/56/EC on the marketing of seed potatoes. Charges apply for the provision of seed potato certification services.

In order to prevent the introduction of harmful pests and diseases most countries outside the EU require that consignments of plants, plant products and other related plant material must meet certain plant health standards before they are allowed entry. These standards are laid down by the relevant authorities in each country and vary from country to country.

Most of these countries require that consignments must be accompanied by a phytosanitary (plant health) certificate issued by the National Plant Protection Organisation in the exporting country. A phytosanitary certificate provides importing countries with an assurance that consignments meet their plant health standards. The Animal and Plant Health Agency (“APHA”) is responsible for issuing certificates in Wales on behalf of the Welsh Ministers. Consignments without this certificate are likely to be rejected at the point of entry, destroyed or returned to the exporting country. In most cases, depending on the requirements of the importing country, phytosanitary certificates can only be issued following satisfactory official inspection of the material for export. In some circumstances it may also be necessary for a sample of the material to be examined by the official laboratory, which for Wales is FERA Science Ltd. The 2006 Order provides for such export certification services and their fees.

These Regulations implement changes to fees for plant health statutory services to ensure that the full cost of service provision continues to be recovered. The changes also reflect adjustments in the cost of service delivery, as well as changes to ensure that all eligible costs are fully recovered and fees are applied fairly.

These Regulations require and have received Treasury consent.

These Regulations are subject to the negative resolution procedure.

4. Policy background

The 2006 Order, and the 2018 Regulations, implemented in Wales the outcome of an England and Wales public consultation in 2017 on proposed changes to fees for import inspection, sampling and testing of potatoes originating in Egypt and the Lebanon, plant passporting, licensing, certification of seed potato and fruit plant and propagating material and export certification material services provided by APHA in England and Wales.

Those instruments implemented changes to the charging structure and fees for statutory plant health services, aligning them more closely to the cost of delivering the services to individual customers. The changes also reflected adjustments in the cost of service delivery, as well as changes to ensure that all eligible costs are fully recovered.

The response to the public consultation, published in March 2018, acknowledged that there were several outstanding charging issues which needed further review. Further issues were raised by stakeholders during 2018. These Regulations implement changes to fees to address those concerns.

Fees are reviewed annually to ensure full cost recovery is maintained. These Regulations also implement changes resulting from the latest review. In general fees are decreasing (as costs have decreased) but with significant increases in fees for monitoring compliance with licence terms and conditions, where a phased implementation is being put in place.

The significant changes to the package of fees being implemented by these Regulations are:

Amendment of the 2006 Order

In the response to the 2017 consultation, the concessionary rate for export charges which has been in place since 1988 to support small-scale operators was reviewed. Small businesses and individuals who export small volumes of plant material are, subject to meeting certain criteria, eligible for a 50% reduction in export fees, up to a maximum value of services of £250 in any one financial year. Services required when this total is exceeded are charged at full price. The £250 maximum has not been updated for many years and is now out of step with export fees, which since April 2019 have been at full cost recovery and as such the benefit of the concessionary rate to small-scale exporters has been eroded away. Regulation 2(2) of these Regulations amend the 2006 Order so that those eligible for the concession will now get a 50% reduction in fees for export services up to a £750 maximum per year instead of the current maximum of £250 per year.

Under Regulation 2(3) the fees for export certification services set out in Schedule 3 of the 2006 Order are amended to ensure that full cost recovery is maintained.

Amendment of the 2018 Regulations

At Regulation 3(6) the mechanism by which the fee for carrying out inspections in connection with the certification of fruit propagation material is calculated is changing from an hourly charge applied against site, travel and admin time, to an hourly charge applied against site time only.

The mechanism by which the fee for monitoring compliance with licence terms and conditions is calculated is changing from an hourly charge applied against site, travel and admin time, to an hourly charge applied against site time only. This will provide consistency with similar hourly charges for other plant health inspection services.

Given the increases in the hourly fee for licensing services, their introduction will be phased in steps so that full-cost recovery is achieved by October 2020, in order to support businesses and give them time to plan and prepare.

Currently, when an imported consignment includes plant material subject to a full rate of import inspection and also material subject to a reduced level of inspection (because it is from a lower risk country and involves a lower risk commodity) and consequentially a reduced fee, the importer is charged twice - both the full inspection fee (under Schedule 1 of the 2018 Regulations) and the reduced fee (under Schedule 2). In practical terms only a single inspection is carried out and in effect the importer is penalised for sourcing lower risk material. Regulation 3(2)(b)(ii) of these Regulations provide for a single fee for mixed consignments, whereby the importer would be charged the full import inspection fee, with no additional charge for plant material in the same consignment eligible for a reduced inspection rate.

Regulation 3(8) substitutes Schedule 2 to the 2018 Regulations which sets out reduced rate fees for certain plants and plant products which are subject to reduced levels of plant health checks agreed under the procedure provided for in Articles 13a(2) and 18(2) of Council Directive 2000/29/EC on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community (OJ No 169, 10.7.2000, p1). This gives effect to the latest notification published by the European Commission of the reduced plant health checks applicable to certain plants and plant products.

Regulation 3(11) substitutes Schedule 5 of the 2018 Regulations which sets out fees for soil sampling and testing and certification of seed potatoes including the provision of labels. The charges for seed potato labels have been revised to make it more equitable, particularly for those selling or exporting in small bags.

Current fees for inspecting basic and certified seed potatoes are set per 0.5 hectares, with part hectares rounded up to the nearest 0.5 hectare. The fees for pre-basic seed potatoes are set per 0.25 hectare, with part hectares rounded to 0.25 hectares. In response to the 2017 consultation, some stakeholders raised concerns that charging to nearest 0.5 hectare led to overcharging for this service. On further consideration, and in order to apportion the costs more fairly across seed potato growers, the part hectare charges for growing season inspections of all grades of seed potatoes, except pre-basic grade PBTC, will be rounded to 0.1 hectare.

5. Consultation

The England and Wales consultation on proposed changes to fees for statutory plant health services provided by the APHA ran from 6th September to 31st October 2017. The changes made by these Regulations are in line with the outcome of that consultation. A summary of the responses to the consultation has been published and can be viewed here.

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/684657/plant-health-services-consult-sum-resp.pdf

6. Regulatory Impact Assessment

The impact on business, charities or voluntary bodies is minimal. A concessionary (reduced) rate is in place for small-scale exporters.

There is no impact on the public sector.

A regulatory impact assessment has not been prepared for these Regulations.

7. Monitoring and review

Welsh Government officials will continue to work with UK Government to identify efficiencies and better ways of working in order to further drive down costs.

The levels of fees are reviewed annually.

Agenda Item 3.3

SL(5)457 – The Public Health (Minimum Price for Alcohol) (Minimum Unit Price) (Wales) Regulations 2019

Background and Purpose

These Regulations specify that the minimum unit price for the purposes of Section 1 of the Public Health (Minimum Price for Alcohol) (Wales) Act 2018 (“the 2018 Act”) is £0.50.

The 2018 Act makes provision about the minimum price for which alcohol is to be supplied by alcohol retailers from qualifying premises in Wales to a person in Wales and establishes a local authority led enforcement regime.

Section 1 of the 2018 Act sets out the formula which is to be applied in calculating the applicable minimum price for this purpose. That formula is $M \times S \times V$.

M is the minimum unit price which is specified in regulations; S is the strength of the alcohol, expressed as a cardinal number (so for instance if the strength is 5%, the relevant cardinal number will be 5); and V is the volume of the alcohol in litres.

Procedure

Affirmative.

Technical Scrutiny

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

Merits Scrutiny

The following merits points are 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

These Regulations set the minimum unit price of alcohol at 50p in Wales for the first time and for the purposes of the minimum pricing regime introduced by the 2018 Act.

A 12 week consultation on the preferred level of the minimum unit price and the draft regulations was undertaken by the Welsh Government as required by Article 9 of the Regulation (EC) No 178/2002 of the European Parliament and of the Council.

The Explanatory Memorandum provides a detailed Regulatory Impact Assessment (pages 7-42) that details the options and consideration of the impacts of specifying different levels of a minimum unit price by the Welsh Government.

Implications arising from exiting the European Union

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



Government Response

A government response is not required.

Legal Advisers

Constitutional and Legislative Affairs Committee

17 October 2019



Draft Regulations laid before the National Assembly for Wales under section 26(2)(a) of the Public Health (Minimum Price for Alcohol) (Wales) Act 2018, for approval by resolution of the National Assembly for Wales.

DRAFT WELSH STATUTORY
INSTRUMENTS

2019 No. (W.)

FOOD, WALES

PUBLIC HEALTH, WALES

**The Public Health (Minimum Price
for Alcohol) (Minimum Unit Price)
(Wales) Regulations 2019**

EXPLANATORY NOTE

(This note is not part of the Regulations)

The Public Health (Minimum Price for Alcohol) (Wales) Act 2018 (“the 2018 Act”) makes provision about the minimum price for which alcohol is to be supplied by alcohol retailers from qualifying premises in Wales to a person in Wales and establishes a local authority led enforcement regime.

Section 1 of the 2018 Act sets out the formula which is to be applied in calculating the applicable minimum price for this purpose. That formula is $M \times S \times V$.

M is the minimum unit price which is specified in regulations; S is the strength of the alcohol, expressed as a cardinal number (so for instance if the strength is 5%, the relevant cardinal number will be 5); and V is the volume of the alcohol in litres.

These Regulations specify that the minimum unit price (M) for the purposes of the 2018 Act is £0.50.

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

These Regulations were notified in draft to the European Commission in accordance with Directive (EU) 2015/1535 of the European Parliament and of the Council (OJ No. L 241, 17.9.2015, p. 1) which lays down a procedure for the provision of information in the field of technical regulations and rules on Information Society Services.

Draft Regulations laid before the National Assembly for Wales under section 26(2)(a) of the Public Health (Minimum Price for Alcohol) (Wales) Act 2018, for approval by resolution of the National Assembly for Wales.

DRAFT WELSH STATUTORY
INSTRUMENTS

2019 No. (W.)

FOOD, WALES

PUBLIC HEALTH, WALES

**The Public Health (Minimum Price
for Alcohol) (Minimum Unit Price)
(Wales) Regulations 2019**

Made ***

Coming into force ***

The Welsh Ministers in exercise of the powers conferred by sections 1(1)(a) and 26 of the Public Health (Minimum Price for Alcohol) (Wales) Act 2018(1), make the following Regulations.

There has been a consultation as required by Article 9 of Regulation (EC) No 178/2002 of the European Parliament and of the Council laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying procedures in matters of food safety(2).

In accordance with section 26(2)(a) of the Public Health (Minimum Price for Alcohol) (Wales) Act 2018, a draft of this instrument has been laid before and approved by resolution of the National Assembly for Wales.

-
- (1) 2018 anaw 5; *see* section 27(3) for the definition of “regulations”.
- (2) OJ No. L 31, 1.2.2002, p. 1, last amended by Commission Regulation (EU) No. 2017/228 (OJ No. L 35, 10.2.2017, p. 10).

Title and commencement

1.—(1) The title of these Regulations is the Public Health (Minimum Price for Alcohol) (Minimum Unit Price) (Wales) Regulations 2019.

(2) These Regulations come into force on 2 March 2020.

Minimum unit price

2. The minimum unit price for the purposes of section 1(1)(a) of the Public Health (Minimum Price for Alcohol) (Wales) Act 2018 is £0.50.

Name

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

Date

**Explanatory Memorandum to the
draft Public Health (Minimum Price
for Alcohol) (Minimum Unit Price)
(Wales) Regulations 2019**

Explanatory Memorandum to the draft Public Health (Minimum Price for Alcohol) (Minimum Unit Price) (Wales) 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 draft Public Health (Minimum Price for Alcohol) (Minimum Unit Price) (Wales) Regulations 2019. I am satisfied that the benefits justify the likely costs.

Vaughan Gething AM

Minister for Health and Social Services

15 October 2019

PART 1

1. Description

1. The Public Health (Minimum Price for Alcohol) (Wales) Act 2018 (“the Act”) makes provision about the minimum price for which alcohol is to be supplied by alcohol retailers from qualifying premises in Wales to a person in Wales and establishes a local authority led enforcement regime.
2. Section 1 of the Act sets out the formula which is to be applied in calculating the applicable minimum price for this purpose. That formula is $M \times S \times V$.
3. M is the minimum unit price which is specified in regulations; S is the strength of the alcohol, expressed as a cardinal number (so for instance if the strength is 5%, the relevant cardinal number will be 5); and V is the volume of the alcohol in litres.
4. These regulations specify that the minimum unit price (M) for the purposes of the 2018 Act is £0.50.

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

5. None.

3. Legislative background

6. The regulations are made pursuant to section 1(1)(a) of the Act.
7. In accordance with section 26(2) of the Act, these regulations are subject to the affirmative procedure.

4. Purpose and intended effect of the legislation

8. The purpose of these regulations is to specify the level of the minimum unit price for the purposes of the minimum pricing regime introduced by the Act.
9. The ultimate objective of these regulations is to tackle alcohol-related harm, including alcohol-attributable hospital admissions and alcohol-related deaths in Wales, by reducing alcohol consumption in hazardous and harmful drinkers. In 2017, there were 540 alcohol-specific deaths in Wales (increasing from 504 in 2016) and in 2017/18, there were almost 55,000 alcohol-attributable hospital admissions. Both the Act and these regulations are targeted at protecting the health of hazardous and harmful drinkers (including young people) who tend to consume greater quantities of low-cost and high-alcohol content products.
10. The Act provides for the introduction of a minimum price for the supply of alcohol in Wales, calculated according to the minimum unit price, the percentage strength of the alcohol and its volume. Introducing a minimum price for alcohol will not increase the price of every alcoholic drink, only those currently sold below that price.
11. While it is anticipated that minimum pricing will mean people will consume less alcohol, they will pay more for products previously sold at below the applicable minimum price. Revenue will go to drinks retailers, not the Welsh Government. Others in the supply chain may also see increased revenues.
12. The Welsh Government commissioned the Sheffield Alcohol Research Group at the University of Sheffield to model the potential impact to Wales of a range of alcohol pricing policies. On 8 December 2014 the report *Model-Based Appraisal of Minimum Unit Pricing for Alcohol in Wales*¹ was published. The model has since been updated with the most recent Welsh data, including alcohol consumption data from the National Survey for Wales and sales data for the Wales and West region. Revised estimates of the impact of different levels of minimum unit price (ranging from 35 pence to 70 pence, in five pence increments) were published on 22 February

¹ <http://wales.gov.uk/statistics-and-research/research-likely-impact-public-attitudes-towards-minimum-unit-price-alcohol/?lang=en>

2018.² Prior to this, an interim report on the impacts of a 50p minimum unit price had been published in November 2017.³

13. Taking into account a range of factors, the Welsh Government considers that setting the minimum unit price at 50p will target consumption amongst hazardous and harmful drinkers, with the aim of delivering greater health benefits to those most at risk, whilst also taking account of impacts on moderate drinkers and interference in the market.

14. A detailed discussion about the impacts of a 45p, 50p and 55p minimum unit price can be found in Part 2 of this document – the Regulatory Impact Assessment (RIA).

5. Consultation

15. The Welsh Government has twice consulted about the principle of introducing a minimum price for alcohol in Wales – in 2014 as part of the Public Health White Paper⁴ and in 2015 on a draft Public Health (Minimum Price for Alcohol) (Wales) Bill.⁵

16. On 28 September 2018, the Welsh Government issued a consultation on its preferred level of the MUP for alcohol of £0.50 and draft regulations.⁶

17. The 12 week consultation on the preferred level of the MUP and the draft regulations was drawn to the attention of a wide audience of key stakeholders including the public, retailers, the alcohol industry, service

² Angus, C., Holmes, J., Brennan, A. and Meier, P. (2018) Model-based appraisal of the comparative impact of Minimum Unit Pricing and taxation policies in Wales: Final report. Cardiff: Welsh Government. <http://gov.wales/docs/caecd/research/2018/180222-comparative-impact-minimum-unit-pricing-taxation-policies-en.pdf>

³ Angus, C., Holmes, J., Brennan, A. and Meier, P. (2018) Model-based appraisal of the comparative impact of Minimum Unit Pricing and taxation policies in Wales: Interim report. An update to the 50p example. Cardiff: Welsh Government

<https://gov.wales/docs/caecd/research/2017/171129-comparative-impact-minimum-unit-pricing-taxation-policies-interim-en.pdf>

⁴ 2014 Consultation on the Public Health White Paper Listening to you: Your health matters.

<https://gov.wales/betaconsultations/healthsocialcare/white-paper/?lang=en>

⁵ 2015 Consultation on the Draft Public Health (Minimum Price for Alcohol) (Wales) Bill.

<https://gov.wales/betaconsultations/healthsocialcare/alcohol/?lang=en>

⁶ <https://beta.gov.wales/setting-minimum-unit-price-alcohol>

providers and service users, public health stakeholders, Substance Misuse Area Planning Boards and third sector organisations, such as the Substance Misuse Network.

18. 148 written responses were received – and a summary of these responses (and the themes raised by stakeholders during meetings regarding the preferred level) was published on the Welsh Government website on 15 February 2019.⁷ The responses have been used to inform this Explanatory Memorandum and RIA, which accompanies the draft regulations laid before the National Assembly for Wales. A summary of consultation responses is also included in section 8 of the RIA..

⁷ https://beta.gov.wales/sites/default/files/consultations/2019-02/summary-of-responses_0.pdf

PART 2 – REGULATORY IMPACT ASSESSMENT

6. Options

19. The RIA for the Public Health Minimum Price for Alcohol (Wales) Bill considered options for achieving the Welsh Government's stated objective of reducing alcohol-related harms by reducing alcohol consumption, particularly amongst hazardous and harmful drinkers.⁸ Specifically, the RIA for the Bill included: Option 1 – do nothing; Option 2 – strengthen the existing policy; and Option 3 – introduce a minimum price for which alcohol can be sold or supplied in Wales.
20. No additional or alternative evidence has become available which significantly alters the analysis in the RIA for the Bill published in June 2018. Although minimum pricing for alcohol has recently been implemented in Scotland, findings from its evaluation have not yet been published. The Welsh Government will continue to monitor the position in Scotland.
21. In light of this, this RIA for the draft regulations focuses on the impacts of specifying different levels of a minimum unit price – and includes three options on this matter, namely:
- Option 1 – 50p minimum unit price (preferred level)
 - Option 2 – 55p minimum unit price
 - Option 3 – 45p minimum unit price
22. Options for a lower minimum unit price are not considered sufficient to achieve the desired public health and social impact of the legislation. Higher levels have not been included because evidence shows that when looking across the range of modelled minimum unit price thresholds, a clear pattern emerges. Higher levels lead to greater overall reductions in consumption and reductions in alcohol-related harms; however they are also less targeted, with a greater proportion of the alcohol purchased by moderate drinkers being affected and therefore a greater impact on their consumption. In other words, the higher the minimum unit price threshold, the greater the impact, but the less concentrated these impacts on the groups in the population at the greatest risk of harm.
23. The costs and benefits associated with each option are set out in section 7. This includes estimated costs to consumers, retailers, local authorities, the

⁸ <http://www.assembly.wales/laid%20documents/pri-ld11577-em/pri-ld11577-em-e.pdf>

courts, the Welsh Government and the UK Government. The costs and benefits are compared to a baseline, 'business as usual' scenario.

24. The costs and benefits have been assessed over a 20-year appraisal period, with cash flows discounted using HM Treasury's central discount rate of 3.5%.

7. Costs and benefits

Option 1: 50p minimum unit price

Costs

Consumers

25. Consumers who currently buy alcohol at less than the applicable minimum price will be directly affected.
26. Just under two-fifths (37%) of all alcohol⁹ is currently purchased at less than 50p per unit (see table1). However, this accounts for just under half of all off-trade alcohol (47% sold below 50p).¹⁰
27. The Sheffield model estimates costs will fall largely on hazardous and harmful drinkers who tend to favour cheaper alcohol which is most affected by a minimum unit price.
28. According to the analysis by the University of Sheffield published in 2018, there are just under two million people in Wales who consume alcohol; 72% of these are moderate drinkers; 23.5% are hazardous drinkers and 4.2% are harmful drinkers.¹¹
29. Moderate drinkers purchased 22% of their units below a 50p per unit threshold, with the figures for hazardous and harmful drinkers being higher (36% and 46% respectively), as shown in figure 1.
30. Under a 50p minimum unit price, a hazardous drinker will spend approximately £18 more per year, while a harmful drinker will spend approximately £48 more per year, with the greater effect being the

⁹ In Wales and the West.

¹⁰ Off-trade is defined as locations where alcohol is sold for consumption off the premises, e.g. shops and supermarkets. On-trade is defined as locations where alcohol is sold for consumption on the premises, e.g. pubs and restaurants. Source: Glossary in Angus, C., Holmes, J., Brennan, A. and Meier, P. (2018) Model-based appraisal of the comparative impact of Minimum Unit Pricing and taxation policies in Wales: Final report. Cardiff: Welsh Government.

¹¹ Angus, C. et al. (2018); Sheffield: SchARR, University of Sheffield. Table 5. Page 26.

anticipated drop in consumption. In contrast, moderate drinkers will spend on average £3 more per year.¹²

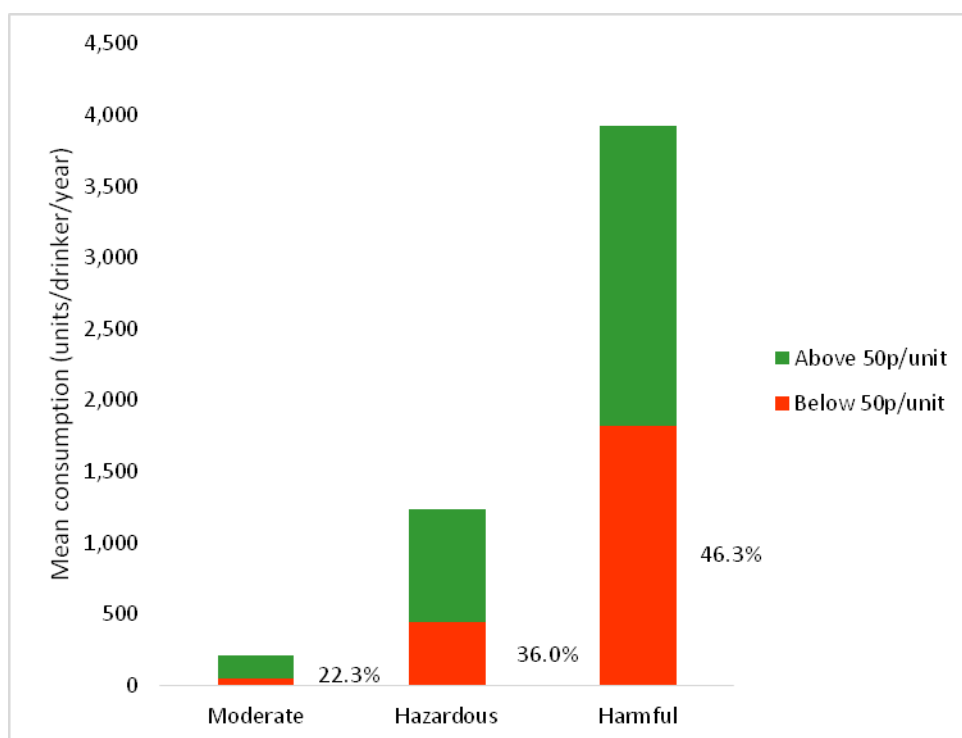


Figure 1: Proportion and total units purchased at below 50p / unit by drinker group¹³

31. In terms of alcohol consumed by different income groups, whilst people in poverty generally pay less per unit than people on higher incomes, this is seen in heavier, not lighter, drinkers.¹⁴

32. Furthermore, a greater proportion of those in the most deprived quintile are abstainers (27%) compared to those in the least deprived quintile (14%). This has been found in other studies using household survey data, with 50% of households in the poorest quintile buying no alcohol in a two week period compared to 15% of households in the richest quintile.¹⁵ Moderate drinkers in the most deprived quintile also already tend to consume less, at 3.7 units

¹² Angus, C. et al. (2017); Sheffield: ScHARR, University of Sheffield. Table 10, page 17.

¹³ Angus, C. et al. (2017); Sheffield: ScHARR, University of Sheffield. Figure 8, page 12.

¹⁴ Crawford, M.J., Parry A.M., Weston, A.R., Seretis, D., Zauter-Tutt, M., Hussain, A., Mostajabi, P., Sanatinia, R. and North, B. (2012) Relationship Between Price Paid for Off-Trade Alcohol, Alcohol Consumption and Income in England: A Cross-Sectional Survey. *Alcohol and Alcoholism*. Volume 47 (6). Page 741.

¹⁵ Ludbrook, A., Petrie, D., McKenzie, L. and Farrar, S. (2012) Tackling alcohol misuse. *Applied Health Economics and Health Policy*. January 2012. Volume 10. Issue 1. Pages 51-63.

per week, compared to 4.4 for moderate drinkers in the least deprived quintile.

33. UK household expenditure data¹⁶ shows that while the poorest 10% of the population (the bottom decile) spend the highest proportion of their total household expenditure on alcohol (1.9%), this then reduces through the deciles, with the third decile spending the lowest (1.3%). Most deciles spend a roughly similar proportion (1.4% to 1.5%). Given that these proportions of total expenditure are relatively low, for the majority of moderate drinkers, a small increase in expenditure (anticipated at £2.10 per year for moderate drinkers in the most deprived WIMD quintile, or £3.80 per year for moderate drinkers in the least deprived WIMD quintile) is likely to have a limited impact on other household expenditure.
34. The increased costs of the policy are therefore focused on hazardous and harmful drinkers. For those in the least deprived quintile, the increased costs will be £25.40 per year for hazardous drinkers, and £87.60 for harmful drinkers, accompanied by a drop in consumption of 0.3% (3.6 units) and 0.7% (26.4 units) respectively. For those in the most deprived quintile who are hazardous or harmful drinkers, there is a reduction in overall spending of £1.10 and £206.20 respectively.¹⁷ The more significant impact is the reduction in consumption (8.4%; 102.7 units and 25.6%; 1,119 units a year, respectively).¹⁸ It should be acknowledged, however, that this impact could be significant for some harmful drinkers, particularly those who find they are unable to restrict their consumption significantly. This could have a knock-on impact on family budgets and households may have less money to spend on other items, especially within the poorest 10% where spend on alcohol is relatively high compared to total household expenditure.
35. It is difficult to predict what impact this may have on family spending if spend is transferred from a whole range of areas of household expenditure. It is not possible to provide estimates of any potential changes in the allocation of household expenditure. These are not yet known.

¹⁶ ONS, Family Spending in the UK: financial year ending March 2016 Edition Release (February 2017). Table 3.2E: Detailed household expenditure as a percentage of total expenditure by equivalised disposable income decile group 2016.

¹⁷ Angus, C. et al. (2017); Sheffield: ScHARR, University of Sheffield. Tables 12 and 13, pages 19 and 20.

¹⁸ Angus, C. et al. (2017); Sheffield: ScHARR, University of Sheffield. Tables 12 and 13, pages 19 and 20.

36. The small decline in consumption among moderate drinkers (a reduction of 1.1%) may lead to a cost to health services, resulting from a loss of the protective effect of alcohol for ischaemic heart disease, ischaemic stroke and type 2 diabetes. The impact is small because the protective effect is only evident for low levels of consumption, so the change would only affect those who are already moderate drinkers (who are predicted to change behaviour only slightly, reducing their consumption by 2.4 units per year).
37. However, the University of Sheffield model estimates that over 20 years, the net effect of introducing a 50p minimum unit price is a saving of 66 deaths and 1,281 hospital admissions.¹⁹
38. An increase in the price of alcohol will also lead to a reduction in utility (consumer satisfaction) for those who reduce their consumption in response. It is not possible to estimate what these reductions will be and it is assumed that they will be outweighed by an increase in utility from the health benefits accruing as a result of lower consumption. It is not possible to estimate any associated monetary values – and so these are not yet known.

Retailers

39. Both on-trade and off-trade premises will be affected by the introduction of a minimum unit price for alcoholic drinks. As highlighted earlier, it is likely to have a greater impact on off-trade premises than on on-trade, as the price of off-trade alcohol is generally lower than the price of on-trade alcohol.
40. Although on-trade drinks promotions are commonplace, the majority of alcohol sold in the on-trade retails at above 50p per unit. A 50p minimum unit price is estimated to lead to an overall increase in revenue for on-trade retailers of £1m (0.2% increase).²⁰
41. A majority (by volume) of all alcohol, except wine, is purchased at less than 50p per unit in the off-trade: 62% of off-trade beer is purchased at less than 50p per unit, 73% of cider, 32% of wine and 60% of spirits (see Table 1).

¹⁹ Angus, C. et al. (2017); Sheffield: ScHARR, University of Sheffield. Table 14, page 21.

²⁰ Angus, C. et al. (2018); Sheffield: ScHARR, University of Sheffield. Page 43.

Table 1: Proportion of alcohol sold below a range of price thresholds by drink type and channel²¹

		Price threshold							
		35p	40p	45p	50p	55p	60p	65p	70p
Off-trade	Beer	20%	34%	47%	62%	76%	83%	89%	94%
	Cider	48%	56%	66%	73%	79%	84%	86%	89%
	Wine	4%	8%	22%	32%	55%	64%	75%	81%
	Spirits	2%	19%	43%	60%	74%	79%	85%	88%
	RTDs*	0%	0%	1%	1%	2%	2%	8%	13%
On-trade	Beer	0%	1%	1%	1%	2%	3%	3%	4%
	Cider	0%	0%	2%	3%	4%	5%	6%	7%
	Wine	1%	2%	2%	2%	3%	3%	4%	5%
	Spirits	2%	2%	4%	5%	8%	9%	9%	11%
	RTDs	0%	0%	0%	0%	0%	1%	1%	1%
All off-trade		9%	19%	35%	47%	65%	72%	81%	85%
All on-trade		1%	1%	1%	2%	3%	3%	4%	5%
All alcohol		7%	15%	27%	37%	50%	56%	63%	66%

*Ready to drink

42. For off-trade retailers, the Sheffield model suggests that any reductions in sales will be compensated by higher prices, resulting in overall increases in revenue owing to the relative inelasticity of demand for alcohol, although the overall impact on revenues is uncertain. A 50p minimum unit price is estimated to lead to an overall increase in revenue for off-trade retailers of £16.8m (9.9% increase).²² The implementation costs for retailers will however vary for smaller and larger businesses – although the extent to which these costs will vary is currently unknown.

43. Larger businesses which operate UK-wide may incur costs associated with a different pricing and promotion regime in Wales. The cost of re-pricing and labelling at the point of implementation is not considered to be excessive, as these stores regularly re-price their products, including in response to changes in alcohol duty at short notice. However, these costs are unknown.

44. Minimum pricing will apply to qualifying premises in Wales which operate an online or telephone delivery of alcohol when supplying to a person in Wales.

²¹ Angus, C. et al. (2018); Sheffield: SchARR, University of Sheffield. Page 30.

²² Angus, C. et al. (2018); Sheffield: SchARR, University of Sheffield. Page 43.

The Welsh Government acknowledges that internet sales/click and collect/telephone orders may pose an implementation challenge for some retailers in Wales. As such, we specifically sought views on this matter in the consultation on the draft Public Health (Minimum Price for Alcohol) (Wales) Bill in 2015. Most respondents in favour of the proposal said that legislation would have little effect on those buying or selling alcohol online, particularly as those products often already exceed any likely minimum price and are often specialised products – for example, fine wines or unique product brands. One respondent said that online retailers whose main business relies on the sale of cheap, strong alcohol may be adversely affected.

45. The Welsh Retail Consortium has highlighted a number of other costs, including the need to update in-store systems, which are currently used to block till-point sales of alcohol below the cost-price. In their response to the consultation on the Bill issued by the Health, Social Care and Sport Committee, they set out their view that the implementation of MUP will be burdensome for some Welsh retailers to implement and deliver – and that creating new systems and processes is time consuming and requires investment from those businesses at a time when grocery retail margins are small.²³ However, these costs are unknown. One supermarket chain has estimated this could cost up to £1m and take between two and three years to implement and test.²⁴ Asda, for example, in their response to the consultation by the National Assembly for Wales’ Health, Social Care and Sport Committee commented: “As an indication of the scale of these costs, preparing our pricing systems for the implementation of minimum pricing in Scotland cost Asda more than £1million and took approximately three years.”²⁵ Some representatives from the alcohol and retail industry have

²³ Welsh Retail Consortium Response to the National Assembly for Wales Health, Social Care and Sport Committee’s Consultation on the Public Health (Minimum Price for Alcohol) (Wales) Bill. MPA 38.

<http://senedd.assembly.wales/mgConsultationDisplay.aspx?id=282&RPID=1012950534&cp=yess>

See also: Welsh Retail Consortium Response to the Welsh Government Consultation on the Public Health White Paper, June 2014.

²⁴ In correspondence with the Welsh Government. More recently, similar points were raised during the scrutiny sessions held by the Health, Social Care and Sport Committee, regarding the Public Health (Minimum Price for Alcohol) (Wales) Bill. ASDA, for example, in their response to the consultation by the Committee stated: “As an indication of the scale of these costs, preparing our pricing systems for the implementation of minimum pricing in Scotland cost Asda more than £1million and took approximately three years.”

²⁵ MPA 48.

also suggested there may be a cost for maintaining different pricing and compliance systems across the border.²⁶

46. However, a significant number of these retailers (predominantly supermarket chains) already have differential pricing across different types/sizes of store, as well as being very familiar with implementing and different rules on alcohol price promotions and the recent introduction of a minimum price of alcohol in Scotland.

47. The Wine and Spirit Trade Association mentioned the cost of reviewing promotional material in both their response to the Public Health White Paper in 2014 and in their response to the more recent consultation by the National Assembly's Health, Social Care and Sport Committee on the Bill.²⁷ There may also be costs associated with wastage since damaged products cannot be sold at less than the applicable minimum price.²⁸ These costs are unknown. Although we acknowledge there will be some costs associated with the change, larger retailers should be able to absorb facilitation and implementation costs, as they are likely to benefit from an increase in revenue as a result of minimum pricing. Approximately 84% of alcohol off-sales are from large multiple retailers, according to Nielsen.²⁹

48. Minimum pricing will apply to qualifying premises in Wales which operate an online or telephone delivery of alcohol when supplying to a person in Wales.

<http://senedd.assembly.wales/mgConsultationDisplay.aspx?id=282&RPID=1012950534&cp=yess>

²⁶ The Wine and Spirit Trade Association (WSTA), for example, commented that the regulatory compliance cost for businesses in Wales appears low (given the cost of changing systems for all alcohol retailers including staff training cost, reworking pricing and promotion policies and technological changes to accompany this) – but also note that the actual cost of compliance for retailers will depend on the final regulations: “Should the regulations follow those of Scotland, including price and approach, then compliance costs will be reduced for national retailers.”

²⁷ WSTA Response to the Welsh Government Consultation on the Public Health White Paper, June 2014. See also the WSTA Response to the health, Social Care and Sport Committee Consultation on the Public Health (Minimum Price for Alcohol) (Wales) Bill. MPA 40.

<http://senedd.assembly.wales/mgConsultationDisplay.aspx?id=282&RPID=1012950534&cp=yess>

²⁸ This was highlighted by the Welsh Retail Consortium, the Wine and Spirits Trade Association (WSTA) and Asda in their responses to the call for evidence on the Bill by the National Assembly's Health, Social Care and Sport Committee.

²⁹ Beeston, C., Robinson, M., Craig, N., and Graham, L. (2011) Monitoring and Evaluating Scotland's Alcohol Strategy. Setting the Scene: Theory of change and baseline picture – Glossary and Appendices. Edinburgh: NHS Health Scotland. Page 36.

The Welsh Government acknowledges that internet sales/click and collect/telephone orders may pose an implementation challenge for some retailers in Wales. As such, we specifically sought views on this matter in the consultation on the draft Public Health (Minimum Price for Alcohol) (Wales) Bill in 2015. Most respondents in favour of the proposal said that legislation would have little effect on those buying or selling alcohol online, particularly as those products often already exceed any likely minimum price and are often specialised products – for example, fine wines or unique product brands. One respondent said that online retailers whose main business relies on the sale of cheap, strong alcohol may be adversely affected.

49. Where retailers are continuing to use heavy discounts on alcohol to encourage customers, they may lose some footfall as a result. However this is difficult to calculate and large retailers are likely to be competing with other large retailers, who will all be affected in the same way and they will continue to be able to compete with discounts on other products. Associated costs as a result of a loss in footfall are unknown.

50. Smaller businesses, particularly those without head office support, may face higher implementation costs. For example, independent retailers may need to allocate a member of staff to do this for one day, at a cost of approximately £67 per shop (based on a retail assistant working for eight hours on a salary of £8.33 per hour).³⁰ Based on these figures, this would mean a total implementation cost of approximately £477,040 for all retailers, of which there are a total of 7,120 in Wales.³¹ Smaller retailers may find this

³⁰ These figures are based on the 2016 figure in the Annual Survey of Hours and Earnings, with an uplift to reflect an increase in earnings for 2017:

<https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/bulletins/annualsurveyofhoursandearnings/2016provisionalresults>

According to the 2018 Annual Survey Hours of Earnings median gross weekly earnings for Sales and Customer Service occupations increased by 4.3 per cent between 2016 and 2017, so the 2016 figures have been uplifted by this amount.

<https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/bulletins/annualsurveyofhoursandearnings/2018/relateddata>

<https://www.ons.gov.uk/releases/analysesbasedonannualsurveyofhoursandearningsprovisional2018andrevised2017>

³¹ Number of enterprise headquarters in Wales with the Retail Sector for 2016 = 7,120 (2013 = 7,095, 2014 = 7,030). Based on provisional figures for 2016: Retail assistant average hourly rate = £7.99. Retail managers average hourly rate = £10.56. As outlined in footnote 31, these figures have been uplifted by 4.3 per cent. The total number of retailers has been calculated using **Standard Industrial Classification** (SIC) codes. These are based on the UK enterprises

cost is off-set not only by increased revenues but also by their improved ability to compete with large retailers and supermarkets. However, while an estimate has been included for implementation costs, specific costs (or increases in revenue) are unknown.

51. Retailers will also need to familiarise themselves with the requirements of minimum unit pricing to ensure they comply. This could take managers of stores approximately four hours to fully familiarise themselves with changes and brief staff as required. Based on the hourly rate of retail managers (£11.01),³² and assuming one member of staff at this level per store, costs for this would amount to approximately £313,600 in the year before implementation. It is assumed that retailers will have an ongoing system to ensure store managers have up-to-date knowledge of alcohol licensing standards. Including a minimum unit price for alcohol as part of this may require an additional hour of familiarisation, at a cost of approximately £78,000 (for licensed retailers in Wales) in the future.

52. There remains uncertainty around retailers' precise responses to the introduction of minimum unit price and the impact on the market as a whole. There is little consensus from the industry on whether minimum pricing will affect sale prices which are above the minimum price – and whether premium brands will also raise prices in order to maintain the differential between these and value brands. The Welsh Retail Consortium has argued it will disproportionately affect own-brand alcohol.³³ The University of

industrial classification. The following three digit SIC codes were used - 471, 472, 473, 474, 475, 476, 477. The list of SIC codes can be found at:

<https://www.gov.uk/government/publications/standard-industrial-classification-of-economic-activities-sic>

³² 2016 Annual Survey of Hours and Earnings:

<https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/bulletins/annualsurveyofhoursandearnings/2016provisionalresults>

According to the 2018 Annual Survey Hours of Earnings median gross weekly earnings for Sales and customer service occupations increased by 4.3 per cent between 2016 and 2017, so the 2016 figures have been uplifted by this amount.

<https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/bulletins/annualsurveyofhoursandearnings/2018/relateddata>

³³ Welsh Retail Consortium Response to the National Assembly for Wales Health, Social Care and Sport Committee's Call for evidence on the Public Health Minimum Price for Alcohol (Wales) Bill. MPA 38.

<http://senedd.assembly.wales/mgConsultationDisplay.aspx?id=282&RPID=1012950534&cp=yess>

See also the Welsh Retail Consortium response to the Welsh Government Consultation on the Public Health White Paper, June 2014.

Sheffield model assumes the only change will be for prices to be raised to the minimum unit price threshold since the effect on costs and revenues for different types of retailers and producers cannot be accurately modelled. It is predicted that the cost of a decline in consumption will be outweighed by the higher revenues resulting from higher prices. The Welsh Government will learn from the implementation of minimum pricing in Scotland and its evaluation. The Welsh Government is also continuing to engage with WGAIN, the Welsh Government Alcohol Industry Network, ahead of (and post) implementation – whose members include producers and retailers.

53. Alcohol wholesalers will be indirectly affected as the volume of alcohol purchased at less than the applicable minimum price is expected to decline. The extent of the impact will depend on the quantity of alcohol sold to retailers which is then priced at less than the applicable minimum price for alcohol. They will not however be subject to any minimum pricing requirement in relation to their trade-to-trade sales.³⁴ Wholesalers may choose to increase prices in the knowledge that retail prices of certain goods have increased, but that will be for individual companies within the supply chain to determine. Similarly, the impact on producers is difficult to ascertain as the reaction on the supply side and where additional revenue will accrue in the supply chain is not known. Producers may choose, for example, to produce lower-strength products that will retail more cheaply or to focus on premium brands. The alcohol industry has already demonstrated innovation in this area, by removing more than a billion units from the UK alcohol market as part of the responsibility deal.³⁵

54. Retailers which do not comply with minimum pricing requirements may incur costs as a result of fixed penalty notices imposed or, possible prosecution and fines. These costs are unknown. However, learning from existing local authority enforcement policy, the Welsh Government anticipates that local authorities, may, wherever possible in appropriate cases, wish to exercise their discretion and work with retailers to resolve issues voluntarily.

³⁴ Where a retailer trades as a retail and wholesale business with both customer types shopping in the store, the retailer should ensure the minimum price for alcohol is charged to individuals purchasing alcohol for their consumption (that is where the sale in question would be a 'sale by retail' for the purposes of section 192 of the Licensing Act 2003) and that wholesale prices are only offered to other wholesale businesses and customers.

³⁵ Department of Health (December 2014) Responsibility Deal: Monitoring the number of units of alcohol sold – second interim report, 2013 data.

Local authorities

55. It is anticipated compliance inspections for minimum pricing will become part of the current inspection regime for premises selling alcohol. Moore et al. estimated that the cost of an inspection visit (by an environmental health officer or licensing officer) is approximately £125.³⁶ There may also be an additional cost for local authorities due to the need for longer or more frequent checks, particularly in the early days of the legislation. Similarly, although there may be some additional administration costs in issuing fixed penalty notices for non-compliance with minimum pricing, this will be off-set to some extent for local authorities. The Act provides that local authorities may use fixed penalty amounts received for their enforcement functions under the Act. Overall – these compliance costs are unknown.
56. There have been ongoing discussions between the Welsh Government and the Welsh Heads of Trading Standards regarding costs for enforcement and inspection activity. Following consideration of proposals by the Welsh Heads of Trading Standards, the Welsh Government will allocate funding of a total of £300,000 over three years (2019/20, 2020/21 and 2021/22) to the Welsh Heads of Trading Standards for the initial enforcement of the Act. The funding will end after the third year.
57. This £300,000 of funding will be allocated as follows: £200,000 in Year 1 (anticipated to be 2019/20); £70,000 in Year 2 (2020/21); and £30,000 in Year 3 (2021/22). There are 3,275 off-sales only premises across Wales and providing the majority of the funding in year one (2019/20) would allow local authorities to carry out an inspection visit at all of these premises in the first three months after implementation of minimum pricing for alcohol. It is anticipated that there will be a high level of compliance.
58. Where prosecutions are necessary, local authorities may face administrative and legal costs. The legal costs of bringing the prosecution are generally reclaimable against those being prosecuted if the case is successful, but there will be initial costs. Learning from the enforcement of carrier bag legislation suggests that overall costs for the enforcement of minimum pricing are likely to be low – however, these costs are unknown. Local authorities report that enforcement of the carrier bag legislation has mostly been effective through informal mechanisms (such as verbal warnings and repeat visits).

³⁶ Moore, S., O'Brien, C., Alam, M., Cohen, D., Hood, K., Huang, C., Moore, L., Murphy, S., Playle, R., Sivarajasingam, V., Spasic, I., Williams, A. and Shepherd, J. (2015) All-Wales Licensed Premises Intervention (AWLPI): a randomised controlled trial of an intervention to reduce alcohol-related violence. Public Health Research. Volume 3 (10).

Court costs

59. Estimated court costs associated with the introduction of a minimum unit price are likely to be the same, regardless of the level of the minimum unit price.
60. While enforcement action will be taken by local authorities under the Act, the Welsh Government does not anticipate that breaches of minimum pricing will result in many court cases due to the anticipated high levels of compliance. Further, as noted, local authorities may, wherever possible and in appropriate cases, wish to exercise their discretion and work with retailers to resolve issues voluntarily with enforcement officers working with alcohol retailers to avoid repeat offences. It is anticipated that such work will form part of the normal work of enforcement officers. Guidance will be issued to help support the introduction of a minimum price for alcohol. In addition, there is provision for a fixed penalty notice to be issued before a prosecution is brought or in place of one. Therefore, it is not anticipated that there will be a large number of court cases. However, associated costs are unknown ahead of the implementation of the legislation.

Welsh Government

61. Estimated Welsh Government costs associated with the introduction of a minimum price for alcohol are the same regardless of the level of the minimum unit price.
62. There will be a small implementation cost to the Welsh Government in developing guidance on minimum pricing. The development of guidance (based on an estimate of 6,000 words), including engaging stakeholders to ensure the guidance is fit for purpose, is anticipated to take approximately five weeks over a period of three months of a full time equivalent (FTE) higher executive officer (equating to £4,280), and five weeks over a three month period of a FTE executive officer (equating to £2,740). These costs would be incurred in 2019-20. The total cost for preparing guidance would therefore be £7,020.³⁷
63. It is anticipated from previous guidance produced by the Welsh Government that design and translation would take approximately two months to complete. The design would require approximately a week of a FTE executive officer's time over the two-month period, which would equate to approximately £600. It is estimated that translation and proof reading would

³⁷ These are costs based on 2017/18 Welsh Government Pay Scales. Source: Updated Pay Band Costs and Revised Standardisation of DRC Forecasting Guidance.

cost approximately £600.³⁸ In addition there would be administration and management costs, estimated at one week of a FTE executive officer – again, approximately £600. The guidance would be shared electronically with local authorities, avoiding the need for printing and distribution costs. The total cost for design and translation of the guidance would therefore be £1,800, based on 2017/18 Welsh Government pay scales.

64. The Welsh Government would, if the minimum pricing provisions are not repealed at the end of the 6 year period, update the guidance after the review period as required. It is envisaged that this update could require one week of a FTE higher executive officer's time (equating to approximately £860), and a week of a FTE executive officer (equating to approximately £600 based on 2017/18 Welsh Government pay scales) to review the operation and mechanisms with all local authorities and evidence on their implementation. Design and translation costs would amount to half the original costs, a total of £900. It is proposed the review would then be repeated every four or five years. The total cost for a review of the guidance would therefore be approximately £2,360 every five years.
65. Section 29 of the Act places a duty on Welsh Ministers to take steps to promote awareness of the commencement of the minimum pricing regime introduced by the Act, ahead of that commencement. It specifies that the steps taken in this regard must include promoting awareness of the health risks of excessive alcohol consumption and of how the introduction of minimum pricing in Wales is intended to reduce alcohol consumption.
66. Communications to promote awareness of the Act's requirements and of how minimum pricing is intended to reduce the excessive consumption of alcohol were developed and published by the Welsh Government to coincide with Royal Assent, on 9 August 2018. This work continued during the consultation on the preferred level of the MUP and will continue in the lead up to (and following) implementation, later in 2019.
67. This work will include publicising the change in the law to businesses (for example via direct mail, websites, social media and trade publications, and to the public (for example via a PR campaign, launch event and web and social media). This will assist in avoiding confusion for retailers about how to handle differing minimum price levels set by the UK Government (through the ban on below-cost sales) and by the Welsh Government (through minimum pricing).³⁹

³⁸ Based on £75 per 1,000 words for translation, £21 per 1,000 words for proof reading.

³⁹ The Welsh Government is working closely with the Welsh Heads of Trading Standards, local authority colleagues, service providers and other relevant stakeholders (and will continue to do

68. It is proposed that training in relation to the legislation's requirements will be provided to enforcement staff from local authorities. It is anticipated that this will cost the Welsh Government £6,000 for training for 22 local authorities for half a day. This will not be a cost for local authorities, as this will form part of normal staff continual professional development training. It is proposed that power point / E-Learning materials will also be developed for local authorities (which could also then be used by service providers and stakeholders), in order to promote awareness of the requirements of the Act and its aims.
69. During the consultation period on the draft Bill, Directors of Public Protection Wales indicated support for the introduction of minimum pricing but highlighted concerns about additional burdens for local government associated with the local authority-led enforcement regime and the need for the Welsh Government to invest. This was also an issue raised during stage 1 scrutiny sessions held by the National Assembly's Health, Social Care and Sport Committee, regarding the Bill which was then before it. As highlighted above, following consideration of proposals from the Welsh Heads of Trading Standards, £300,000 will be allocated by Welsh Government to cover additional inspection and enforcement activity in the first three years of implementation.
70. The Act places a duty on Welsh Ministers to, as soon as practicable after five years from commencement of the minimum pricing regime, lay before the National Assembly and subsequently publish a report on the operation and effect of the Act during that period. At this stage, based on costs associated with similar evaluations and reviews conducted previously – including the Human Transplantation (Wales) Act 2013 – costs are estimated at £350,000, spread over five years. It is important to note that the total cost of the evaluation will depend on the balance of using and analysing routinely-available and bespoke data, undertaking future modelling work, the potential purchase of commercial data and research about the implementation and enforcement of the legislation. Plans for the evaluation of the introduction of a minimum unit price for alcohol were shared with the National Assembly's Health, Social Care and Sport Committee.⁴⁰ Different elements of the research and evaluation are now

so ahead of implementation) to develop materials and campaigns to raise awareness of the changes within Wales and the aims of the legislation. This will be in addition to the guidance that the Welsh Government will issue. A national set of Welsh Government publicity and communications materials will be provided and these will remain available to local authorities, service providers and stakeholders. This follows the model used by the single use carrier bags campaign where materials were provided on the internet and local authorities and stakeholders printed and disseminated these documents as required.

being commissioned. . A summary of these plans can be found in section 10 of this RIA (Post Implementation Review).

UK Government

71. The UK Government will be affected through a reduction in the level of the duty and VAT associated with any changes in the volume and pattern of the sale of alcohol products where minimum pricing successfully reduces alcohol consumption. Under a 50p minimum unit price, there is an anticipated 0.4% overall decrease in revenue (amounting to £1.9m per year), largely resulting from the decrease in off-trade duty receipts resulting from the reduction in alcohol consumption.⁴¹

Benefits

Individuals and society

72. A 50p minimum unit price is associated with a total societal reduction in health harms, crime and workplace absence estimated at £783m (in 2016 prices) over the 20-year period modelled.⁴² This figure includes reduced direct healthcare costs (£91m); savings from reduced crime (£188m); savings from reduced workplace absence (£14m); and a financial valuation of the health benefits (£490m), measured in terms of quality adjusted life years (QALYs, which are valued at £60,000 in line with Home Office guidelines).^{43 44}

73. A particular benefit is the degree to which it is targeted at hazardous and harmful drinkers, with whom the costs of alcohol misuse are most strongly associated. There is a strong impact on the consumption levels of these

⁴⁰ <http://senedd.assembly.wales/mglIssueHistoryHome.aspx?IId=20029>

⁴¹ Angus, C. et al. (2018); Sheffield: ScHARR, University of Sheffield. Table 32. Page 59.

⁴² All costs and benefits in the Sheffield Model which relate to a 20 year period have been discounted at 3.5%.

⁴³ Angus, C. et al. (2018); Sheffield: ScHARR, University of Sheffield. Table 32. Page 59.

⁴⁴ A value of £60,000 per QALY is used as the QALYs are being valued from a societal perspective. This is higher than the value per QALY used by NICE. The value used by NICE is the maximum that the NHS can justify spending on a QALY due to resource constraints. See Public Health England (2015) A Guide to Social Return on Investment for Alcohol and Drug Treatment Commissioners. <http://www.nta.nhs.uk/uploads/a-guide-to-social-return-on-investment-for-alcohol-and-drug-treatment-commissioners.pdf>

drinkers because they tend to favour cheaper alcohol, which is most affected by the policy. A 50p minimum unit price would reduce alcohol consumption by 6.8% for harmful drinkers, an absolute reduction of 268.7 units per year, compared to a reduction in alcohol consumption of 1.1%, which equates to 2.4 units per year, for moderate drinkers. Harmful drinkers contribute to 69% of the reduction in alcohol-related deaths and 44% of the reduction in hospital admissions.

74. Furthermore, as shown above, the patterns of drinking differ when examined by income group. Moderate drinkers in the most deprived quintile have a small decline in consumption levels in absolute terms (6.9 units per year) whereas moderate drinkers in the least deprived quintile are not estimated to change their consumption. For harmful drinkers in the most deprived quintile, since they tend to favour cheaper drinks, and drinks that have larger price elasticities, particularly off-trade beer and cider, minimum unit pricing has the largest effect and this effect is mainly reduced consumption (1,118.9 units per year) and a reduction in spending of £206.20 per year.⁴⁵

75. Minimum unit pricing is likely to have a beneficial effect even on the heaviest drinkers who have serious problems with alcohol. One study in Scotland found that since problem drinkers (drinking on average 198 units per week) were drinking as cheaply as they could already and lower unit prices were associated with increased consumption within this group, a minimum price is likely to have a “relatively large absolute effect on consumption”.⁴⁶ As highlighted earlier, NICE guidance notes that a minimum unit price can help problem drinkers – both those who are not in regular contact with the relevant services and those receiving treatment – by creating an environment that supports lower-risk drinking.⁴⁷

76. The model suggests that a minimum unit price of 50p will have a greater effect on the health of those in the most deprived WIMD quintile, with an estimated 12 fewer deaths and 203 fewer hospital admissions per 100,000 drinkers for those in the most deprived quintile compared to zero fewer deaths and two fewer hospital admissions per 100,000 drinkers for those in the least deprived quintile as set out in table 2 below. Ludbrook et al. also consider that reduced consumption could be more beneficial for those in

⁴⁵ Angus C. et al. (2017); Sheffield: SchARR, University of Sheffield. Tables 12 and 13.

⁴⁶ Black, H., Gill, J. and Chick, J. (2011) The price of a drink: levels of consumption and price paid per unit of alcohol by Edinburgh's ill drinkers with a comparison to wider alcohol sales in Scotland. *Addiction*. Volume 106. Page 735.

⁴⁷ NICE Public Health Guidance 24 (June 2010) Alcohol-use disorders: preventing harmful drinking.

poverty, since disadvantaged groups tend to have worse health outcomes than others, when alcohol consumption is the same.⁴⁸

77. The population benefits of minimum unit pricing in reducing alcohol-related health problems, crime and workplace absence are detailed below.

Health

78. The University of Sheffield model estimates substantial reductions in alcohol-related harms from all modelled policies, with an estimated reduction of 66 deaths and 1,281 fewer hospital admissions per year for a 50p minimum unit price.

79. Direct costs to healthcare services are estimated to reduce under all modelled policies, with savings of more than £90m over 20 years for a minimum unit price threshold of 50p (table 4).

80. This is consistent with evidence from other countries, which have implemented similar policies. In Canada, a 10% increase in average minimum alcohol prices was associated with a 32% reduction in wholly alcohol-caused deaths.⁴⁹

⁴⁸ Ludbrook, A., Petrie, D., McKenzie, L., Farrar, S. (2012) Tackling Alcohol Misuse. Applied Health Economics and Health Policy. January 2012. Volume 10 (1). Pages 51-63.

⁴⁹ Stockwell, T. and Thomas, G. (2013) Is alcohol too cheap in the UK? The case for setting a Minimum Unit Price for alcohol. Institute of Alcohol Studies Report.

Table 2: Estimated impact of a 50p minimum unit price on mortality and hospitalisation rates by deprivation⁵⁰

	WIMD Q1 (least deprived)	WIMD Q2	WIMD Q3	WIMD Q4	WIMD Q5 (most deprived)
Baseline annual alcohol-attributable deaths per 100,000 drinkers	28	30	35	45	75
Post-intervention alcohol-attributable deaths per 100,000 drinkers	28	29	32	42	62
Absolute change	-0.1	-0.9	-2.7	-3.6	-12.3
Relative change	-0.3%	-3.1%	-7.7%	-8.0%	-16.5%
Baseline annual alcohol-attributable hospital admissions per 100,000 drinkers	1,390	1,542	1,741	2,124	2,823
Post-intervention alcohol-attributable hospital admissions per 100,000 drinkers	1,388	1,522	1,684	2,031	2,619
Absolute change	-1.8	-19.7	-57.4	-93.4	-203.3
Relative change	-0.1%	-1.3%	-3.3%	-4.4%	-7.2%

Workplace absence

81. Workplace absence is estimated to fall under all modelled policies (as set out in table 3), with a reduction of 514 days absent per 100,000 drinkers per year by year 20 for a 50p minimum unit price. This has been valued at £14m over 20 years (as set out in table 4).

Crime

82. Crime is expected to fall, with an estimated 110 fewer offences per 100,000 drinkers per year under a 50p minimum unit price policy. The greatest estimated reductions are in hazardous drinkers. Costs of crime are estimated to reduce by £188m (in 2016 prices) over 20 years with a 50p minimum unit price (as set out in table 4).⁵¹

⁵⁰ Angus, C. et al. (2017); Sheffield: ScHARR, University of Sheffield. Table 16. Page 22.

⁵¹ Some of these savings will be accrued by the UK Government given that policing is a devolved matter. However, data are only available on the total amount of savings – as opposed to being able to apportion these savings to the UK Government / Welsh Government.

Table 3: Estimated impact of minimum unit price policies on alcohol-attributable workplace absence by drinker group⁵²

		All drinkers	Moderate	Hazardous	Harmful
Baseline annual alcohol-attributable days' absence		507,795	212,963	227,856	66,975
Baseline annual alcohol-attributable days' absence per 100,000 drinkers		26,585	15,440	50,709	82,287
Absolute change in absence days per year	35p MUP	-1,838	-457	-1,110	-272
	40p MUP	-3,737	-911	-2,330	-497
	45p MUP	-6,270	-1,519	-3,997	-754
	50p MUP	-9,808	-2,621	-6,138	-1,049
	55p MUP	-14,476	-4,359	-8,787	-1,331
	60p MUP	-20,489	-6,766	-12,076	-1,647
	65p MUP	-27,468	-9,738	-15,762	-1,968
	70p MUP	-35,086	-13,169	-19,603	-2,315
Absolute change in absence days per 100,000 drinkers per year	35p MUP	-96	-33	-247	-334
	40p MUP	-196	-66	-518	-610
	45p MUP	-328	-110	-890	-926
	50p MUP	-514	-190	-1,366	-1,289
	55p MUP	-758	-316	-1,955	-1,635
	60p MUP	-1,073	-491	-2,687	-2,024
	65p MUP	-1,438	-706	-3,508	-2,418
	70p MUP	-1,837	-955	-4,363	-2,844
Relative change	35p MUP	-0.4%	-0.2%	-0.5%	-0.4%
	40p MUP	-0.7%	-0.4%	-1.0%	-0.7%
	45p MUP	-1.2%	-0.7%	-1.8%	-1.1%
	50p MUP	-1.9%	-1.2%	-2.7%	-1.6%
	55p MUP	-2.9%	-2.0%	-3.9%	-2.0%
	60p MUP	-4.0%	-3.2%	-5.3%	-2.5%
	65p MUP	-5.4%	-4.6%	-6.9%	-2.9%
	70p MUP	-6.9%	-6.2%	-8.6%	-3.5%

⁵² Angus, C. et al. (2018); Sheffield: ScHARR, University of Sheffield. Table 31. Page 57.

Table 4: Estimated impact of minimum unit price policies on societal costs over 20 years following policy implementation ⁵³

		Direct healthcare costs	Valuation of QALYs gained	Costs of crime	Costs of workplace absence	Total ⁵⁴
Baseline annual alcohol-attributable costs over 20 years, discounted		£1,992	£6,500	£7,487	£668	£16,647
Cumulative absolute change over 20 years (£m), discounted	35p MUP	-£20	-£115	-£34	-£3	-£171
	40p MUP	-£38	-£213	-£70	-£5	-£326
	45p MUP	-£62	-£336	-£119	-£9	-£526
	50p MUP	-£91	-£490	-£188	-£14	-£783
	55p MUP	-£127	-£656	-£276	-£21	-£1,079
	60p MUP	-£171	-£858	-£382	-£29	-£1,441
	65p MUP	-£222	-£1,085	-£502	-£39	-£1,849
	70p MUP	-£275	-£1,317	-£632	-£50	-£2,274
Relative change	35p MUP	-1.0%	-1.8%	-0.5%	-0.4%	-1.0%
	40p MUP	-1.9%	-3.3%	-0.9%	-0.8%	-2.0%
	45p MUP	-3.1%	-5.2%	-1.6%	-1.4%	-3.2%
	50p MUP	-4.6%	-7.5%	-2.5%	-2.1%	-4.7%
	55p MUP	-6.4%	-10.1%	-3.7%	-3.1%	-6.5%
	60p MUP	-8.6%	-13.2%	-5.1%	-4.4%	-8.7%
	65p MUP	-11.2%	-16.7%	-6.7%	-5.9%	-11.1%
	70p MUP	-13.8%	-20.3%	-8.4%	-7.5%	-13.7%

Retailers

83.A 50p minimum unit price is estimated to lead to an overall increase in revenue for retailers of £17.8m per year (2.6%) with increase in revenue for off-trade retailers of £16.8m (9.9%) and for on-trade retailers of £1m (0.2%).⁵⁵ It should be noted, however, that uncertainty remains regarding retailers' likely responses to the introduction of a minimum unit price in Wales. Retailers and producers may make a range of additional changes to both prices and products which may impact on resulting revenue changes to the Exchequer and retailers and other modelled outcomes.

⁵³ Angus, C. et al. (2018); Sheffield: ScHARR, University of Sheffield. Table 32. Page 59.

⁵⁴ Note that a) this figure includes both direct costs and indirect costs accrued across different parts of society (the NHS, the broader economy, society as a whole) and b) this figure should not be interpreted as representing the full burden (or the full policy impact) of alcohol on society as there are numerous impacts which are not included in the modelling (such as harm to others, public nuisance etc.).

⁵⁵ Angus, C. et al. (2018); Sheffield: ScHARR, University of Sheffield. Page 43.

Summary of costs and benefits for a 50p minimum unit price: Welsh Government's preferred level

84. Table 5 summarises the costs for introducing a 50p minimum unit price in Wales.

Table 5: Summary of costs for 50p minimum unit price⁵⁶

	Year one costs £	Year two costs £	Year three costs £	Year four costs £	Year five costs £
Welsh Government costs					
Guidance costs	8,820	0	0	0	2,360
Communications	100,000	0	0	0	0
Training for LA staff	6,000	0	0	0	0
Evaluation and review	70,000	70,000	70,000	70,000	70,000
Inspection and enforcement costs	200,000	70,000	30,000		
Total Cost to Welsh Government	384,820	140,000	100,000	70,000	72,340
UK Government – lower alcohol duty revenue	1,900,000	1,900,000	1,900,000	1,900,000	1,900,000
Local authorities					
Staff costs for inspections and enforcement	<i>Anticipated to be low, enforcing minimum pricing is expected to be undertaken within the existing inspection regime.</i>				
Total cost to local authorities	Not known.				
Retailers					
Staff costs for familiarisation with the new legislation	313,600 (four hours per license holder)	78,000 (one hour per license holder)	78,000	78,000	78,000
Staff costs to change prices	477,040	0	0	0	0
Total cost to retailers*	790,640	78,000	78,000	78,000	78,000
Consumers**	£17.8m each year	£17.8m each year	£17.8m each year	£17.8m each year	£17.8m each year

⁵⁶ Costs for the Welsh Government, retailers and local authorities are estimated to be the same for all three options.

** This is an aggregate estimated cost. There may be other costs associated with implementation for larger stores, for example software updates, wastage, reviewing promotions; however, it is very difficult to estimate these at this stage. These costs should also be covered by the increased revenues resulting from higher prices.*

*** It should be noted that the £17.8m a year cost to consumers is a £17.8m a year gain to retailers and is therefore treated as a transfer payment.*

85. For comparison purposes, the costs should be discounted over a 20-year period to be consistent with the benefits. This translates into total Welsh Government costs of £0.7m and total retailer costs of £1.9m.⁵⁷

86. One of the largest cost impacts of the policy would be the reduced revenue from alcohol duty as a result of lower consumption. This equates to £27m over the 20-year period. However, in terms of the calculation of net costs and benefits, taxation is normally treated as a transfer, which means there is no overall change.

87. In addition to the above, the policy would involve a substantial transfer from consumers to retailers. This is estimated to be of the order of £18m per annum. This £18m is the gain to retailers caused by consumers paying more than they would have done without minimum pricing for alcohol. In terms of the calculation of net costs and benefits this transfer payment has no effect because it is a cost to consumers but a benefit to retailers. This does not affect the overall cost/benefit directly but there may be distributional consequences.

88. In terms of benefits: The introduction of a minimum unit price at 50p is estimated to lead to a reduction in health costs of £581m; a reduction in crime costs of £188m; and a reduction in workplace absence costs of £14m over a 20-year period. This results in a net benefit over 20 years of £781m.

⁵⁷ The total discounted retailer costs assume that the familiarisation costs of £75,000 occur every year over the twenty year period.

Option 2: 55p minimum unit price

Costs

Consumers

89. 50% of all alcohol ⁵⁸ is currently purchased at less than 55p per unit. This accounts for just under two-thirds of all off-trade alcohol (65 per cent sold below 55p).⁵⁹

90. While a higher minimum unit price is estimated to result in greater reductions in consumption (and associated reductions in alcohol-related harms) among hazardous and harmful drinkers (see section on health benefits), it is also estimated to have more of an impact on moderate drinkers.⁶⁰

91. Moderate drinkers purchase just over a third (34%) of their units below a 55p minimum unit price, with the figures for hazardous and harmful drinkers being higher (49% and 62% respectively).

92. A 55p minimum unit price is estimated to result in consumption reductions of 5.0 per cent (30.3 units per year) at population level. Consumption reductions are estimated to be largest among harmful drinkers (8.6%, 339.3 units per drinker per year) and hazardous drinkers (4.4%, 55.0 units per drinker per year). The smallest effects would be seen among moderate drinkers (1.9%, 4.0 units per drinker per year).⁶¹

93. Of the total reduction in units consumed under a 55p minimum unit price, 48% would occur among harmful drinkers, 43% among hazardous drinkers and 10% among moderate drinkers.⁶²

94. Following these consumption changes, spending on alcohol is estimated to increase by 2.4% or £14 per drinker per year under a 55p minimum unit price. The largest spending increases would be seen among harmful

⁵⁸ In Wales and the West.

⁵⁹ Angus, C. et al. (2018); Sheffield: ScHARR, University of Sheffield. Table 8. Page 30.

⁶⁰ As highlighted by Angus, C. et al. (2018): "At all potential MUP levels, the heavier the drinker, the greater the proportion of their alcohol which will be affected by the policy. However, the proportion of moderate drinkers' consumption which is affected also rises as the MUP threshold increases, from 4% at 35p to 22% at 50p and 50% at 70p/unit." Sheffield: ScHARR, University of Sheffield. Page 29.

⁶¹ Angus, C. et al. (2018); Sheffield: ScHARR, University of Sheffield. Table 16. Page 37.

⁶² Angus, C. et al. (2018); Sheffield: ScHARR, University of Sheffield. Figure 14. Page 39.

drinkers (3.0%, £88 per drinker per year) with smaller increases seen for hazardous drinkers (2.5%, £30 per drinker per year) and moderate drinkers (1.8%, £5 per drinker per year).⁶³

95. Moderate drinkers in the most deprived quintile are estimated to increase their spend by 1.7% (£3) compared to an increase of 1.7% (£7) for the least deprived quintile. Hazardous drinkers in the most deprived quintile are estimated to increase their spend by 0.1% (£1) and harmful drinkers in this quintile are estimated to reduce their spend by 7.9%.⁶⁴

96. A 55p minimum unit price is estimated to have a greater impact on moderate drinkers, capturing just over a third of the alcohol they purchase compared to just over a fifth at the 50p level. Although the difference in the impact on spend is small, this is because moderate drinkers in the most deprived quintile reduce consumption by more than the other quintiles (5.5% reduction for the most deprived, compared to 3.4% reduction for the next most deprived and only 0.1% for the least deprived).⁶⁵

Retailers

97. A higher minimum unit price is estimated to have more of an impact on both off-trade and on-trade sales. For example, half of all alcohol is currently purchased at less than 55p per unit, but this accounts for nearly two-thirds of all off-trade alcohol (65% sold below 55p) and 3% of all on-trade alcohol.

98. Higher proportions of all alcohol (compared to a 50p and 45p minimum unit price) are purchased at less than 55p per unit in the off-trade: 76% of off-trade beer is purchased at less than 55p per unit, 79% of cider, 55% of wine and 74% of spirits (see Table 1).

99. Stakeholders from the retail and alcohol industry have continued to express a preference for parity with the Scottish minimum pricing regime so far as is possible to do so as to minimise implementation and compliance costs. However, the potential differences in implementation costs for retailers (for different levels of a minimum unit price) are unknown and so at this stage, this RIA includes estimated implementation costs for a minimum unit price of 55p (and 45p) as being the same as those for a 50p minimum unit price: £1.9m discounted over a period of 20 years.

⁶³ Angus, C. et al. (2018); Sheffield: ScHARR, University of Sheffield. Table 19. Page 41.

⁶⁴ Angus, C. et al. (2018); Sheffield: ScHARR, University of Sheffield. Table 51. Page 90.

⁶⁵ Angus, C. et al. (2018); Sheffield: ScHARR, University of Sheffield. Table 49. Page 88.

Local Authorities, Courts and Welsh Government

100. The estimated costs for local authorities, courts and the Welsh Government would be the same regardless of the level of the minimum unit price (see Table 5).

UK Government

101. Annual revenue to the Exchequer from alcohol duties and VAT in Wales is estimated to fall by 0.4% or £2.1m following the introduction of a 55p minimum unit price.⁶⁶

Benefits

Individuals and society

102. For a 55p minimum unit price, the discounted total reduction in societal costs of alcohol over 20 years arising from reductions in alcohol-attributable harm is estimated to be £1,079m, or a reduction in total costs of 6.5%. This is comprised of a 6.4% or £127m reduction in direct healthcare costs, a 10.1% or £656m reduction in losses of Quality Adjusted Life Years (QALYs), a 3.7% or £276m reduction in the direct and QALY-related costs of crime and a 3.1% or £21m reduction in costs associated with workplace absences (see Table 4).

Health

103. A 55p minimum unit price is estimated to lead to 87 or 11.2% fewer alcohol-attributable deaths per year and 1,807 or 5.1% fewer alcohol-attributable hospital admissions per year.⁶⁷

104. Of the total reduction in deaths arising from a 55p minimum unit price, an estimated 66% occur among harmful drinkers, 52% occur among the most deprived quintile and 39% occur among harmful drinkers in the most

⁶⁶ Angus, C. et al. (2018); Sheffield: ScHARR, University of Sheffield. Table 21. Page 43.

⁶⁷ Angus, C. et al. (2018); Sheffield: ScHARR, University of Sheffield. Table 22. Page 45.

deprived quintile. The equivalent figures for reductions in alcohol-attributable hospital admissions are 41%, 45% and 20%.⁶⁸

Crime

105. Crime is expected to fall, with an estimated 162 fewer offences per 100,000 drinkers per year under a 55p minimum unit price policy. The greatest estimated reductions are in hazardous drinkers. Costs of crime are estimated to reduce by £276m (in 2016 prices) over 20 years with a 55p minimum unit price (as set out in table 4).⁶⁹

Workplace absence

106. Workplace absence is estimated to fall (as set out in table 3), with a reduction of 758 days absent per 100,000 drinkers per year by year 20 for a 55p minimum unit price. This has been valued at £21m over 20 years (as set out in table 4).

Retailers

107. Retailer revenue is estimated to increase by a larger amount under a higher minimum unit price.

108. Specifically, total annual revenue to retailers from alcohol sales is estimated to increase by 15.9% or £27.1m in the off-trade and 0.5% or £2.5m in the on-trade, under a 55p minimum unit price. This amounts to an estimated increase in revenue to retailers of £29.7m under a 55p minimum unit price, compared to £17.8m under a 50p minimum unit price.⁷⁰

Summary of costs and benefits for a 55p minimum unit price:

109. Costs for the Welsh Government, retailers and local authorities are estimated to be the same for all three options (see Table 5).

110. Under a 55p minimum unit price, the reduced revenue from alcohol duty as a result of lower consumption equates to £29.8m over the 20-year

⁶⁸ Angus, C. et al. (2018); Sheffield: SchARR, University of Sheffield. Figure 22, page 48. Table 25, page 50.

⁶⁹ Some of these savings will be accrued by the UK Government given that policing is a devolved matter. However, data are only available on the total amount of savings – as opposed to being able to apportion these savings to the UK Government / Welsh Government.

⁷⁰ Angus et al. (2018); Sheffield: SchARR, University of Sheffield Table 21.

period. However, as highlighted for option 1, in terms of the calculation of net costs and benefits, taxation is normally treated as a transfer, which means there is no overall change.

111. A 55p minimum unit price would also involve a substantial transfer from consumers to retailers. This is estimated to be £29.7m per annum (compared to £18m for a 50p minimum unit price). As highlighted for option 1, this £29.7m is the gain to retailers caused by consumers paying more than they would have done without the introduction of a minimum unit price. In terms of the calculation of net costs and benefits this transfer payment has no effect because it is a cost to consumers but a benefit to retailers.⁷¹

112. In terms of benefits: For a 55p minimum unit price, the discounted total reduction in societal costs of alcohol over 20 years arising from reductions in alcohol-attributable harm is estimated to be £1,079m, or a reduction in total costs of 6.5%. This is comprised of a 6.4% or £127m reduction in direct healthcare costs, a 10.1% or £656m reduction in losses of Quality Adjusted Life Years (QALYs), a 3.7% or £276m reduction in the direct and QALY-related costs of crime and a 3.1% or £21m reduction in costs associated with workplace absences. This results in a net benefit over 20 years of £1,076.5m.

Option 3: 45p minimum unit price

Costs

Consumers

113. Fewer units (27% of the total) are currently sold below a 45p minimum unit price (see Table 1).

114. In particular, a lower minimum unit price is anticipated to have less of an impact on reducing levels of consumption (and associated reductions in alcohol-related harms) among hazardous and harmful drinkers (see section on health benefits). Moderate drinkers purchase 16% of their units below a 45p minimum unit price, with the figures for hazardous and harmful drinkers being higher (26% and 35% respectively).⁷²

115. A 45p minimum unit price is estimated to reduce consumption by 2.4% (14.9 units per year) at population level. As with other levels considered in

⁷¹ Angus et al. (2018); Sheffield: ScHARR, University of Sheffield. Table 39. Page 69.

⁷² Angus et al. (2018); Sheffield: ScHARR, University of Sheffield. Table 7. Page 29.

this RIA, consumption reductions (although smaller than a 50p or 55p minimum unit price) are estimated to be largest among harmful drinkers (4.9%, 193.1 units per drinker per year) and hazardous drinkers (1.9%, 24.0 units per drinker per year). The smallest effects would be seen among moderate drinkers (0.7%, 0.7 units per drinker per year).⁷³

116. Of the total reduction in units consumed under a 45p minimum unit price, 55% would occur among harmful drinkers, 38% among hazardous drinkers and 7% among moderate drinkers. Drinkers from the most deprived quintile would account for 53% of the reduction in units consumed.⁷⁴

117. Following these consumption changes, spending on alcohol is estimated to increase by 0.7% or £4 per drinker per year under a 45p minimum unit price. The largest spending increases would be seen among harmful drinkers (0.8%, £24 per drinker per year) with smaller increases seen for hazardous drinkers (0.7%, £8 per drinker per year) and moderate drinkers (0.6%, £2 per drinker per year).⁷⁵

118. Those in the most deprived quintile are estimated to reduce their spending on alcohol by 1.3% or £6 per drinker per year, following the above consumption changes. Drinkers in other deprivation quintiles are estimated to increase their spending by between £4 and £7 per drinker per year.⁷⁶

Retailers

119. A lower minimum unit price is estimated to have less of an impact on both off-trade and on-trade sales. 27% of all alcohol (35% of all off-trade alcohol and 1% of all on trade) is currently purchased at less than 45p per unit, compared to 37% under a 50p minimum unit price and 50% under a 55p minimum unit price (see Table 1).

120. Implementation costs are estimated to be the same as those for other levels: £1.9m discounted over a period of 20 years.

⁷³ Angus et al. (2018); Sheffield: ScHARR, University of Sheffield. Table 16. Page 37.

⁷⁴ Angus et al. (2018); Sheffield: ScHARR, University of Sheffield. Figure 14. Page 39.

⁷⁵ Angus et al. (2018); Sheffield: ScHARR, University of Sheffield. Table 19. Page 41.

⁷⁶ Angus et al. (2018); Sheffield: ScHARR, University of Sheffield. Table 20. Page 42.

Local Authorities, Courts and Welsh Government

121. The estimated costs for local authorities, courts and the Welsh Government would be the same regardless of the level of the minimum unit price.

UK Government

122. Annual revenue to the Exchequer from alcohol duties and VAT in Wales is estimated to fall by 0.3% or £1.6m following the introduction of a 45p minimum unit price.⁷⁷

Benefits

Individuals and society

123. For a 45p minimum unit price, the discounted total reduction in societal costs of alcohol over 20 years arising from reductions in alcohol-attributable harm is estimated to be £526m, or a reduction in total costs of 63.2%. This is comprised of a 3.1% or £62m reduction in direct healthcare costs, a 5.2% or £336m reduction in losses of Quality Adjusted Life Years (QALYs), a 1.6% or £119m reduction in the direct and QALY-related costs of crime and a 1.4% or £9m reduction in costs associated with workplace absences (see Table 4).

Health

124. A lower minimum unit price is estimated to have a reduced impact on alcohol-related deaths and hospital admissions. A 45p minimum unit price is estimated to lead to 45 or 5.8% fewer alcohol-attributable deaths per year and 857 or 2.4% fewer alcohol-attributable hospital admissions per year.⁷⁸

125. Of the total reduction in deaths arising from a 45p minimum unit price, an estimated 70% occur among harmful drinkers, 60% occur among the most deprived quintile and 47.4% occur among harmful drinkers in the most deprived quintile. The equivalent figures for reductions in alcohol-attributable hospital admissions are 46%, 51% and 26%.

⁷⁷ Angus et al. (2018); Sheffield: SchARR, University of Sheffield. Table 21. Page 43.

⁷⁸ Angus et al. (2018). Sheffield: SchARR, University of Sheffield. Table 22. Page 45.

Crime

126. Crime is expected to fall, with an estimated 69 fewer offences per 100,000 drinkers per year under a 45p minimum unit price policy (but this fall is less than for a 50p or 55p minimum unit price). A 45p minimum unit price is estimated to lead to 1.5% or 1,315 fewer alcohol-attributable crimes per year. The largest reduction is seen in crimes committed by hazardous drinkers at 2.0% or 830 fewer crimes per year, compared to 1.0% or 371 fewer crimes per year for moderate drinkers and 1.4% or 114 fewer crimes per year for harmful drinkers.⁷⁹

127. Costs of crime are estimated to reduce by £119m (in 2016 prices) over 20 years with a 45p minimum unit price (as set out in table 4).⁸⁰

Workplace absence

128. The number of working days lost to alcohol-attributable workplace absences is estimated to fall by 1.2% or 6,270 days per year under a 45p minimum unit price. The largest reduction is seen in days absent for hazardous drinkers at 1.8% or 3,997 fewer days absent per year, compared to 0.7% or 1,519 fewer days absent per year for moderate drinkers and 1.1% or 754 fewer days absent per year for harmful drinkers.

Retailers

129. The estimated increase in revenue to retailers will be lower under a 45p minimum unit price.

130. Total annual revenue to retailers from alcohol sales is estimated to increase by 5.6% or £9.6m in the off-trade and reduce slightly by 0% or £0.2m in the on-trade. This amounts to an estimated increase in revenue to retailers of £9.4m under a 45p minimum unit price, compared to £17.8m under a 50p minimum unit price.⁸¹

⁷⁹ Angus et al. (2018). Sheffield: SchARR, University of Sheffield. Table 30. Page 55.

⁸⁰ Some of these savings will be accrued by the UK Government given that policing is a devolved matter. However, data are only available on the total amount of savings – as opposed to being able to apportion these savings to the UK Government / Welsh Government.

⁸¹ Angus et al. (2018). Sheffield: SchARR, University of Sheffield. Table 21. Page 43.

Summary of costs and benefits for a 45p minimum unit price

131. Costs for the Welsh Government, retailers and local authorities are estimated to be the same for all three options (see Table 5).
132. Under a 45p minimum unit price, the reduced revenue from alcohol duty as a result of lower consumption equates to £22.7m over the 20-year period. However, as highlighted for option 1, in terms of the calculation of net costs and benefits, taxation is normally treated as a transfer, which means there is no overall change.
133. A 45p minimum unit price would also involve a substantial transfer from consumers to retailers – but this is lower than for a 50p and 55p minimum unit price. This is estimated to be £9.6m per annum. As highlighted for options 1 and 2, this is the gain to retailers caused by consumers paying more than they would have done without the introduction of a minimum unit price.
134. In terms of benefits: The discounted total reduction in societal costs of alcohol over 20 years arising from these reductions in alcohol-attributable harm is £526m or a reduction in total costs of 3.2%. This is comprised of a 3.1% or £62m reduction in direct healthcare costs, a 5.2% or £336m reduction in losses of Quality Adjusted Life Years (QALYs), a 1.6% or £119m reduction in the direct and QALY-related costs of crime and a 1.4% or £9m reduction in costs associated with workplace absences. This results in a net benefit over 20 years of £523.5m.

Summary of costs and benefits for all options

135. Table 6 below summarises the costs and benefits for each of the three options.

Table 6: Summary of costs for all options⁸²

		Option 1 50p minimum unit price	Option 2 55p minimum unit price	Option 3 45p minimum unit price
Costs	WG	£0.7m	£0.7m	£0.7m
	Retailers	£1.9m	£1.9m	£1.9m
Benefits	Health	£581m	£784m	£398m
	Crime	£188m	£276m	£119m
	Workplace absence	£14m	£21m	£9m
Net Benefit / (Cost)		£781m	£1,078m	£523.5m
Other	+/- retailers revenue	£17.8m increase per year (impact of minimum unit price paid to retailers)	£29.7m increase per year	£9.4m increase per year
	UK reduction in alcohol duty revenue from fewer alcohol sales	-£27m based on a reduction of £1.9m per year	-£29.8m based on a reduction of £2.1m per year	-£22.7m based on a reduction of £1.6m per year

⁸² The figures for options one to three are discounted over a 20 year period at 3.5%. This is to make the calculations consistent with the modelling work undertaken by the University of Sheffield, which assessed a 20 year period. The 3.5% is standard discounting where costs/benefits occur over multiple time periods. A rate of 3.5% is used for government projects. We use a 20 year period here as this was the timeframe incorporated into the Sheffield modelling.

Conclusion and preferred option

136. The Welsh Government's preferred level is a 50p minimum unit price (Option 1).
137. Modelling suggests that a 50p minimum unit price will target the consumption levels of hazardous and harmful drinkers (who tend to consume greater quantities of low-cost and high-alcohol content products), whilst minimising impacts on moderate drinkers.
138. A 50p minimum unit price will target nearly half (47%) of all off-trade alcohol being purchased and just under half of alcohol purchased by harmful drinkers, whilst only capturing just over a fifth of alcohol purchased by moderate drinkers.⁸³ This is an important factor which has contributed to our preference for a minimum unit price of this level – we want to target cheap alcohol (which is favoured by heavier drinkers and predominantly sold in the off-trade) while balancing this against intervention in the market.
139. Under a 50p minimum unit price, over half of the estimated reduction in consumption would be accounted for by harmful drinkers. There would consequently be minimal impact on moderate drinkers, accounting for less than ten per cent of the reduction in consumption, again in line with the targeted aim of the legislation.
140. For a minimum unit price above 50p, there are greater estimated impacts on those living in poverty and estimated reductions in consumption. However, there are also greater estimated impacts on moderate drinkers living in poverty.
141. A 50p minimum unit price is also consistent with the level of minimum unit price currently applicable in relation to Scotland. Retailers and representatives from the alcohol industry have continually stated their preference for consistency as far as is possible.
142. Option 2, a 55p minimum unit price, would capture a greater proportion of alcohol purchased by harmful drinkers (just over three-fifths, compared to

⁸³ Off-trade is defined as locations where alcohol is sold for consumption off the premises, e.g. shops and supermarkets. On-trade is defined as locations where alcohol is sold for consumption on the premises, e.g. pubs and restaurants. Source: Glossary in Angus, C., Holmes, J., Brennan, A. and Meier, P. (2018) Model-based appraisal of the comparative impact of Minimum Unit Pricing and taxation policies in Wales: Final report. Cardiff: Welsh Government

<https://gov.wales/docs/caecd/research/2018/180222-comparative-impact-minimum-unit-pricing-taxation-policies-summary-en.pdf>

just under half for a 50p minimum unit price) and is also estimated to achieve a greater reduction in alcohol consumption and a higher estimated impact on alcohol-attributable deaths and hospital admissions. However, a 55p minimum unit price would have a greater impact on moderate drinkers.

143. Option 3, a 45p minimum unit price, only captures 27% of total units purchased, 35% of alcohol purchased by harmful drinkers and just over a quarter of alcohol purchased by hazardous drinkers (26%). As such, a minimum unit price at this level is estimated to lead to smaller reductions in levels of consumption, particularly amongst hazardous and harmful drinkers, resulting in lower anticipated reductions in alcohol-related deaths and alcohol-related hospital admissions than can be achieved under higher levels of MUP.

8. Consultation

144. As highlighted in section 5 of the Explanatory Memorandum, the Welsh Government consulted on its preferred level of the MUP of 50p for 12 weeks, from 28 September to 21 December 2018.

145. The consultation was intended to gain views from a range of stakeholders to inform the level of the minimum unit price to be specified in regulations, for the purposes of the 2018 Act. The consultation was not about the principle of minimum unit pricing, as the Welsh Government has consulted twice before (in 2014 and 2015) on this matter.

146. The consultation was published on the Welsh Government website. Information on the consultation documents and how to respond was widely distributed and shared via social media. Information was also shared with the NHS Equalities Leads, Welsh Government Equalities Networks, the Children's Commissioner, the Older People's Commissioner, the Future Generations' Commissioner, the End Child Poverty Network, Alcohol Brief Intervention Practitioners and Public Health Wales Alcohol Leads. Articles were also included in the Chief Medical Officer's Newsletter and the Department for Health and Social Services Newsletter.

147. Meetings were also held with stakeholders, service providers, Area Planning Boards, the Welsh Heads of Trading Standards, retailers and representatives from the alcohol industry. Three engagement meetings were held with service users (in Gwent, RCT and Cardiff and the Vale) and Children in Wales ran two workshops with children and young people (in north and south Wales). A list of all stakeholder meetings and a summary of

the key themes to emerge from this engagement is included as part of this summary.⁸⁴

148. Based on analysis by the University of Sheffield on the impacts of minimum unit pricing published in November 2017 and February 2018⁸⁵ (plus the wider evidence base set out in the Explanatory Memorandum and Regulatory Impact Assessment for the Bill)⁸⁶ the consultation document on the preferred level of the minimum unit price noted the following: “Taking into account a range of factors, the Welsh Government considers a 50p minimum unit price would be a proportionate response to tackling the health risks of excessive alcohol consumption and strikes a reasonable balance between the anticipated public health and social benefits and intervention in the market.”⁸⁷

149. Of the 148 written responses received, 95 commented on the Welsh Government’s preferred minimum unit price of 50p.

- Of those 95 respondents who commented specifically on the proposed level of the MUP of 50p, 43 were responses from organisations and 52 were from individuals.
- 58 (61%) of the respondents who commented on the proposed price of 50p per unit were supportive of the Welsh Government’s preferred level.
- 9 (9%) of the respondents who commented on the proposed price of 50p per unit stated that the minimum unit price should be higher than 50p per unit.

⁸⁴ The list of stakeholder engagement meetings and an overview of their views on a 50p MUP and issues raised was included as part of the summary of consultation responses published on 15 February (see Table 1, page 26).

https://beta.gov.wales/sites/default/files/consultations/2019-02/summary-of-responses_0.pdf

⁸⁵ An Interim Report on the impacts of a 50p Minimum Unit Price was published in November 2017. A full report on the impacts of different levels of MUP ranging from 35p to 70p in five pence increments was published in February 2018. These reports can be accessed here:

<https://gov.wales/statistics-and-research/research-likely-impact-public-attitudes-towards-minimum-unit-price-alcohol/?lang=en>

⁸⁶ The Explanatory Memorandum and RIA for the Bill were last updated in June 2018. The latest version can be accessed here: <http://www.assembly.wales/laid%20documents/pri-ld11577-em/pri-ld11577-em-e.pdf>

⁸⁷ Welsh Government Consultation Document (September 2018) Minimum Unit Pricing for Alcohol.

<https://beta.gov.wales/setting-minimum-unit-price-alcohol>

- 13 (14%) of the respondents who commented on the proposed price of 50p per unit stated that the minimum unit price should be lower than 50p per unit. Five of these specifically stated that the level of the MUP should be zero.
- 15 (16%) of respondents commented on the price but were not explicit about whether or not they support the proposed price of 50p per unit.
- Out of the 148 responses, 55 stated that there should be no minimum unit price introduced for alcohol.
- A small number of responses stated it would not be appropriate for them to comment specifically on the level of the MUP (or said they did not have a view). This included a small number of Third Sector organisations and those representing retailers / the alcohol industry.

150. When commenting on the preferred level of the MUP, a number of key themes emerged from the responses of those supporting a 50p MUP. Particular reference was made to the research carried out by the University of Sheffield and the **anticipated health gains** of introducing a 50p MUP, whilst also recognising the need for balance and proportionality, in terms of interference in the market. Responses commented that a 50p MUP was “a fair price” / “a sensible place to start” / “a good place to start” / “a reasonable price to set” – and that “there is an overall logic to the proposals”.

151. Another key theme to emerge was the importance of **consistency and parity with the level of the MUP in Scotland**. This was emphasised in responses from retailers, networks representing retailers and the alcohol industry, Third Sector organisations, as well as by public health stakeholders and health boards, local authorities and APBs.

152. Amongst the consultation responses supporting a higher MUP, the key issue raised was that the Welsh Government had already consulted on a 50p MUP in 2015 and so the preferred level should now be higher. Some responses also commented on the public health benefits of a higher MUP – and the greater anticipated reduction in alcohol-related deaths and hospital admissions, from an MUP above 50p. A number of responses also commented on needing to take inflation into account, since the Welsh Government consulted on minimum pricing as part of the Public Health White Paper in 2014 and on the draft Public Health (Minimum Price for Alcohol) (Wales) Bill in 2015. It was also suggested that a higher MUP could also have more of an impact on cultural change and reducing consumption amongst children and young people.

153. Amongst the responses supporting a lower MUP, the key issue raised was the potential impact of MUP on moderate drinkers and concerns over impacts on retailers, the Welsh economy and tourism. Calls were also made for the level of the MUP to be zero.
154. Amongst the responses not supportive of a 50p MUP (or minimum pricing in general), a number of key themes emerged. In particular, concerns were raised over the impacts of a 50p MUP on households living in poverty. In particular, a number of responses highlighted the impacts of introducing an MUP for alcohol on household budgets. Specific concerns were raised that introducing a MUP for alcohol will have unintended consequences for families with children, if parents choose to continue drinking and have to pay more for alcohol, and could therefore have less money for food and fuel and potential increases in debt. The concept of being punished for being a moderate drinker was a particularly strong theme to emerge, with a number of respondents commenting on MUP being an example of the “nanny state”. Those not supportive of a 50p MUP questioned the policy rationale and evidence base on using price as a lever to reduce hazardous and harmful drinking and raised particular concerns over whether dependent drinkers would reduce consumption following an increase in the price of alcohol.
155. Responses also highlighted potential impacts and unintended consequences for vulnerable groups, including dependent drinkers and people who are homeless; potential impacts on crime – including shop-lifting and the sale of illegal and illicit alcohol; a possible increase in the number of people switching from alcohol to other substances; impacts on cross border shopping; and a potential for an increase in demand for substance misuse services.
156. The summary of consultation responses stated that the Welsh Government “would continue to consider these potential issues” – highlighting recently commissioned research looking at the risk of switching from alcohol to other substances, which will report ahead of implementation (see section 10 of the RIA). The summary of consultation responses also highlighted the extra £2.4 million in funding announced for 2019/20 for the seven Area Planning Boards who are responsible for commissioning front line substance misuse services.
157. The outcome of the consultation was that the Welsh Government remains of the view that a 50p MUP should be specified in the Regulations for the purposes of the 2018 Act.

9. Competition Assessment

158. A Competition Assessment on the introduction of minimum pricing for alcohol was undertaken as part of the RIA for the then Public Health (Minimum Price for Alcohol) (Wales) Bill.

159. Both the Competition Filter Assessment and the Second Stage Competition Assessment for the introduction of a minimum price for alcohol can be found on pages 138 to 163 of the RIA for the Bill – and so this assessment is not repeated here.

160. The revised EM and RIA for the Bill, published on 5 June 2018, can be accessed here:

<http://www.assembly.wales/laid%20documents/pri-ld11577-em/pri-ld11577-em-e.pdf>

10. Post implementation review

161. The Act provides that the majority of its provisions will come into force on a day appointed by the Welsh Ministers. The current policy intention is that the substantive provisions of the Act be commenced in September 2019. This is intended to allow sufficient time for those affected to prepare accordingly.

162. In accordance with the Act's provisions, the Welsh Ministers will as soon as practicable after five years from commencement of the minimum pricing regime, lay before the National Assembly and subsequently publish a report on the operation and effect of the Act. In preparing that report, they must consult with the National Assembly for Wales and with those persons they consider appropriate.

163. It is proposed that the effect of the Act and regulations made under it will be measured in a number of ways. Methods will include research and evaluation with stakeholders as well as routine health data, monitoring data, and a formal evaluation and review.

Routine health data

164. The National Survey for Wales collects and reports on alcohol consumption on an annual basis – new data are published during the summer and will be reported annually as part of ongoing monitoring for alcohol policy.

165. Data on alcohol-attributable mortality and alcohol-attributable hospital admissions are included in the annual profile for substance misuse produced and published by Public Health Wales each autumn.

Monitoring data

166. Monitoring data will be collected from local authorities about compliance with the legislation.

Formal evaluation and review

167. It is intended that the overarching evaluation of the Act will take the form of a contribution analysis.

168. Contribution analysis is a theory-based evaluation method, appropriate to the review of complex, multi-level programmes of work where direct causal attributions are not possible.⁸⁸ The approach is applicable here as the introduction of a minimum price for alcohol is not the only factor which may impact on alcohol consumption and alcohol-related harm. The evaluation approach needs to take account of this and assess the contribution the policy has made to any observed changes in outcomes. Theoretically, it is considered reasonable to assess the contribution of the programme if:

- There is a theory of change illustrating links between actions and outcomes.
- Planned activities were implemented.
- Evidence is available to support the above.
- Other factors that could have an impact on outcomes have been considered.

169. This approach aims to make a reasonable assessment of the contribution of the policy to meeting its overall aim. There are a number of strands of work that will contribute to the generation and reviewing of evidence, including routine data and commissioned studies.

Commissioned Studies

170. A number of specific studies will be (and have been) commissioned to provide the evidence to feed into the contribution analysis. They include research into the impact of MUP on retailers; qualitative work with service providers and service users (looking at the potential risk of switching from alcohol to other substances); and an assessment of introducing an MUP on the wider population of drinkers.

Internal Review of the Level of the Minimum Unit Price

171. Welsh Government officials will also carry out an internal review of the level of the initially-specified minimum unit price after the first two years, following the date of the bringing into force of the minimum pricing regime.

172. To inform consideration of the level (and any decision on whether the initial level of the minimum unit price specified in regulations should be changed and new regulations made), this review will consider compliance,

⁸⁸ Mayne, J. (2008) Contribution analysis: An approach to exploring cause and effect. The Institutional Learning and Change (ILAC) Initiative.

as well as data on alcohol consumption, and key outcomes such as alcohol-related deaths and hospital admissions.

173. The internal review will be led by Welsh Government policy officials supported by Knowledge and Analytical Services. The internal review process will also be peer reviewed. The key findings and any recommendations from the internal review will be published.



Llywodraeth Cymru
Welsh Government

WRITTEN STATEMENT BY THE WELSH GOVERNMENT

TITLE **Public Health (Minimum Price for Alcohol) (Minimum Unit Price) (Wales) Regulations 2019**

DATE **15 October 2019**

BY **Vaughan Gething AM, Minister for Health and Social Services**

Today, I have laid the Public Health (Minimum Price for Alcohol) (Minimum Unit Price) (Wales) Regulations 2019. These regulations – if agreed by the National Assembly – will introduce a minimum unit price (MUP) for alcohol of 50p.

Alcohol is a major cause of death and illness in Wales and the introduction of an MUP will make an important contribution in tackling the health risks associated with excessive alcohol consumption.

Our new *Substance Misuse Delivery Plan 2019-22*, which will be published shortly, contains a number of actions to tackle alcohol-related harm, including ensuring appropriate and responsive alcohol misuse services are in place before an MUP is implemented.

As we have developed the MUP policy, concerns have been raised about the potential impact of the MUP on people who are dependent on alcohol and heavy drinkers who may switch to illegal drugs or psychoactive substances, following an increase in the price of alcohol. In March 2018, the National Assembly's Health, Social Care and Sport Committee recommended the Welsh Government undertake research into this issue. While this risk is considered to be low, we will monitor this closely. We have commissioned specific research to look at this issue, which will be published later this month.

In May 2019, I issued a Written Statement about our consultation on the preferred level of a 50p MUP, noting our intention to lay these Regulations. We referred the draft Regulations to the EU Commission in accordance with the Technical Standards and Regulations Directive 2015/1535/EU, which was followed by a three-month standstill period, during which the Welsh Government could not lay the draft regulations.

We subsequently received notification that an EU Member State had submitted a detailed opinion, which extended the standstill period by an additional three months to 21 August 2019. A detailed response was submitted setting out the Welsh Government's justification for introducing a MUP policy in Wales and why the Welsh Government remains committed in introducing this legislation.

We have worked closely with retailers, the alcohol industry, public health and substance misuse stakeholders to develop guidance and additional supporting materials about minimum pricing for alcohol.

We will introduce communications campaigns for retailers and the general public in the run-up to implementation, which will continue to promote the public health aims of the legislation.

The intended effect of this legislation is to tackle alcohol-related harm, including alcohol-attributable hospital admissions and alcohol-related deaths in Wales, by reducing alcohol consumption in hazardous and harmful drinkers.

These Regulations will be debated by the National Assembly on 12 November 2019 and, if they are approved, an MUP of 50p will be introduced from 2 March 2020.

<http://www.assembly.wales/en/bus-home/Pages/Plenary.aspx?assembly=5&category=Laid%20Document>

SL(5)454 – The Genetically Modified Organisms (Deliberate Release) (Amendment) (Wales) Regulations 2019

Background and Purpose

These Regulations amend the Genetically Modified Organisms (Deliberate Release) (Wales) Regulations 2002 (“the 2002 Regulations”) and the Genetically Modified Organisms (Deliberate Release and Transboundary Movement) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019 (“the 2019 Regulations”).

Regulations 3 to 8 of these Regulations amend the 2002 Regulations. The 2002 Regulations implement Directive 2001/18/EC relating to the deliberate release of genetically modified organisms (“the 2001 Directive”). These amendments are necessary to implement Commission Directive (EU) 2018/350 amending Directive 2001/18/EC of the European Parliament and of the Council as regards the environmental risk assessment of genetically modified organisms (“the 2018 Directive”).

Regulation 3 amends the definition of the 2001 Directive to reflect the amendments made to it by the 2018 Directive.

The amendments made by regulations 4 to 7 relate to the information to be contained in applications for consent to release genetically modified higher plants in relation to trials. They also make provision in relation to the information to be included in applications for consent to release genetically modified higher plants for commercial purposes. These changes are necessary owing to the substitution, by the 2018 Directive, of Annexes III and IIIB to the 2001 Directive.

Regulation 8 makes minor changes to Schedule 3 to the 2002 Regulations.

Regulation 9 amends the 2019 Regulations which come into force on exit day and will amend Schedule 3 to the 2002 Regulations. The purpose of the amendment is to omit a provision which regulation 8 of these Regulations will render redundant.

Procedure

Negative.

Technical Scrutiny

The following 4 technical points are identified for reporting under Standing Order 21.2 in respect of this instrument.

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

The transposition deadline of 29 September 2019 for the 2018 Directive has been missed. The Explanatory Memorandum states that an earlier decision was taken collectively by the UK Administrations not to transpose the 2018 Directive as part of preparations to exit the EU on 29 March 2019. However, following the extension of the EU Exit date to 31 October 2019, the UK administrations have agreed to transpose the 2018 Directive but this decision was taken with only a short timeframe to transpose. We



ask the Welsh Government whether it has been in correspondence with the European Commission regarding the late implementation of the 2018 Directive.

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

In regulation 7, which inserts Schedule 1A into the 2002 Regulations, new paragraph 15(c) contains a cross-reference to paragraph 14(f). We believe the cross-reference should be to paragraph 14(g), not paragraph 14(f).

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

- i. Section B.4(f) of Annex III B I of the 2001 Directive (which is inserted by the Annex to the 2018 Directive) requires the following information in relation to the release of genetically modified higher plants:

"Description of the methods and procedures to:

- (i) avoid or minimise the spread of the GMHPs beyond the site of release;*
- (ii) protect the site from intrusion by unauthorised individuals;*
- (iii) prevent other organisms from entering the site or minimise such entries."*

These Regulations do not appear to include a corresponding requirement, Schedule 1 of the 2002 Regulations only requires information on *"methods and procedures to protect the site"*. We ask why the text of the 2018 Directive quoted above has not been reflected in the Regulations?

- ii. In regulation 7 (which inserts Schedule 1A into the 2002 Regulations) new paragraph 18(c) requires information on *"experimental design including statistical analysis"* to be provided in an application for consent to market genetically modified higher plants. The 2018 Directive provides the following:

"Experimental design and statistical analysis of data from field trials for comparative analysis:

- (i) Description of field studies design*
- (ii) Description of relevant aspect of the receiving environments*
- (iii) Statistical analysis."*

We ask why the text of the 2018 Directive quoted above has not been reflected in the Regulations?

4. Standing Order (vii) that there appear to be inconsistencies between the meaning of its English and Welsh texts

- i. In regulation 6(13) the definition of *"plant species"* is:

"(a) wild and weedy relatives, or
(b) crops."



In the Welsh version of the Regulations the word "or" ("neu") is missing.

- ii. In regulation 7 of the Welsh language version, which inserts Schedule 1A into the 2002 Regulations, new paragraph 3(e) should be 3(dd).
- iii. In regulation 7, which inserts Schedule 1A into the 2002 Regulations, new paragraph 13 requires a "*description of the trait or traits and characteristics of the genetically modified plant which have been introduced or modified*". Both "traits" and "characteristics" translate as "nodweddion". We appreciate the difficulty of translating these provisions, but we ask the Welsh Government whether it is satisfied that both the English and the Welsh texts properly implement the relevant parts of the 2018 Directive.
- iv. In regulation 7, which inserts Schedule 1A into the 2002 Regulations, new paragraph 22(a) requires an applicant for consent to market genetically modified higher plants to provide information on "*the adverse effects arising*" in relation to certain scenario. The Welsh language version reads "*the adverse environmental effects arising*" ("*effeithiau amgylcheddol andwyol sy'n deillio o hynny*"). This inconsistency does have an effect on the meaning of the provision as the Regulations differentiate between adverse effects on the environment and on human and animal health.

The same inconsistency occurs in new paragraph 24(a)(i) with the wording "*adverse effect arising*".

Merits Scrutiny

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

Implications arising from exiting the European Union

These Regulations implement EU obligations in relation to the deliberate release of genetically modified organisms, and therefore the Regulations will form part of retained EU law after exit day.

Government Response

A government response is required.

Committee Consideration

The Committee considered the instrument at its meeting on 21 October 2019 and reports to the Assembly in line with the reporting points above and also to highlight issues as a result of the UK exiting the EU.



Government Response: The Genetically Modified Organisms (Deliberate Release) (Amendment) (Wales) Regulations 2019

Technical Scrutiny Point 1 - Response

The UK Government is responsible for collating information regarding the transposition of EU legislation in this area, and placed a notification on the National Execution Measures database on our behalf. Defra contacted the Department for Natural Resources in the Welsh Government on 25 September 2019 to request an update on the progress of the transposition of Directive (EU) 2018/350. The Welsh Government advised there would be a late transposition but the delay would be minimal. On 9 October 2019 the Welsh Government contacted Defra to advise that the 2018 Directive had been implemented by way of the Genetically Modified Organisms (Deliberate Release) (Amendment) (Wales) Regulations 2019, laid on 8 October 2019.

Technical Scrutiny Point 2 - Response

The Welsh Government agrees that the cross-reference should be to paragraph 14(g) and will take steps to make the correction identified by the Committee.

Technical Scrutiny Point 3 - Response

Point i:

The Welsh Government is of the view that the requirements set out in Section B.4(f) of Annex III B of the 2001 Directive (which is inserted by the Annex to the 2018 Directive) are captured by the wording of paragraph 40 of Schedule 1 to the 2002 Regulations, which provides a requirement to supply information relating to the methods and procedures to protect the site.

In the context of making an application, the Welsh Government considers that the requirement to provide information on site protection would by its nature capture the provision of information concerning the methods and procedures set out in section B.4(f). Having considered the scope and nature of information that relates to site protection, the Welsh Government considers that the wording of Schedule 1 captures the methods and procedures referred to by the Committee, without expressly needing to include the text quoted. For example, the wording of the 2002 Regulations would require details to be provided about the Standard Operating Procedures that authorised personnel have to follow, and other details which together would both capture and extend beyond the points set out in section B.4(f).

Point ii:

The Welsh Government is of the view that the text quoted by the Committee is captured by and reflected in the Regulations without the need to expressly mirror the

wording. Specifically, the Committee is asked to refer to regulation 7, and paragraph 18 of Schedule 1A that is to be inserted in the 2002 Regulations. This requires:

The following information on the comparative analysis of agronomic and phenotypic characteristics and of composition—

- (a) choice of a conventional counterpart and any additional comparators used in comparative analyses,*
- (b) choice of field site location for producing plant material for comparative analyses,*
- (c) experimental design including statistical analysis,*
- (d) selection of plant material for analysis, where relevant,*
- (e) comparative analysis of agronomic and phenotypic characteristics,*
- (f) comparative analysis of composition, if relevant...*

This provision, read together with the amendment to regulation 17 of the 2002 Regulations, which is provided for at regulation 5 of the Genetically Modified Organisms (Deliberate Release) (Amendment) (Wales) Regulations 2019, captures the requirements of the Directive (EU) 2018/350 without expressly quoting the words referred to by the Committee.

Technical Scrutiny Point 4 - Response

Points i, ii and iv:

The Welsh Government agrees with the points raised and will take steps to make the corrections identified by the Committee.

Point iv:

The Welsh Government appreciates that within the Regulations, the word 'nodweddion' has been used to convey both 'traits' and 'characteristics' in Welsh. This choice of wording follows the wording used in the Welsh text of the Genetically Modified Organisms (Deliberate Release) (Wales) Regulations 2002 and has been used for reasons of consistency. It is accepted that the words have specific meanings in the field of genetics. Given the usage of the term in the 2002 Regulations it is considered that differentiating between the terms within the 2019 Regulations could introduce uncertainty as regards the interpretation of the 2002 Regulations. The Welsh Government will consider the usage of the terms within the 2002 Regulations, with a view to differentiating between 'traits' and 'characteristics', at an appropriate point in the future.



WRITTEN STATEMENT BY THE WELSH GOVERNMENT

TITLE **The European Union (Withdrawal) Act and Common Frameworks**

DATE **28 October 2019**

BY **Jeremy Miles, AM, Counsel General and Brexit Minister**

The European Union (Withdrawal) Act requires the UK Government to report to Parliament periodically on matters relating to Common Frameworks and the use if any made by the UK Government of powers under section 12 of the Act (the so-called ‘freezing powers’) temporarily to maintain existing EU law limits on devolved competence.

I am notifying Members that the fifth such report was laid in Parliament on 17 October.

While much positive work continues on Frameworks, we are concerned at indications that the current UK Government is intent on moving away from regulatory alignment with the EU on so-called level playing field issues (e.g. state aid, competition policy, environmental standards, labour market and social protection legislation). I have tasked officials to consider the potential impact of regulatory divergence on the Common Frameworks process.

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/841824/The_European_Union_Withdrawal_Web_Accessible.pdf

This statement is being issued during recess in order to keep members informed. Should members wish me to make a further statement or to answer questions on this when the Assembly returns I would be happy to do so



Cabinet Office

The European Union (Withdrawal) Act and Common Frameworks

26 June 2019 to 25 September 2019



Cabinet Office

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**Presented to Parliament pursuant to paragraph 4 of Schedule 3 to the European Union
(Withdrawal) Act 2018**

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Contents

Contents 4

Foreword 6

Implementation of Future Common Frameworks 8

Principles for Common Frameworks 8

Progress Towards Establishing Future Frameworks 9

Legislation Relating to Retained EU Law Restrictions 18

Regulations to 'Freeze' Devolved Competence 18

Regulations to Repeal the 'Freezing' Powers 18



The Rt Hon Michael Gove CBE MP
Chancellor of the Duchy of
Lancaster



The Rt Hon Julian Smith MP
Secretary of State for Northern
Ireland



The Rt Hon Alister Jack MP
Secretary of State for
Scotland



The Rt Hon Alun Cairns
MP Secretary of State for
Wales

Foreword

The UK Government remains committed to ensuring a smooth and orderly exit from the European Union. Officials from the UK, Scottish and Welsh Governments and Northern Ireland Civil Service (NICS) have continued to work closely together to prepare the UK for EU Exit.

Over the period covered by this report, officials in the UK Government and devolved administrations have been developing detailed outlines for frameworks, which set out the proposed approach for each part of a policy area, along with the operational elements of the framework, such as how decisions will be made, and the roles and responsibilities of each administration. These are being developed under the principles agreed between the UK Government and Scottish and Welsh Governments at the Joint Ministerial Committee (European Negotiations) (JMC(EN)) in October 2017.

The UK Government published a 'Common Frameworks Update'¹ on 3 July that included an outline framework for Hazardous Substances (Planning). This was the first outline framework published and is an important illustration of the kinds of elements that a framework will cover, noting that all frameworks will be specific to the needs of individual policy areas.

The UK Government and devolved administrations are now developing detailed policy content for frameworks. A number of issues are being considered, including the linkages between frameworks and key areas such as the functioning of the UK internal market and the future partnership with the EU. Multilateral discussions on the policy areas where non-legislative agreements are expected will take place in due course, where they are not already underway. This progress will be overseen by JMC(EN). The UK Government is also undertaking further engagement activity across the UK, including working with devolved administration counterparts to ensure the progress on this programme of work is being communicated effectively and informed by stakeholder views.

This report details the progress made in the fifth reporting period (26 June 2019 to 25 September 2019), as required under Schedule 3 to the European Union (Withdrawal) Act 2018. On the basis of the continuing joint progress and collaboration on common frameworks, the UK Government has not sought to bring forward any section 12 regulations to date. On the basis of this, the Scottish and Welsh Governments have committed to not create divergent policy in ways that

¹ <https://www.gov.uk/government/publications/common-frameworks-update>

would cut across future frameworks, where it has been agreed they are necessary or where discussion continues.

Implementation of Future Common Frameworks

- 1.1 Part 2 of Schedule 3 to the European Union (Withdrawal) Act 2018 requires that a Minister of the Crown report to Parliament at three month intervals on various matters pertaining to common frameworks, and the use of the powers in section 12 of, and Schedule 3 to, the 2018 Act to temporarily maintain the existing EU law limits on devolved competence. Reports are shared with the devolved administrations to enable them to maintain a concurrent level of scrutiny. The last report was published on 17 July 2019 covering the reporting period 26 March to 25 June 2019.²
- 1.2 The purpose of these reports is to ensure that the process of developing common frameworks, in collaboration with the devolved administrations, is transparent and subject to robust parliamentary scrutiny.

Principles for Common Frameworks

- 1.3 Under the current devolution settlements, the devolved legislatures and administrations cannot act incompatibly with EU law. The EU laws that are in place create common UK-wide approaches even where those policy areas otherwise fall within devolved competence. The Scottish and Welsh Governments agree that common approaches will continue to be required in some areas after the UK leaves the EU.
- 1.4 In October 2017, JMC(EN) agreed principles to guide the work to create common frameworks. These principles are set out below:
 1. *Common frameworks will be established where they are necessary in order to:*
 - *enable the functioning of the UK internal market, while acknowledging policy divergence;*
 - *ensure compliance with international obligations;*
 - *ensure the UK can negotiate, enter into and implement new trade agreements and international treaties;*
 - *enable the management of common resources;*
 - *administer and provide access to justice in cases with a cross-border element;*
 - *safeguard the security of the UK.*

²https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/818155/final-edits-Fourth-s.12-report.pdf

2. *Frameworks will respect the devolution settlements and the democratic accountability of the devolved legislatures, and will therefore:*
 - *be based on established conventions and practices, including that the competence of the devolved institutions will not normally be adjusted without their consent;*
 - *maintain, as a minimum, equivalent flexibility for tailoring policies to the specific needs of each territory, as is afforded by current EU rules;*
 - *lead to a significant increase in decision-making powers for the devolved administrations.*

3. *Frameworks will ensure recognition of the economic and social linkages between Northern Ireland and Ireland and that Northern Ireland will be the only part of the UK which shares a land frontier with the EU. They will also adhere to the Belfast Agreement.*

1.5 These principles continue to guide all discussions between the UK Government and the devolved administrations on common frameworks and we will continue to detail how these have been taken into account in future iterations of this publication.

Progress Towards Establishing Future Frameworks

1.6 The following section sets out the steps taken by the UK Government, during the reporting period, toward implementing our long-term common frameworks, and explains how the frameworks principles have been taken into account.

Frameworks Publications

1.7 The ‘Common Frameworks Update’³ was published on 3 July 2019 to ensure transparency and accountability on the joint development of the UK Government and devolved administrations’ policy regarding the establishment of common frameworks.

1.8 The update included three documents:

- A ‘Progress Update on Common Frameworks’ that highlighted the UK Government and devolved administrations’ collaboration, cross-cutting issues and the future work programme;

³ <https://www.gov.uk/government/publications/common-frameworks-update>

- An illustration of the frameworks delivery process outlining how frameworks will be developed and implemented;
- A sample outline framework (Hazardous Substances (Planning)) that covers the key elements of a framework (including policy, governance and operational detail).

1.9 The three documents were also laid before Parliament showing the Government's commitment to ensuring a transparent and inclusive process.

1.10 This update detailed how the UK Government is working together with the Welsh Government and Scottish Government, with the input of NICS, to put frameworks in place and how we plan to share this work with stakeholders, legislatures and other interested parties. The publication of an 'outline framework' provided an example of what a framework will look like and all of the elements that will be included. This is an important illustration of the kinds of things that a framework will cover, noting that all frameworks will be different and answer the unique questions of their own policy area.

Frameworks Development

1.11 Common frameworks continue to be developed through constructive discussions between the UK Government and the devolved administrations. This has continued during the latest reporting period (26 June 2019 to 25 September 2019), where detailed multilateral engagement has taken place at official level, including two joint UK Government/devolved administration Project Board meetings, and standalone sessions on:

- Waste (17 July 2019) - The discussion centred on the frameworks interaction with international obligations and trade.
- Nutrition health claims, composition and labelling (30 July 2019) - Officials made final preparations on stakeholder engagement, finalising processes and next steps towards final sign-off.
- Implementation of EU Emissions Trading System (ETS) (14 August 2019 and 3-4 September 2019) - Workshops with officials from the UK Government and devolved administrations to develop the policy, operational structure and governance of the ETS framework.
- Food and Feed Safety and Hygiene (29 August 2019) - Officials continued detailed discussions on the framework.
- Nutrition health claims, composition and labelling (5 September 2019) - The UK Government and devolved administrations conducted an informal stakeholder engagement session to test provisional conclusions made within the frameworks outline.

- Procurement (9 September 2019) - Continued detailed discussions on the draft concordat, with a focus on the interaction with international obligations.
 - Internal market (10 September 2019) - The UK government and devolved administrations held a workshop to discuss revised guidance on the internal market.
 - Nutrition health claims, composition and labelling (10 September 2019) - The UK Government and devolved administrations conducted a follow up to the informal stakeholder engagement session.
- 1.12 In the absence of Northern Ireland Executive Ministers, officials from NICS continue to participate in frameworks development on a factual and analytical basis.
- 1.13 In parallel to developing common frameworks, the UK Government is seeking to develop a shared cross-cutting approach to the internal market with the Welsh Government, Scottish Government and the Northern Ireland Civil Service.
- 1.14 The UK Government is exploring the evidence base for the level of economic integration between different nations and across different sectors in the UK; considering relevant international examples; and exploring the case for principles and governance structures which could be applied to the UK internal market, including how these could be put into practice.
- 1.15 Alongside individual framework areas, the Welsh Government, Northern Ireland Civil Service and UK Government are currently working together to explore a range of evidence and ideas, including reflecting on the experience of other countries that have formal structures to manage their internal market. This work aims to ensure that the interests of other governments, businesses, workers and consumers are fully taken into account in decision making in areas where frameworks are being considered.

Common Frameworks Analysis

- 1.16 The revised 'Frameworks Analysis' was published on 4 April 2019.⁴ This set out the progress made to develop common frameworks in collaboration with

⁴https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/792738/20190404-FrameworksAnalysis.pdf

the devolved administrations, since the initial analysis was published in March 2018.⁵

- 1.17 Updates on the common frameworks analysis will continue to be provided in future iterations of this report.

Frameworks Delivery Plan

- 1.18 Frameworks will be implemented depending on the needs of the particular policy area. This may require a combination of legislative and non-legislative measures. The process accounts for frameworks to be implemented in different ways, with some activity undertaken concurrently, to ensure that all due process has been undertaken as the framework is put in place. As a result, frameworks will be implemented at different points in time, depending on the requirements of that framework.

- 1.19 The work to establish common frameworks has five phases. The delivery plan below illustrates how a framework moves through these five phases of development. Each framework moves through at a different pace.

- **Phase 1: Principles and proof of concept:** First phase of multilateral “deep dives” (consisting of UK Government and devolved administration officials) across the 24 initial priority framework areas, as well as key cross-cutting issues.
- **Phase 2: Policy development:** Multilateral engagement work to develop framework outlines in each area; development of required frameworks legislation; the beginning of bilateral stakeholder engagement; review and scrutiny of framework outlines. At the end of this phase there will be an outline framework.
- **Phase 3: Review and consultation:** Policy finalisation and an exploration of the interaction between frameworks and other key workstreams (for example, Internal Market, international obligations etc); informal multilateral stakeholder engagement; development of required frameworks legislation; and an in-depth review and assessment process. This phase will end with collective confirmation of the policy approach, and a Provisional Framework endorsed by JMC(EN).
- **Phase 4: Preparation and implementation:** Collaborative work to prepare and deliver the implementation of legislative and

⁵https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/686991/20180307_FINAL_Frameworks_analysis_for_publication_on_9_March_2018.pdf

non-legislative elements of individual frameworks, alongside stakeholder (in addition to UK Government and devolved administrations) consultation as appropriate; required reappraisal of frameworks agreements based on the outcomes of cross-cutting issues.

- **Phase 5: Post-implementation:** Post-implementation arrangements alongside continued required reappraisal of frameworks agreements based on the outcomes of cross-cutting issues.

1.20 The revised delivery timelines for the development and implementation of frameworks were agreed by JMC(EN) on 28 June 2019. These timelines enable all frameworks to be agreed and the majority implemented by the end of 2020.

Review and Consultation

1.21 The UK Government, Scottish Government and Welsh Government have agreed that a 'Review and Assessment' process for frameworks is required before they are confirmed by JMC(EN). All frameworks will have to complete two tiers of joint UK Government/devolved administration review, alongside ministerial clearance, before implementation can begin in Phase 4. In the absence of a Northern Ireland Executive, factual and analytical input will be provided by the Northern Ireland Civil Service.

1.22 Scrutiny of frameworks will be provided at official level in two stages, firstly a light touch review at the end of Phase 2 and then a further, more in-depth review at the end of Phase 3. The Phase 2 review will begin a phased appraisal of the key cross-cutting themes and issues, including the constitutional implications of proposals and compatibility with the overarching principles underpinning common frameworks. It is not intended to consider policy conclusions specific to each area. The results of this review will be used by policy teams as a steer for further iterative changes that take place across Phase 3.

1.23 Review and Assessment at the end of Phase 3 will adopt a peer review approach, involving desk based assessment, evidence gathering and interviews, and drawing on expertise from both policy-specific and central teams. This process will address in particular the constitutional and cross-cutting impacts of each framework, in order to ensure that there is a consistent approach taken on these across the frameworks programme in line with the principles for common frameworks agreed by JMC(EN).

- 1.24 The Hazardous Substances (Planning) framework has progressed the furthest through the common frameworks programme, having completed Phase 2 (policy development). It was also the first framework to complete technical stakeholder engagement.
- 1.25 Following stakeholder feedback and further policy development as part of Phase 3, the Hazardous Substances (Planning) outline framework was published in July 2019 as part of the UK Government's Update on Common Frameworks publication.⁶ This publication has been well received and the outline framework was also independently published by the Scottish Government.
- 1.26 Hazardous Substances (Planning) is now undergoing the Phase 3 Review and Assessment, piloting the agreed review process. An initial Review and Assessment panel meeting took place on 1 August 2019 to scrutinise the framework and suggest refinements. Once it has completed Review and Assessment, it will be confirmed as a Provisional Framework and will proceed to Phase 4 to begin preparations for implementation.
- 1.27 The Emissions Trading System (ETS) framework is also progressing through the common frameworks programme and is approaching completion of Phase 2 (policy development). A joint consultation with the devolved administrations on the Future of UK Carbon Pricing⁷ set out overall governance for a UK ETS, with workshops in Belfast, Llandudno Junction, Swansea, Glasgow and London.
- 1.28 Whilst governance for a linked system is subject to negotiation, the intention is that the framework currently in place for the EU ETS would broadly be replicated with UK bodies fulfilling functions in a UK ETS. The role of the European Commission or "Authority" would be undertaken by the UK Government and the devolved administrations in line with their respective powers and responsibilities.
- 1.29 The ETS Framework is undertaking further policy development with the devolved administrations and technical stakeholder engagement.

⁶https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/814326/Frameworks_Products_Update_.pdf

⁷<https://www.gov.uk/government/consultations/the-future-of-uk-carbon-pricing>

Stakeholder Engagement

- 1.30 The UK Government recognises that engaging Parliament, the devolved administrations and wider stakeholders on common frameworks is vital and we are embarking on a series of engagements (both on the broader frameworks programme and technical, policy-specific engagement) across England, Wales, Scotland and Northern Ireland.
- 1.31 We are progressing a plan across UK Government, Welsh and Scottish governments and Northern Ireland Civil Service to engage with umbrella organisations, sector specific stakeholders and parliaments, to broaden understanding on the progress and process of the common frameworks programme.
- 1.32 Further programme engagement has taken place in this reporting period. UK Government officials participated in events for small/medium enterprises (SMEs) and related organisations in Norwich, Durham, Boston and Taunton. This engagement was part of the department for Business, Energy and Industrial Strategy (BEIS)'s SME roadshow which brings together government departments responsible for policies affecting small businesses in EU Exit. This cycle of events included HMRC, Home Office and BEIS to present on a range of issues, from exporter licencing, to immigration rules, to the UK internal market.
- 1.33 Further technical engagement also took place within the reporting period. The Nutrition, Health Claims Composition and Labelling technical stakeholder engagement event was held on 5th September 2019, with representation from the Cabinet Office Frameworks Team, devolved administrations and the Department for Health and Social Care (DHSC). Representatives from NICS were also present to engage on a factual basis.
- 1.34 This forum provided an opportunity for stakeholders with a direct interest in the policy area and operational aspects of the framework to provide feedback and ask questions of policy leads. This feedback is sought during Phase 3 in order to inform further development and implementation of the framework.
- 1.35 Alongside technical engagements, frameworks can utilise government consultations in order to gain further insight into stakeholders' interests in the policy area. An example of this is the EU Emissions Trading System framework (ETS) which released a consultation in May 2019.

- 1.36 We intend to update parliamentary committees at key moments in the process, and consult them on the arrangements that will need to be put in place to enable the formal scrutiny of frameworks.

No Deal Interim Arrangements

- 1.37 The existing political agreement states that the devolved administrations will not create divergent policy in ways that would cut across future frameworks, where it has been agreed they are necessary or where discussion continues, provided that the UK Government does not bring forward section 12 regulations.
- 1.38 Alongside this, the UK Government and the devolved administrations are working together on EU Exit Statutory Instruments to amend deficiencies in retained EU law and essential primary legislation and non-legislative operational readiness arrangements.
- 1.39 Additional interim arrangements have been developed in some areas, laying out ways of working and forums for communication. They are not frameworks, as they will not have gone through all stages of the framework development process, including an in depth review and assessment.
- 1.40 All interim arrangements are without prejudice to agreement on the final framework and the accompanying review and assessment process. Interim arrangements must also not contradict the agreed frameworks principles.
- 1.41 Wording agreed with the Northern Ireland Office and NICS is to be included in any interim arrangements.

Northern Ireland

- 1.42 Frameworks need to ensure recognition of the economic and social linkages between Northern Ireland and Ireland and that Northern Ireland will be the only part of the UK that shares a land frontier with the EU. As set out in the agreed principles, frameworks will also adhere to the Belfast ('Good Friday') Agreement.
- 1.43 Officials from the Northern Ireland Civil Service have engaged in the common frameworks process where the policy area intersects with the devolved competence of the Northern Ireland Assembly. However, in the absence of the Northern Ireland Executive, officials' input has been limited to analytical and factual responses only. Where framework arrangements have been

developed, they are without prejudice to the views of future Northern Ireland Executive Ministers.

- 1.44 Due to the absence of a Northern Ireland Executive, there remain significant limits to the decision-making capacity of the Northern Ireland Civil Service. Guidance issued by the Secretary of State under the Northern Ireland (Executive Formation and Exercise of Functions) Act 2018 (EFEF),⁸ and extended alongside the Northern Ireland (Executive Formation etc) Act 2019,⁹ enables senior officers of Northern Ireland departments to continue to take a limited range of decisions where they are satisfied that it is in the public interest to do so. Guidance under the Act will inform ongoing collective processes regarding changes to primary and secondary legislation, as well as non legislative mechanisms. Restoring the Northern Ireland Executive remains a priority for the Government.

⁸ <http://www.legislation.gov.uk/ukpga/2018/28/enacted>

⁹ <http://www.legislation.gov.uk/ukpga/2019/22/contents/enacted>

Legislation Relating to Retained EU Law Restrictions

- 2.1 Section 12 of the EU (Withdrawal) Act removes the current requirements in each of the devolution statutes that the devolved legislatures can only legislate in ways that are compatible with EU law. The Act then replaces those requirements with powers for the UK Government to apply, by regulations, a temporary ‘freeze’ on devolved competence in specified areas, subject to the approval of the UK Parliament, via the draft affirmative scrutiny procedure.
- 2.2 The process for making, agreeing and revoking these regulations can be found in our first report: *The European Union (Withdrawal) Act and Common Frameworks - 26 June 2018 to 25 September 2018*¹⁰.

Regulations to ‘Freeze’ Devolved Competence

Retained EU law restrictions applied during reporting period

- 2.3 No regulations have been made to apply retained EU law restrictions under these powers during the reporting period.

Progress towards removal of retained EU law restrictions

- 2.4 No retained EU law restrictions made under the powers in sections 30A and 57(4) of the Scotland Act 1998, sections 80(8) and 109A of the Government of Wales Act 2006, or sections 6A and 24(3) of the Northern Ireland Act 1998 had effect at the end the reporting period.

Regulations to Repeal the ‘Freezing’ Powers

- 2.5 In addition to the ‘freezing’ powers inserted into the devolution statutes by the EU (Withdrawal) Act, section 12(9) confers a power on UK Ministers to repeal, by regulations, the new provisions containing those powers.

Powers to apply retained EU law restrictions repealed during reporting period

- 2.6 No regulations have been made under section 12(9) of the EU (Withdrawal) Act to repeal the powers to apply retained EU law restrictions during the reporting period.

¹⁰<https://www.gov.uk/government/publications/the-european-union-withdrawal-act-and-common-frameworks-report>

Progress required in order to repeal the powers to apply retained EU law restrictions

- 2.7 The UK Government has not sought to make use of the powers to apply retained EU law restrictions at this juncture. As outlined earlier in this report, significant progress is being made across policy areas to establish common frameworks in collaboration with the devolved administrations.
- 2.8 The ‘freezing’ powers provide a mechanism to give certainty across those areas where common rules do need to be maintained, by ensuring that there will not be substantive policy change in different parts of the UK until those future arrangements are in place. In order to remove those powers from the statute book, further progress towards the implementation of common frameworks would be needed. We will keep this position under review, in line with the statutory duty in section 12(10) of the EU (Withdrawal) Act.

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**WRITTEN STATEMENT
BY
THE WELSH GOVERNMENT**

TITLE **The Rights, Equality and Citizenship Programme (Revocation)
(EU Exit) Regulations 2019**

DATE **16 October 2019**

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

**The Rights, Equality and Citizenship Programme (Revocation) (EU Exit)
Regulations 2019**

The law which is being amended

- Regulation (EU) No. 1381/2013 of the European Parliament and of the Council of 17 December 2013 establishing a Rights, Equality and Citizenship Programme for the period 2014 to 2020.
- Regulation 3 of The Rights, Equality and Citizenship Programme (Revocation) (EU Exit) Regulations 2019 revokes Regulation (EU) No. 1381/2013 of the European Parliament and of the Council of 17 December 2013 establishing a Rights, Equality and Citizenship Programme for the period 2014 to 2020 (Text with EEA relevance). That Regulation establishes an EU programme on rights, equality and citizenship for the period 2014 to 2020, which aims to protect and promote specific rights and freedoms under EU law.

Policy Overview of the SI

The Regulation established an EU programme on rights, equality and citizenship for the period 2014 to 2020, which aims to protect and promote specific rights and freedoms under EU law.

The policy areas covered by the 2019 Regulations can be broadly broken down into:

1. Promote non–discrimination
2. Combat racism, xenophobia, homophobia and other forms of intolerance
3. Promote rights of persons with disabilities
4. Promote equality between women and men and gender mainstreaming
5. Prevent violence against children, young people, women and other groups at risk (Daphne)
6. Promote the rights of the child

7. Ensure the highest level of data protection
8. Promote the rights deriving from Union citizenship
9. Enforce consumer rights

Currently there is one funded project in Wales- 'Action against dating violence'

The purpose of the amendments

To revoke Regulation (EU) No. 1381/2013 of the European Parliament and of the Council of 17 December 2013 establishing a Rights, Equality and Citizenship Programme for the period 2014 to 2020

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

The SI has a limited impact on the Welsh Ministers executive competence. The SI transfers functions from the EU Commission to the Secretary of State for Wales. There is only one project in Wales, and the funding arrangement put in place by the SI is for a limited period of time only. The SI will ensure that the funding of the project in Wales will be uninterrupted. It does not affect the Welsh Ministers powers set out in section 60 (Promotion of well-being) and 58A (Executive Ministerial Functions) of the Government of Wales Act 2006, which would enable them to establish a similar scheme in the future, if that became Welsh Government policy.

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

The SI has no impact on the National Assembly for Wales' legislative competence.

The Regulations and accompanying Explanatory Memorandum, setting out the effect of amendments is available here: <https://beta.parliament.uk/work-packages/bqh5LDYF>

Why consent was given

There is no divergence between the Welsh Government and the UK Government on the policy for the correction. 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.

In this instance, the effect of the SI is for a limited period of time and will allow for continuity and efficiency of payment. When decisions need to be made about successor funds, Welsh Government will be fully involved in those conversations.

UK MINISTERS ACTING IN DEVOLVED AREAS

155- The Rights, Equality and Citizenship Programme (Revocation) (EU Exit) Regulations 2019

Laid in the UK Parliament: 14 October 2019

Sifting

Subject to sifting in UK Parliament?	No
Procedure:	Made 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	N/A
Date sifting period ends in UK Parliament	N/A
Written statement under SO 30C:	Paper 16
SICM under SO 30A (because amends primary legislation)	Not required

Scrutiny procedure

Outcome of sifting	N/A
Procedure	Made 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 were made by the UK Government pursuant to section 8(1) of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018. In accordance with paragraph 5(2) of Schedule 7 to the 2018 Act, the Secretary of State is of the opinion that, by reason of urgency, it is necessary to make the Regulations without a draft being laid before, and approved by, a resolution of each House of Parliament.

The instrument revokes Regulation (EU) No 1381/2013 (the "Regulation") of the European Parliament and of the Council of 17 December 2013, establishing a Rights, Equality and Citizenship Programme for the period 2014 to 2020. It aims to protect and promote specific rights and freedoms of individuals under EU law. It specifically provides funding for various projects.

If, as a result of the UK's departure from the European Union, the European Commission ceases to provide funding to UK participants, the instrument allows the Secretary of State to provide financial assistance to make up the shortfall. The provision will only apply to projects established under the Regulation where funding was granted on or after exit day but before 31 December 2020. The instrument, therefore, has transitional effect.

Legal Advisers agree with the statement laid by the Welsh Government dated 16 October 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.



**WRITTEN STATEMENT
BY
THE WELSH GOVERNMENT**

TITLE **The Agricultural Products, Food and Drink (Amendment etc.)(EU Exit) Regulations 2019**

DATE **16 October 2019**

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

The Agricultural Products, Food and Drink (Amendment etc.)(EU Exit) Regulations 2019

The law which is being amended

Domestic Legislation

- The Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009
- The Natural Mineral Water, Spring Water and Bottled Drinking Water Regulations (Northern Ireland) 2015
- The Food and Farming (Amendment) (EU Exit) Regulations 2019
- The Environment, Food and Rural Affairs (Amendment) (EU Exit) Regulations 2019

EU Legislation

- Regulation (EC) No 110/2008 of the European Parliament and of the Council
- Commission Regulation (EC) No 606/2009
- Commission Delegated Regulation (EU) No 664/2014
- Commission Implementing Regulation (EU) No 668/2014
- Commission Delegated Regulation (EU) 2018/273
- Commission Implementing Regulation (EU) 2018/274
- Regulation (EU) 2018/1670 of the European Parliament and of the Council
- Commission Delegated Regulation (EU) 2019/33
- Commission Implementing Regulation (EU) 2019/34
- Regulation (EU) 2019/787 of the European Parliament and of the Council

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

Although these Regulations make only minor changes to Statutory Instruments which have already been consented to by Welsh Ministers, largely due to the entry into force of Regulation (EU) 2019/787 in May 2019, they relate to an area of competence which is in dispute. In our view, the transfer of functions to the Secretary of State without encumbrance in relation to Geographical Indicator Schemes (GIs) will impact the legislative competence of the National Assembly for Wales, and the executive competence of the Welsh Ministers. This is not recognised by the UK Government who believe that such schemes fall within reserved matters.

Consequently, while the Welsh Government has previously sought joint decision making functions within this instrument in relation to approving food names and GIs, the UK Government has maintained its view that these matters are reserved.

However, in an exchange of letters between the Minister for Environment, Energy and Rural Affairs and the Secretary of State, written assurances have been given that all Devolved Administrations will be involved in the operation of the new scheme. The Welsh Government will continue to work to ensure that the arrangements that will underpin the instrument provides for a clear role for Welsh Ministers in the administration of the scheme.

Where a function has been transferred to the Secretary of State with the consent of Welsh Ministers this will constitute functions of a Minister of the Crown for the purposes of paragraph 11(2) of Schedule 7B to GoWA 2006, which restricts the Assembly's legislative competence to remove or modify such functions without consulting the relevant UK Government Minister. This means that a future Assembly Bill seeking to remove or modify this function could trigger a requirement to consult, but would not require consent from the UK Government prior to modification.

The purpose of the amendments

This instrument provides for the domestic administration and enforcement of UK GIs, which will provide legal protection from imitation for all products recognised by the schemes. This instrument also creates UK operable regulations to administer and enforce the wine and spirit drink sector standards on definition, description, presentation and labelling.

GIs

Currently EU Regulations provide for the registration and protection of GIs in the UK. These cover i) agricultural products and foodstuffs ii) wines iii) spirit drinks and iv) aromatised wines.

There are sixteen Welsh food products registered under the European Scheme, including Welsh lamb and Welsh beef. GI is an important award as it is seen as a mark of quality which can give producers a greater economic benefit for their produce. The schemes provide legal protection from imitation for both regional and traditional specialties, whose authenticity and origin can be guaranteed. This gives assurance to consumers that products are genuine and enables producers to better promote and market their products.

EU regulations have also governed the definition, description, presentation and labelling rules for spirit drinks, as well as the definition, description, presentation, labelling and oenological rules for wines and aromatised wines.

As the UK leaves the EU, it is vital that rules are in place to continue the protection afforded to these products by these EU Regulations. Under the European Union (Withdrawal) Act 2018, the relevant EU regulations will be converted into UK law. This instrument amends those regulations (and existing domestic regulations) on GI schemes and the wine and spirit drink sectors. The amendments made by this instrument will create working UK GI schemes, and domestically enforceable UK regulations for the wine and spirit drink sectors. This will ensure the UK continues to protect the 86 product names from the UK that are registered as GIs under the EU schemes and continues to meet its World Trade Organisation obligations.

The amendments made by this instrument make a number of corrections, for example:

- 1) The GI schemes will be administered as UK schemes, not as European schemes. All GI applications will go through a single UK scrutiny and opposition process, rather than the current two-stage process (the current Member State and European Commission stages will be combined into a single modified UK scheme process);
- 2) Appeals provisions are being introduced as a result of the UK assuming new responsibilities and functions, previously belonging to the EU. These allow those with a legitimate interest to appeal to the First-tier Tribunal where they disagree with decisions made in the administration of the scheme; and
- 3) The instrument paves the way for the creation and use of new UK GI logos, including allowing existing UK agri-food GIs three years to comply with the requirement to use the new UK logo when trading in the UK market.

This instrument is being made using the power in section 8 of 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 European Union. The instrument is also made under the powers in paragraph 1 of Schedule 4 and paragraph 21 of Schedule 7 to the European Union (Withdrawal) Act 2018.

The Regulations and accompanying Explanatory Memorandum, setting out the effect of amendments is available here: <https://beta.parliament.uk/work-packages/95VyiSCG>

Consent

Welsh Ministers had to weigh up fully the importance of maintaining the Welsh Government's view on competence against the practical importance of ensuring protection for the 16 Welsh GIs should the UK leave the EU. There is no divergence in underlying policy and these amendments are necessary to ensure that the statute book remains functional following the UK's exit from the EU.

We have a strong interest in ensuring that Welsh GIs are protected throughout the UK (and ideally, through the negotiations on the UK's membership, the EU). While the Welsh

Government's position is that these matters are devolved, the UK Government considers them to be reserved, and therefore these matters are not subject to the terms of the Intergovernmental Agreement, from its perspective. It has not been possible to resolve these matters within the timeframe required to ensure a functioning statute book.

We have not been able to secure joint decision making functions for Welsh Ministers in relation to approving food names and GIs. However, the Secretary of State has provided written assurances that all Devolved Administrations will have a clear role in the development and operation of the new scheme. Consent has therefore been given subject to the satisfactory conclusion of establishing the arrangements for the scheme which will deliver on this commitment and on the basis that it is without prejudice to our position on legislative competence.

UK MINISTERS ACTING IN DEVOLVED AREAS

156 - Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2019

Laid in the UK Parliament: 14 October 2019

Sifting

Subject to sifting in UK Parliament?	No
Procedure:	Made 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	N/A
Date sifting period ends in UK Parliament	N/A
Written statement under SO 30C:	Paper 18
SICM under SO 30A (because amends primary legislation)	Not required

Scrutiny procedure

Outcome of sifting	N/A
Procedure	Made 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 of Schedule 7 to, the European Union (Withdrawal) Act 2018.

These Regulations amend retained EU food and drink legislation. The provisions in these Regulations largely amend rules on wine and spirit drinks, with most of them concerning geographical indication (“GI”) schemes. The amendments generally replace the current EU GI schemes with UK GI schemes. There are also a small number of EU Exit amendments to EU law on food and agricultural GI schemes.

The changes being made by these Regulations are minor changes to statutory instruments which have already been consented to by Welsh Ministers but which relate to an area of competence which is in dispute, as set out in the statement laid by the Welsh Government dated 16 October 2019.

Legal Advisers agree with the statement laid by the Welsh Government dated 16 October 2019 regarding the effect of these Regulations.

The above summary and the content of the Explanatory Memorandum to these Regulations confirm their effect. We are satisfied that the Regulations are only making corrections to the current legislative framework to ensure that it remains operable, rather than enacting new policy in devolved areas.

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 Common Agricultural Policy (Market Measures, Notifications and Direct Payments) (Miscellaneous Amendments) (EU Exit) Regulations 2019**

DATE **16 October 2019**

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

The Common Agricultural Policy (Market Measures, Notifications and Direct Payments) (Miscellaneous Amendments) (EU Exit) Regulations 2019

The Law which is being amended

European Directly Applicable instruments amended by the 2019 Regulations

- Commission Implementing Regulation (EU) No 543/2011 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 in respect of the fruit and vegetables and processed fruit and vegetables sectors;
- Commission Delegated Regulation (EU) 2017/891 of 13 March 2017 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council with regard to the fruit and vegetables and processed fruit and vegetables sectors and supplementing Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to penalties to be applied in those sectors;
- Commission Implementing Regulation (EU) 2017/892 of 13 March 2017 laying down rules for the application of Regulation (EU) No 1308/2013 of the European Parliament and of the Council with regard to the fruit and vegetables and processed fruit and vegetables sectors;
- Commission Implementing Regulation (EU) 2017/1185 laying down rules for the application of Regulation (EU) No 1307/2013 and (EU) No 1308/2013 of the European Parliament and of the Council as regards notifications to the Commission of information and documents.

Domestic EU exit instruments amended by the 2019 Regulations

- Agriculture (Legislative Functions) (EU Exit) Regulations 2019.

The purpose of the amendments

The 2019 Regulations amend provisions of European Union (“EU”) legislation relating to the EU Common Agricultural Policy (“CAP”). This legislation will be retained after the

withdrawal of the United Kingdom (“UK”) from the EU in a ‘no deal’ scenario, and so these instruments make amendments to ensure that the provisions remain operable after EU Exit. One domestic regulation concerning part of the retained EU CAP legislation is further amended by these instruments.

The Common Organisation of the Markets in Agricultural Products (Producer Organisations) (Amendment) (EU Exit) Regulations 2019 amends reserved provisions relating to a part of the CAP called the Common Organisation of Agricultural Markets (“CMO”).

The Common Organisation of the Markets in Agricultural Products (Market Measures and Notifications) (Amendment) (EU Exit) Regulations 2019 amends devolved CMO provisions and makes further amendments to domestic law relating to the financial discipline mechanism

The 2019 Regulations and accompanying Explanatory Memorandum, setting out the effect of amendments are available here: <https://beta.parliament.uk/work-packages/ho90Co5B>

Impact the SI may have on the Welsh Ministers’ executive competence

The 2019 Regulations transfer administrative functions so that they are exercisable by the Welsh Ministers without encumbrance.

They do not transfer legislative functions.

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

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.

The 2019 Regulations will follow the ‘urgent made affirmative procedure’ which is set out in paragraph 5 of Schedule 7 to the European Union (Withdrawal) Act 2018. In accordance with this procedure, the 2019 Regulations may be made without a draft of the instrument being laid before, and approved by a resolution of, each House of Parliament, provided a declaration is made by the relevant Minister that as a result of urgency, it is necessary to make the regulations without a draft being laid and approved.

UK MINISTERS ACTING IN DEVOLVED AREAS

157 - The Common Agricultural Policy (Market Measures, Notifications and Direct Payments) (Miscellaneous Amendments) (EU Exit) Regulations 2019

Laid in the UK Parliament: 14 October 2019

Sifting

Subject to sifting in UK Parliament?	No
Procedure:	Made 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	N/A
Date sifting period ends in UK Parliament	N/A
Written statement under SO 30C:	Paper 20
SICM under SO 30A (because amends primary legislation)	Not required

Scrutiny procedure

Outcome of sifting	N/A
Procedure	Made 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 were made by the UK Government pursuant to section 8(1) of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018.

The instrument amends provisions of European Union legislation relating to the EU Common Agricultural Policy ("CAP"). The instrument amends four European directly applicable instruments concerning producer groups, producer organisations and notifications in the fruit and vegetables and processed fruit and vegetables sectors. The EU legislation which these Regulations amend will be retained should the UK leave the EU in a 'no deal' scenario. These Regulations make amendments to ensure that the provisions remain operable after the UK's withdrawal from the EU.

These Regulations also amend one domestic EU exit instrument, the Agriculture (Legislative Functions) (EU Exit) Regulations 2019, relating to the financial discipline mechanism.

These Regulations were made by the UK Government on 14 October 2019 and are subject to the urgent 'made affirmative'. UK Government considers it important to urgently have these Regulations in place before exit day so as to provide confidence and certainty to the public and business and to ensure the effective functioning of the statute book after EU Exit.

Legal Advisers agree with the statement laid by the Welsh Government dated 16 October 2019 regarding the effect of these Regulations.

The above summary and the content of the Explanatory Memorandum to these Regulations confirm their effect. We are satisfied that the Regulations are only making corrections to the current legislative framework to ensure that it remains operable, rather than enacting new policy in devolved areas.

Legal Advisers do not consider that any significant issues arise under paragraph 8 of the Memorandum on the European Union (Withdrawal) Bill.



**WRITTEN STATEMENT
BY
THE WELSH GOVERNMENT**

TITLE	The Persistent Organic Pollutants (Amendment) (EU Exit) Regulations 2019
DATE	16 October 2019
BY	Rebecca Evans AM, Minister for Finance and Trefnydd

The Persistent Organic Pollutants (Amendment) (EU Exit) Regulations 2019 (the “2019 Regulations”)

The Law which is being amended/ revoked

- The Chemicals (Health and Safety) and Genetically Modified Organisms (Contained Use) (Amendment etc.) (EU Exit) Regulations 2019
- The Environment and Wildlife (Legislative Functions) (EU Exit) Regulations 2019
- Regulation (EU) 2019/1021 on Persistent Organic Pollutants
- Part 4 of the Persistent Organic Pollutants (Amendment) (EU Exit) Regulations 2018

The purpose of the amendments

The 2019 Regulations make the necessary corrections to ensure that Regulation (EU) 2019/1021 of the European Parliament and of the Council on persistent organic pollutants (POPs) functions once we leave the European Union (“EU”). This includes transferring legislative and administrative functions that are currently conferred by EU legislation upon the European Commission (“the Commission”) and the European Chemicals Agency (“ECHA”), to be exercisable instead by public authorities in the United Kingdom (“UK”), so that they can be exercised at national level after the UK leaves the EU.

The 2019 Regulations revoke the following regulations; part 4 of the Persistent Organic Pollutants (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1405) which made corrections to the, now repealed, Regulation (EC) No 850/2004 on POPs; and regulation 2 of the Environment and Wildlife (Legislative Functions) (EU Exit) Regulation 2019 (S.I. 2019/473) which transferred legislative functions contained in Regulation (EC) No 850/2004 on POPs.

The 2019 Regulations also make consequential amendments to the Chemicals (Health and Safety) and Genetically Modified Organisms (Contained Use) (Amendment etc.) (EU Exit) Regulations 2019

The 2019 Regulations and accompanying Explanatory Memorandum, setting out the effect of amendments are available at: <https://beta.parliament.uk/work-packages/HdaKby6V>

Any impact the SI may have on the legislative competence of the National Assembly for Wales and/or the Welsh Ministers' executive competence

The 2019 Regulations contain provision which enables the Welsh Ministers to exercise functions in relation to Wales without encumbrance and for the Welsh Ministers to provide consent to the Secretary of State to exercise functions in relation to Wales. Functions transferred to the Secretary of State on a concurrent basis may constitute functions of a Minister of the Crown for the purposes of paragraph 11 of Schedule 7B to the Government of Wales Act 2006.

This may operate as a constraint on the Assembly's legislative competence to remove or modify such functions without seeking the consent of the relevant UK Government Minister.

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.

The 2019 Regulations will follow the 'urgent made affirmative procedure' which is set out in paragraph 5 of Schedule 7 to the European Union (Withdrawal) Act 2018. In accordance with this procedure, the 2019 Regulations may be made without a draft of the instrument being laid before, and approved by a resolution of, each House of Parliament, provided a declaration is made by the relevant Minister that as a result of urgency, it is necessary to make the regulations without a draft being laid and approved.

UK MINISTERS ACTING IN DEVOLVED AREAS

158 - The Persistent Organic Pollutants (Amendment) (EU Exit) Regulations 2019

Laid in the UK Parliament: 14 October 2019

Sifting

Subject to sifting in UK Parliament?	No
Procedure:	Made 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	N/A
Date sifting period ends in UK Parliament	N/A
Written statement under SO 30C:	Paper 22
SICM under SO 30A (because amends primary legislation)	Not required

Scrutiny procedure

Outcome of sifting	N/A
Procedure	Made 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 corrections to ensure that Regulation (EU) 2019/1021 of the European Parliament and of the Council on persistent organic pollutants (POPs) functions once the UK leaves the European Union.

This includes transferring legislative and administrative functions that are currently conferred by EU legislation upon the European Commission and the European Chemicals Agency, to be exercisable instead by public authorities in the UK, so that they can be exercised at national level after exit day.

As regards devolved policy areas in Wales, the Regulations contain provisions which enable the Welsh Ministers to exercise functions without

encumbrance and also for the Welsh Ministers to provide consent for the Secretary of State to exercise functions in relation to Wales.

Legal Advisers agree with the statement laid by the Welsh Government dated 16 October 2019 regarding the effect of these Regulations.

The above summary and the content of the Explanatory Memorandum to these Regulations confirm their effect. We are satisfied that the Regulations are only making corrections to the current legislative framework to ensure that it remains operable, rather than enacting new policy in devolved areas.

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	Statutory Instrument (SI) for the Creative Europe Programme and Europe for Citizens Programme (Revocation) (EU Exit) 2019 and associated Agency Agreement
DATE	29 October 2019
BY	Lord Elis-Thomas AM, Deputy Minister for Culture, Sport and Tourism

Written Statement – Statutory Instrument (SI) for the Creative Europe Programme and Europe for Citizens Programme (Revocation) (EU Exit) 2019 and associated Agency Agreement

The Regulations which are being revoked

The SI revokes Regulation 1295/2013 (establishing the Creative Europe Programme for the period 2014 to 2020) (“the CE Regulation”), Regulation (EU) 2018/596 (amending the CE Regulation) and Council Regulation (EU) No 390/2014 (establishing the Europe for Citizens Programme) (“the EfC Regulation”), as retained in domestic law under the European Union (Withdrawal) Act 2018 (“the Act”).

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

This SI makes no new provisions in respect of the UK Parliament or the UK Government relating to matters that fall within either the legislative competence of the National Assembly for Wales or the executive competence of the Welsh Ministers. It does contain provisions that revoke EU regulations retained in UK law relevant to these Programmes which require the prior consent of the Welsh Ministers.

The purpose of the revocation

This instrument addresses deficiencies that would arise in EU Regulations, and puts in place contingency arrangements that may be needed, following the UK’s departure from the EU without a withdrawal agreement being in place.

The Creative Europe Programme is the European Union’s financial support programme for the audiovisual and cultural industries. It supports training, project development and the

distribution and promotion of European audiovisual and cultural works. The Europe for Citizens Programme funds projects that promote understanding between the European Union and its citizens, deepening awareness of what it means to be European and developing a sense of European identity. The Programmes commenced on 1 January 2014 and will run to the end of 2020.

In that event that the UK leaves the EU without a withdrawal agreement in place, the European Commission would no longer be able to provide funding to UK participants in either Programme. Therefore, in line with the terms of the UK Government guarantee in relation to EU-funded programmes given in 2016 and extended in July 2018 (the “HMG Guarantee”, notified to Parliament in written statement HCWS926), the instrument will give powers to the Secretary of State for Digital, Culture, Media and Sport to provide financial assistance, in relation to England and Northern Ireland only, to participants in the Creative Europe Programme and the Europe for Citizens Programme - if the European Commission ceases to provide funding to UK participants on or after exit day because of the UK’s withdrawal from the EU.

The SI and accompanying Explanatory Memorandum, setting out the effect of each amendment is available here: <https://www.gov.uk/eu-withdrawal-act-2018-statutory-instruments/the-creative-europe-programme-and-europe-for-citizens-programme-revocation-eu-exit-regulations-2019>

Why consent was given

There is no divergence between the Welsh Government and the UK Government on the policy for the correction. Therefore, making separate arrangements would lead to duplication and unnecessary complication. The SI has no impact on the devolution settlement and causes no diminishment of the Welsh Ministers’ powers, as it grants no new powers to the Secretary of State in relation to Wales.

To enable the Secretary of State to provide financial assistance to participants of these Programmes in Wales, I have today also agreed that the Welsh Ministers will enter into an Agency Agreement with the Secretary of State pursuant to section 83(1) of the Government of Wales Act 2006. This will allow the Secretary of State to use the existing powers of the Welsh Ministers, on a temporary basis, to pay Creative Europe and Europe for Citizens recipients in Wales who may be entitled to funding under the Guarantee. The Agency Agreement will ensure that the Welsh Ministers retain competence. DCMS has agreed to carry out the functions under the powers of the Welsh Ministers only when interacting with organisations based in Wales. The Welsh Ministers’ powers are derived from section 60 of the Government of Wales Act 2006.

Timing

As stated above, this SI contains provisions that properly require the prior consent of the Welsh Ministers. Unfortunately, despite the fact that Welsh Government and DCMS officials have worked collaboratively since October 2018 to ensure the HMG Guarantee can be delivered in a way that respects the devolution settlement that did not happen in this case. The SI was Made and Laid before Parliament without our knowledge in March this year. We

only became aware of this sometime later, as discussions about the Agency Agreement continued. On 16 July, once it became clear that a breach of the intergovernmental agreement between our Governments had occurred, the then Secretary of State, Jeremy Wright QC MP, wrote to me seeking retrospective consent. He acknowledged and apologised for an unintended breach of the intergovernmental agreement.

I replied on 12 August to the new Secretary of State, the Rt Hon Nicky Morgan MP, saying that whilst I was reassured by her predecessor's statements that this failure was unintentional, and that the UK Government remains committed to the intergovernmental agreement, I view these events extremely seriously - especially as the National Assembly had not been informed about the SI in good time. I said I would take further advice and consult the Counsel General and Brexit Minister before responding to the request for retrospective consent.

We are now content that the SI has passed through required Parliamentary processes and would legally come into effect in the event of the UK leaving the EU without an agreement. We are also content that it has no impact on the devolution settlement and causes no diminishment of the Welsh Ministers' powers. Further, the Agency Agreement will ensure that the Welsh Ministers retain competence.

In these circumstances, to ensure the continuation of funding to Programme participants in Wales, I am prepared to grant retrospective consent. I have today written to the Secretary of State informing her of my decision and have instructed officials to finalise the Agency Agreement with DCMS. In my letter have reiterated that the Welsh Ministers expect the intergovernmental agreement to be properly respected and that there must be no reoccurrence of these events.

UK MINISTERS ACTING IN DEVOLVED AREAS

159 - Creative Europe Programme and Europe for Citizens Programme (Revocation) (EU Exit) Regulations 2019

Laid in the UK Parliament: 8 February 2019

Sifting

Subject to sifting in UK Parliament?	Yes
Procedure:	Proposed negative
Date of consideration by the House of Commons European Statutory Instruments Committee	26 February 2019
Date of consideration by the House of Lords Secondary Legislation Scrutiny Committee	18 February 2019
Date sifting period ends in UK Parliament	26 February 2019
Written statement under SO 30C:	Paper 24
SICM under SO 30A (because amends primary legislation)	Not required

Scrutiny procedure

Outcome of sifting	Negative
Procedure	Negative
Date of consideration by the Joint Committee on Statutory Instruments	24 April 2019
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	18 March 2019

Commentary

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

The Regulations revoke EU legislation that would form part of retained EU law on exit day relating to the Creative Europe Programme and Europe for Citizens Programme.

The Creative Europe Programme is the European Union's financial support programme for the audio-visual and cultural industries. It supports training, project development and the distribution and promotion of European audio-visual and cultural works.

The Europe for Citizens Programme funds projects that promote understanding between the European Union and its citizens, deepening

awareness of what it means to be European and developing a sense of European identity.

Legal Advisers agree with the statement laid by the Welsh Government dated 29 October 2019 regarding the effect of these Regulations.

We note the explanation provided in the written statement about funding for Welsh participants in Creative Europe and Europe for Citizens programmes, in the event that the UK leaves the EU without a deal. We note that the UK Government would provide such funding under the terms of an agency arrangement entered into by the Welsh Government and the UK Government (under section 83 of the Government of Wales Act 2006).

We also note the transparent explanation provided in the written statement as to how the Regulations were made without the knowledge, or the consent, of the Welsh Government.

We acknowledge the explanation that this was an unintended breach of the Intergovernmental Agreement by the UK Government, and that the Welsh Government has since given consent after the event to the Regulations, on the basis that, in its view, there is no impact on the powers of either the Assembly or the Welsh Ministers, and that the matter can be dealt with via the agency agreement mentioned above.

However, we note that it appears that the Welsh Government became aware of the breach of the Intergovernmental Agreement sometime between March and 16 July 2019, on which date the Secretary of State wrote to the Deputy Minister. It is unclear why the National Assembly was not notified of the breach until 29 October 2019.

Agenda Item 8

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

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