

Agenda – Constitutional and Legislative Affairs Committee

Meeting Venue:

Committee Room 1 – Senedd

Meeting date: 2 December 2019

Meeting time: 14.30

For further information contact:

Gareth Williams

Committee Clerk

0300 200 6362

SeneddCLA@assembly.wales

- 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)–33–10 – Paper 1 – Statutory instruments with clear reports
Negative Resolution Instruments
- 2.1 SL(5)470 – The Renting Homes (Fees etc.) (Specified Information) (Wales) Regulations 2019**
(Page 2)
CLA(5)–33–19 – Paper 2 – Letter from the Residential Landlords Association,
22 November 2019

- 3 Instruments that raise issues to be reported to the Assembly under Standing Order 21.2 or 21.3**
14.35–14.40
Made Affirmative Resolution Instruments
- 3.1 SL(5)471 – The Non–Domestic Rating (Multiplier) (Wales) Order 2019**
(Pages 3 – 16)
CLA(5)–33–19 – Paper 3 – Report
CLA(5)–33–19 – Paper 4 – Order
CLA(5)–33–19 – Paper 5 – Explanatory Memorandum



CLA(5)–33–19 – Paper 6 – Letter from the Minister for Finance and Trefnydd to the Llywydd, 14 November 2019

4 Paper(s) to note

14.40–14.45

4.1 Letter from the Minister for Finance and Trefnydd: Regulatory impact assessment code for subordinate legislation

(Page 17)

CLA(5)–33–19 – Paper 7 – Letter from the Minister for Finance and Trefnydd, 21 November 2019

4.2 Letter from the Minister for Environment, Energy and Rural Affairs: Wild Animals and Circuses (Wales) Bill

(Pages 18 – 19)

CLA(5)–33–19 – Paper 8 – Letter from the Minister for Environment, Energy and Rural Affairs, 28 November 2019

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

14.45

6 The Commission on Justice in Wales: Public Law and Administrative Justice

14.45–15.30

(Pages 20 – 34)

Dr Sarah Nason, Bangor University

CLA(5)–33–19 – Briefing paper

7 A procedure for Consolidation Bill scrutiny

15.30

(Pages 35 – 39)

CLA(5)–33–19 – Paper 9 – Key issues paper

Date of the next meeting – 9 December

Statutory Instruments with Clear Reports

02 December 2019

SL(5)470 – The Renting Homes (Fees etc.) (Specified Information) (Wales) Regulations 2019

Procedure: Negative

These Regulations set out information which must be provided to a prospective contract-holder by either the landlord or letting agent, before a holding deposit is paid. These Regulations also specify the way in which the information must be provided.

If the information in regulation 2(2) is not provided to a prospective contract-holder before a holding deposit is paid, the landlord may not rely upon the exceptions set out in paragraphs 8, 9 and 10 of Schedule 2 to the Renting Homes (Fees etc.) (Wales) Act 2019 and the holding deposit must be repaid. Regulation 2(3) sets out how the information must be provided.

Parent Act: Renting Homes (Fees etc.) (Wales) Act 2019

Date Made: 12 November 2019

Date Laid: 15 November 2019

Coming into force date: 13 December 2019



Agenda Item 2.1



Gareth Williams – The Clerk,
Constitutional and Legislative Affairs Committee,
National Assembly for Wales,
Cardiff.

22nd November 2019

Subject: The Renting Homes (Fees etc.) (Specified Information) (Wales) Regulations 2019

Dear Mr Williams,

I write to you as a matter of urgency regarding the laying of the above regulations before the National Assembly for Wales last week, which I gather are to come before your Committee in the very near future.

The RLA understands the remit of your Committee and does not intend to make arguments of policy but wanted to bring to your attention some issues with the technical workings and merits the regulations have, as they stand, as we believe they need to be addressed as soon as possible.

The issue we would like to raise with you specifically surrounds point (2)(c) which demands a prospective contract-holder be provided with the “*name, address, telephone number and any email address of the landlord (and if instructed, the letting agent)*”, and the date on which the regulations come into force, 13 December 2019.

We ask that the Committee consider the following:

- Does the requirement for letting agents to disclose such details (the personal address of the landlord as opposed to an address upon which notices can be served, for example, or indeed a personal phone or email address) come into conflict with existing data protection law?
- Is the timescale sufficient to introduce these changes – which requires agents to amend the terms and conditions with all their landlord clients and change future agreements – and ensure compliance with the regulations, as is the Welsh Government’s aim?

We thank you in advance for your consideration of these concerns. We have cc’d into this letter the Minister for Housing and Local Government as a matter of transparency.

Yours sincerely,

A handwritten signature in red ink, appearing to be 'D Haig', written over a horizontal line.

Douglas Haig

RLA Vice Chairman & Director for Wales

Cc: Julie James AM, Minister for Housing and Local Government.

SL(5)471 – The Non-Domestic Rating (Multiplier) (Wales) Order 2019

Background and Purpose

This Order sets the increase in the non-domestic rating multiplier for Wales for the financial year 2020-21. It reflects the use of the Consumer Prices Index (CPI) rather than the Retail Prices Index (RPI) to calculate the multiplier.

Under the Local Government Finance Act 1988, the annual increase in the multiplier should be calculated using the RPI figure for the September preceding the financial year to which the multiplier applies. For 2020-21 the RPI figure would have been 291.0.

The multiplier is applied to the rateable value of each non-domestic property to calculate its non-domestic rates bill. The Order applies the CPI figure (289.0) in place of the RPI figure (291.0). This results in a smaller increase in the 2020-21 rates bills to be paid by businesses and other non-domestic property owners than would be the case if the RPI figure were used.

Procedure

Made affirmative.

This means that the Welsh Ministers can make the Order without approval from the National Assembly for Wales, but the Order is not effective unless it is approved by the Assembly before the Assembly approves the local government finance report for the financial year beginning 1 April 2020.

The Assembly is due to debate the local government finance report on 10 December 2019.

Technical Scrutiny

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

Merits Scrutiny

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

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

We note:

- (a) the importance of this Order and the vital part it plays in calculating the funding that will be available under the annual local government revenue settlements, and
- (b) the decision by the Welsh Government to use the lower Consumer Price Index figure as part of the calculation of non-domestic rating bills, rather than the default (and higher) Retail Price Index figure (which mirrors the Welsh Government's approach in the equivalent Order from 2018).

Implications arising from exiting the European Union

None.



Government Response

A government response is not required.

Legal Advisers

Constitutional and Legislative Affairs Committee

20 November 2019



Order laid before the National Assembly for Wales under paragraph 5(15) of Schedule 7 to the Local Government Finance Act 1988, for approval by resolution of the National Assembly for Wales before the approval by the Assembly of the local government finance report for the financial year beginning on 1 April 2020.

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

2019 No. (W.)

**RATING AND VALUATION,
WALES**

**The Non-Domestic Rating
(Multiplier) (Wales) Order 2019**

EXPLANATORY NOTE

(This note is not part of the Order)

This Order is made under paragraph 5(3) of Schedule 7 to the Local Government Finance Act 1988 (“the Act”).

In relation to Wales, the non-domestic rating multiplier is calculated in each financial year when new lists are not being compiled in accordance with paragraph 3B of Schedule 7 to the Act. 2020 is a year when new lists are not being compiled.

The formula in paragraph 3B of Schedule 7 to the Act includes an item B which is the retail prices index for September of the financial year preceding the year concerned, unless the Welsh Ministers exercise their power under paragraph 5(3) of Schedule 7 to the Act to specify, by Order, a different amount for item B. If the Welsh Ministers exercise that power in relation to a financial year, the different amount so specified must be lower than the retail prices index for September of the preceding financial year. The retail prices index for September of the preceding financial year is 291.0.

This Order specifies that for the financial year beginning on 1 April 2020 the amount for item B is 289.0.

In accordance with paragraph 5(15) of Schedule 7 to the Act, the Order will only come into force if it is approved by a resolution of the National Assembly for

Wales (“the Assembly”) before the Assembly approves the local government finance report for the financial year beginning on 1 April 2020.

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 Local Government Taxation Policy Branch, the Local Government Strategic Finance Division, Welsh Government, Cathays Park, Cardiff, CF10 3NQ.

Order laid before the National Assembly for Wales under paragraph 5(15) of Schedule 7 to the Local Government Finance Act 1988, for approval by resolution of the National Assembly for Wales before the approval by the Assembly of the local government finance report for the financial year beginning on 1 April 2020.

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

2019 No. (W.)

**RATING AND VALUATION,
WALES**

**The Non-Domestic Rating
(Multiplier) (Wales) Order 2019**

Made 14 November 2019

Laid before the National Assembly for Wales
19 November 2019

Approved by the National Assembly for Wales

Coming into force in accordance with article
1(2)

The Welsh Ministers make the following Order in exercise of the power conferred on the Treasury by paragraph 5(3) of Schedule 7 to the Local Government Finance Act 1988(1) and now vested in them so far as that power is exercisable in relation to Wales(2).

Title, commencement and application

1.—(1) The title of this Order is the Non-Domestic Rating (Multiplier) (Wales) Order 2019.

(2) This Order comes into force on the day after the day on which it is approved by a resolution of the

(1) 1988 c. 41.

(2) The power under paragraph 5(3) of Schedule 7 to the Local Government Finance Act 1988, so far as exercisable in relation to Wales, was transferred to the National Assembly for Wales by virtue of article 2 of, and Schedule 1 to, the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672). By virtue of paragraphs 30 and 32 of Schedule 11 to the Government of Wales Act 2006 (c. 32), the power is now vested in the Welsh Ministers.

National Assembly for Wales, provided that the approval of the Order is given before the approval by the Assembly of the local government finance report for the financial year beginning on 1 April 2020.

(3) This Order applies in relation to Wales.

Non-domestic rating multiplier

2. For the purpose of paragraph 3B of Schedule 7 to the Local Government Finance Act 1988, for the financial year beginning on 1 April 2020, B is specified as 289.0.

Rebecca Evans

Minister for Finance and Trefnydd, one of the Welsh Ministers

14 November 2019

Explanatory Memorandum to the Non-Domestic Rating (Multiplier) (Wales) Order 2019

This Explanatory Memorandum has been prepared by Local Government Strategic Finance Division 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 Non-Domestic Rating (Multiplier) (Wales) Order 2019.

Rebecca Evans AM
Minister for Finance and Trefnydd
19 November 2019

Contents

PART 1: EXPLANATORY MEMORANDUM 3

1. Description 3

2. Matters of Special Interest to the Constitutional and Legislative Affairs Committee 3

3. Legislative background 4

4. Purpose and Intended Effect of the Legislation 4

PART 2: REGULATORY IMPACT ASSESSMENT6

ANALYSIS OF OTHER EFFECTS AND IMPACTS.....7

PART 1: EXPLANATORY MEMORANDUM

1. Description

This Order sets the increase in the non-domestic rating (NDR) multiplier for Wales for the financial year 2020-21. It reflects the use of the Consumer Prices Index (CPI) rather than the Retail Prices Index (RPI) to calculate the multiplier.

Under the Local Government Finance Act 1988 (the 1988 Act), the annual increase in the multiplier should be calculated using the RPI figure for the September preceding the financial year to which the multiplier applies. For 2020-21 the RPI figure would have been 291.0.

The multiplier is applied to the rateable value (RV) of each non-domestic property to calculate its non-domestic rates bill. The Order applies the CPI figure in place of the RPI figure. This results in a smaller increase in the 2020-21 rates bills to be paid by businesses and other non-domestic property owners than would be the case if the RPI figure were used.

The formula used for calculating the NDR multiplier in a non-revaluation year is:

$(A \times B) / C$.

A is the multiplier for the preceding financial year

B is the RPI for September of the preceding financial year

C is the RPI for September of the financial year two years before.

Welsh Ministers may substitute a figure for B which is less than the RPI figure. As CPI is used as the measure for increasing the multiplier, B is calculated based on CPI.

The substituted figure for B is calculated by taking the percentage change in CPI from September of the preceding financial year and September of the financial year two years before and multiplying by RPI for September of the financial year two years before. For 2020-21, B has been calculated as 289.0.

2. Matters of Special Interest to the Constitutional and Legislative Affairs Committee

Under the 1988 Act, an order which enables the multiplier to be increased at below the level of RPI must be approved by the Assembly through an affirmative resolution procedure (paragraph 5(15) of Schedule 7 to the 1988 Act). Under the procedure, after the Order is made, it must be laid before the Assembly for approval.

The relevant provision specifically provides that the order must be approved by the Assembly before the vote on the Local Government Finance Reports (the final local government settlement and final police settlement) taking place. The

debate on the local government settlement for 2020-21 is expected to take place in February 2020.

3. Legislative background

Under the 1988 Act, for financial years in which new rating lists do not apply (ie. all years which are not revaluation years), the default position for determining the non-domestic rating multiplier for Wales is to apply the formula set out in paragraph 3B to Schedule 7 to the 1988 Act. An element in that formula is the RPI for September of the financial year preceding the year concerned. The financial year beginning 1 April 2020 is not a revaluation year and therefore there will not be a new rating list.

Under paragraph 5(3) of Schedule 7 to the 1988 Act, the Welsh Ministers have the power to increase a multiplier at below the level of inflation as measured by RPI. It is this power which the Welsh Ministers propose to exercise in making this Order.

As the Welsh Government is diverging from the normal practice of increasing the multiplier by RPI, Ministers are required, under paragraph 5(15) of Schedule 7 to the 1988 Act, after making the Order to limit the increase at below RPI, to lay it before the Assembly for approval.

The Order is subject to a made/provisional affirmative procedure and must be approved by the Assembly for it to be effective. It is also a requirement of the 1988 Act that any such Order is approved before the local government finance reports (for unitary authorities and police and crime commissioners) are approved by the Assembly. This requirement for prior agreement of the multiplier arises because it plays a vital part in calculating the total funding available in the annual settlements.

The debate on the Local Government Finance Report for unitary authorities for 2020-21 is expected to be scheduled for debate in early 2020. The debate to approve the Order is scheduled to take place on 10 December 2019.

4. Purpose and Intended Effect of the Legislation

The Order will have the effect of increasing the NDR multiplier by CPI rather than RPI for the financial year 2020-21. By applying CPI for 2020-21, the multiplier will be set at 0.535.

This will mean that non-domestic property owners and occupiers in Wales will receive lower rates bills for 2020-21 than they would have if RPI was used.

Primary legislation does not currently provide the Welsh Ministers with powers to permanently change the rate of inflation used to calculate the multiplier from RPI to CPI. Therefore, the Order will apply for 2020-21 only.

This follows on from 2019-20 where the change was achieved through subordinate legislation, the Non-Domestic Rating (Multiplier) (Wales) (No. 2) Order 2018.

All owners or occupiers of non-domestic properties who pay rates will benefit from the change. Even properties which receive significant amounts of rates relief will benefit as the residual amounts will be calculated using a lower multiplier.

All the non-domestic rates collected in Wales are pooled centrally and distributed to unitary authorities and to police and crime commissioners as part of the annual local government settlements. The total amount to be distributed in this way is known as the Distributable Amount. It is calculated by applying the multiplier to the estimated national total of rateable value, taking account of any surplus or deficit carried forward from previous years.

The Distributable Amount is a key component of the annual local government revenue settlements and the 1988 Act requires that it is approved by the Assembly as part of the annual local government finance reports. The multiplier therefore needs to be determined before the annual settlements can be finalised.

There is a clear purpose to the policy behind the legislation. It is aimed at supporting economic growth and reducing the tax liability for businesses and other non-domestic ratepayers in Wales, ensuring they are not at a disadvantage compared to other parts of the United Kingdom.

Using CPI rather than RPI to increase the multiplier in Wales will reduce the income into the non-domestic rates pool in 2020-21. The reduction will be fully funded by the Welsh Government and will be reflected in the calculations for the local government settlements so that there is no financial impact on local authorities.

CPI has been used to calculate the multiplier in Wales since 2018-19 and the Welsh Ministers have determined that CPI should be used to calculate the multiplier for future years. The use of CPI since 2018-19 has been achieved through annual orders. To make the change on a permanent basis requires primary legislation to amend the Local Government Finance Act 1988. It is intended that provisions are included in the Local Government and Elections (Wales) Bill to achieve this. It is expected that the amendment will have effect in time for the 2021-22 financial year.

5. Consultation

No consultation has been undertaken on the policy behind this Order. The policy position has not changed since this was agreed for the 2018-19 financial year. The proposals benefit all ratepayers in Wales and there is no impact on the resources available to local authorities.

PART 2: REGULATORY IMPACT ASSESSMENT

Options

Option 1 – Use RPI to increase the multiplier

This option would increase the multiplier for 2020-21 by RPI at September 2019 (2.40%), resulting in a multiplier of 0.539.

Option 2 – Increase the multiplier by the equivalent of CPI

This option would increase the multiplier for 2020-21 by CPI at September 2019 (1.78%), resulting in a multiplier of 0.535.

Costs and benefits

Option 1 – Use RPI to increase the multiplier

The following illustrates the effect of using RPI to increase the multiplier on the non-domestic rates bill of a property.

For example, if a property has a rateable value (RV) as assessed by the Valuation Office Agency of £15,000, the rates bill for 2019-20 (before any reliefs) would have been:

$$\text{RV } \pounds 15,000 \times 0.526 = \pounds 7,890$$

Applying RPI would result in an annual rates bill for 2020-21 of:

$$\text{RV } \pounds 15,000 \times 0.539 = \pounds 8,085$$

The increase in the annual charge would therefore be £195.

Option 2 – Increase the multiplier by the equivalent of CPI

This option would result in a lower increase in rates bills for all non-domestic properties than under RPI. Using the example from Option 1.

The rates bill for 2019-20 was:

$$\text{RV } \pounds 15,000 \times 0.526 = \pounds 7,890$$

An increase using CPI for 2020-21 would give a bill of:

$$\text{RV } \pounds 15,000 \times 0.535 = \pounds 8,025$$

The increase in rates for the property would therefore be £135, £60 less than if RPI were used.

The total saving to non-domestic ratepayers across Wales is estimated at around £10m. This would be a recurrent saving as the multiplier cannot be increased at a level above RPI in future years.

Option selection

The cost of limiting the increase in the multiplier (Option 2) would be borne by the Welsh Government. There would be no financial impact on local authorities. The approach also means that ratepayers in Wales would not be at a disadvantage compared to other parts of the UK.

Option 2 is therefore the preferred option.

Analysis of other effects and impacts

Promoting Economic Opportunity for All (Tackling Poverty)

Limiting the increase in the multiplier provides support for all ratepayers which could help to prevent hardship.

UNCRC

No particular impact on the rights of children has been identified.

Welsh language

No effect on the opportunities to use the Welsh language or the equal treatment of the language has been identified.

Equalities

No specific impacts, positive or negative, on persons who share a protected characteristic (as determined by the Equality Act 2010) have been identified.

Well-being of Future Generations (Wales) Act 2015

Limiting the increase in the multiplier will assist all ratepayers and, as such, will help to contribute to the achievement of the wellbeing goals of a prosperous and a more equal Wales.

Impact on voluntary sector

Limiting the increase in the multiplier will benefit all ratepayers including those operating in the voluntary, charitable and not-for-profit sectors.

Competition Assessment

A competition filter test has been applied to the Order. As the change benefits all ratepayers, no effect on competition within Wales is indicated. Limiting the multiplier means that ratepayers in Wales are not placed at a disadvantage compared to other parts of the UK.

Post implementation review

The Welsh Government will monitor the impact of the change on the non-domestic rates pool.

Rebecca Evans AC/AM
Y Gweinidog Cyllid a'r Trefnydd
Minister for Finance and Trefnydd



Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref

Elin Jones, AM
Llywydd
National Assembly for Wales
Cardiff Bay - CF99 1NA

14 November 2019

Dear Elin,

THE NON-DOMESTIC RATING (MULTIPLIER) (WALES) ORDER 2019

I have today made the Non-Domestic Rating (Multiplier) (Wales) Order 2019, under paragraph 5(3) of Schedule 7 to the Local Government Finance Act 1988, which comes into force on 1 April 2020, subject to the Assembly's agreement. I attach a copy of the statutory instrument and the accompanying Explanatory Memorandum, which I intend to lay once the statutory instrument has been registered.

In accordance with the procedure set out in paragraph 5(15) of Schedule 7 to the Local Government Finance Act 1988, this instrument must be approved by the National Assembly for Wales before the Assembly approves the Local Government Finance Report for the financial year beginning 1 April 2020, or before 1 March in the preceding financial year, whichever is earlier, in order for it to be effective. In these circumstances I understand Standing Order 21.4A is relevant and the Business Committee may establish and publish a timetable for the responsible committee or committees to report. It may be helpful to know that I intend to hold the plenary debate for this item of subordinate legislation on 10 December.

I am copying this letter to Mick Antoniw AM, Chair of the Constitutional and Legislative Affairs Committee, Llyr Gruffydd AM, Chair of the Finance Committee and Sian Wilkins, Head of Chamber and Committee Services.

Yours sincerely,

Rebecca Evans AC/AM
Y Gweinidog Cyllid a'r Trefnydd
Minister for Finance and Trefnydd

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:
0300 0604400

Bae Caerdydd • Cardiff Bay
Caerdydd • Cardiff
CF99 1NA

Correspondence.Rebecca.Evans@gov.wales
Gohebiaeth.Rebecca.Evans@llyw.cymru

Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

Rebecca Evans AC/AM
Y Gweinidog Cyllid a'r Trefnydd
Minister for Finance and Trefnydd

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

21 November 2019

Dear Mick,

Thank you for your letter relating to the Welsh Ministers' regulatory impact assessment code for subordinate legislation.

The code has not been formally reviewed since its publication in 2009. While the general approach set out in the code for producing RIAs for Welsh subordinate legislation is still considered to be broadly correct, the Welsh Government recognises that some of the terminology and references in the code need to be updated.

I have therefore instructed officials to review the code and to consult with relevant individuals and organisations on a revised code during 2020.

Yours sincerely,



Rebecca Evans AC/AM
Y Gweinidog Cyllid a'r Trefnydd
Minister for Finance and Trefnydd

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:
0300 0604400

Bae Caerdydd • Cardiff Bay
Caerdydd • Cardiff
CF99 1NA

Correspondence.Rebecca.Evans@gov.wales
Gohebiaeth.Rebecca.Evans@llyw.cymru

Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.



Mick Antoniw AM,
Chair, Constitutional and Legislative
Affairs Committee

28 November 2019

Dear Mick,

Wild Animals and Circuses (Wales) Bill

Further to my appearing before the Committee on 21 October, I feel it would be of benefit to the Committee to clarify some of the issues raised in relation to the Regulation making powers in the Wild Animals and Circuses (Wales) Bill.

The Regulation making powers are in sections 3 and 4 of the Bill and allow for the specification of what is or is not to be regarded as a wild animal, and what is or is not to be regarded as a travelling circus.

Although the definition of a wild animal is similar across the Wild Animals and Circuses (Wales) Bill, the Wild Animals in Travelling Circuses (Scotland) Act 2018, Wild Animals in Circuses Act 2019, and Zoo Licensing Act 1981, there are some variations in the drafting although I do not anticipate these resulting in a difference in the overall common effect across the different administrations. For example, the Zoo Licensing Act 1981 defines a wild animal as being not normally domesticated in Great Britain, whilst in both the Wild Animals and Circuses (Wales) Bill and the Wild Animals in Travelling Circuses (Scotland) Act 2018 a wild animal is defined as not commonly domesticated in the British Islands. Notably however, whilst both the Wild Animals and Circuses (Wales) Bill and Wild Animals in Travelling Circuses (Scotland) Act 2018 contain Regulation making powers, the Wild Animals in Circuses Act 2019 does not contain such powers. Why the UK government decided to omit these is a matter for them, but I believe these powers are necessary in order to clarify any uncertainty in the future (should it ever arise) as to what is or is not a wild animal or travelling circus.

Bae Caerdydd • Cardiff Bay
Caerdydd • Cardiff
CF99 1NA

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:
0300 0604400

Gohebiaeth.Lesley.Griffiths@llyw.cymru
Correspondence.Lesley.Griffiths@gov.wales

Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

There was some discussion during the Committee meeting as to whether these Regulation making powers are Henry VIII powers. I would like to make clear that technically these are not Henry VIII powers as they do not provide for the textual amendment of primary legislation. However, they do allow for supplementary provision to be made which will affect the main purpose of the Bill (i.e. the offence). In that context it is undoubtedly correct for them to be subject to the affirmative procedure as provided for in the Bill.

I hope this will assist the Committee in preparing their Report ahead of the debate on the general principles of the Bill in the New Year.

Regards,

A handwritten signature in cursive script that reads "Lesley".

Lesley Griffiths AC/AM

Gweinidog yr Amgylchedd, Ynni a Materion Gwledig
Minister for Environment, Energy and Rural Affairs

Agenda Item 6

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

Document is Restricted

Document is Restricted