

# Agenda – Legislation, Justice and Constitution Committee

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Meeting Venue:	For further information contact:
Video conference via Zoom	<b>Gareth Williams</b>
Meeting date: 6 July 2020	Committee Clerk
Meeting time: 09.30	0300 200 6565
	<a href="mailto:SeneddLJC@senedd.wales">SeneddLJC@senedd.wales</a>

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In accordance with Standing Order 34.19, the Chair has determined that the public are excluded from the Committee's meeting in order to protect public health. This meeting will be broadcast live on [www.senedd.TV](http://www.senedd.TV)

Informal pre-meeting (09:00–09:30)

- 1 Introduction, apologies, substitutions and declarations of interest  
09:30
- 2 Instruments that raise issues to be reported to the Senedd under  
Standing Order 21.2 or 21.3  
09:30–09:40  
Negative Resolution Instruments
  - 2.1 SL(5)560 – The Waste (Prescribed Enactments) (Wales) Regulations 2020  
(Pages 1 – 9)  
  
CLA(5)–21–20 – Paper 1 – Report  
CLA(5)–21–20 – Paper 2 – Regulations  
CLA(5)–21–20 – Paper 3 – Explanatory Memorandum
  - 2.2 SL(5)562 – The Business Tenancies (Extension of Protection from Forfeiture  
etc.) (Wales) (Coronavirus) Regulations 2020  
(Pages 10 – 22)  
  
CLA(5)–21–20 – Paper 4 – Report  
CLA(5)–21–20 – Paper 5 – Regulations  
CLA(5)–21–20 – Paper 6 – Explanatory Memorandum



**CLA(5)–21–20 – Paper 7 – Letter from the Minister for Finance and Trefnydd to the Llywydd, 19 June 2020**

**2.3 SL(5)565 – The Education (Induction Arrangements for School Teachers) (Wales) (Amendment) (Coronavirus) Regulations 2020**

(Pages 23 – 38)

**CLA(5)–21–20 – Paper 8 – Report**

**CLA(5)–21–20 – Paper 9 – Regulations**

**CLA(5)–21–20 – Paper 10 – Explanatory Memorandum**

**2.4 SL(5)566 – The Education (Notification of School Term Dates) (Wales) (Amendment) (Coronavirus) Regulations 2020**

(Pages 39 – 48)

**CLA(5)–21–20 – Paper 11 – Report**

**CLA(5)–21–20 – Paper 12 – Regulations**

**CLA(5)–21–20 – Paper 13 – Explanatory Memorandum**

**Made Affirmative Resolution Instruments**

**2.5 SL(5)563 – The Health Protection (Coronavirus Restrictions) (Wales) (Amendment) (No. 6) Regulations 2020**

(Pages 49 – 65)

**CLA(5)–21–20 – Paper 14 – Report**

**CLA(5)–21–20 – Paper 15 – Regulations**

**CLA(5)–21–20 – Paper 16 – Explanatory Memorandum**

**CLA(5)–21–20 – Paper 17 – Letter from the First Minister to the Llywydd, 19 June 2020**

**2.6 SL(5)564 – The Curriculum Requirements (Amendment of paragraph 7(5) of Schedule 17 to the Coronavirus Act 2020) (Wales) Regulations 2020**

(Pages 66 – 77)

**CLA(5)–21–20 – Paper 18 – Report**

**CLA(5)–21–20 – Paper 19 – Regulations**

**CLA(5)–21–20 – Paper 20 – Explanatory Memorandum**

**CLA(5)–21–20 – Paper 21 – Letter from the Minister for Education to the Llywydd, 22 June 2020**

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

09:40–09:45

#### **Negative Resolution Instruments**

#### **3.1 SL(5)561 – The Vegetable Plant Material and Seed (Miscellaneous Amendments) (Wales) Regulations 2020**

(Pages 78 – 89)

CLA(5)–21–20 – Paper 22 – Report

CLA(5)–21–20 – Paper 23 – Regulations

CLA(5)–21–20 – Paper 24 – Explanatory Memorandum

### **4 Subordinate legislation that raises issues to be reported to the Senedd under Standing Order 21.7**

09:45–09:50

#### **4.1 SL(5)567 – Disapplication of Curriculum Requirements in Wales Notice 2020**

(Pages 90 – 96)

CLA(5)–21–20 – Paper 25 – Report

CLA(5)–21–20 – Paper 26 – Notice

CLA(5)–21–20 – Paper 27 – Written statement

#### **4.2 SL(5)571 – Modification of section 3 of the Education Act 1996 (Wales) Notice 2020**

(Pages 97 – 100)

CLA(5)–21–20 – Paper 28 – Report

CLA(5)–21–20 – Paper 29 – Notice

### **5 Paper(s) to note**

09:50–09:55

#### **5.1 Letter from the Minister for Environment, Energy and Rural Affairs: Response to report on the Welsh Government's Legislative Consent Memorandum on the Fisheries Bill**

(Pages 101 – 109)

**CLA(5)-21-20 – Paper 30 – Letter from the Minister for Environment, Energy and Rural Affairs, 30 June 2020**

**6 Motion under Standing Order 17.42 to resolve to exclude the public from the remainder of the meeting**

09:55

**7 Supplementary Legislative Consent Memorandum on the Agriculture Bill – consideration of draft report**

09:55–10:15

(Pages 110 – 120)

**CLA(5)-21-20 – Paper 31 – Draft report**

**CLA(5)-21-20 – Paper 32 – Letter from the Minister for Environment, Energy and Rural Affairs, 29 June 2020**

**8 Forward Work Programme – discussion**

10:15–10:30

(Pages 121 – 127)

**CLA(5)-21-20 – Paper 33 – Forward work programme**

**Date of the next meeting – 13 July 2020**

# SL(5)560 – The Waste (Prescribed Enactments) (Wales) Regulations 2020

## Background and Purpose

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Intervention by Welsh Ministers may be required to prevent harm to the environment or public health caused by waste disposal difficulties in the waste sector due to the spread of COVID-19. To deal with this, Welsh Ministers may need to use powers of Direction to require persons to take waste to specific sites and to require those sites to accept those wastes.

Under section 57(1) of the Environmental Protection Act 1990, the Welsh Ministers may direct the holder of any environmental permit authorising a waste operation to accept and keep, or accept and treat or dispose of, waste at specified places on specified terms.

Under section 57(2) of the 1990 Act, the Welsh Ministers may direct any person who is keeping waste on land to deliver the waste to a specified person on specified terms, with a view to it being treated or disposed of by that person.

Section 57(6) of the 1990 Act allows enactments to be prescribed by Regulations to ensure that a person shall not be guilty of an offence under such enactments by reason of anything done in order to comply with a Direction under section 57.

These Regulations prescribe the following enactments for the purposes of Section 57(6) of the Environmental Protection Act 1990 (defences in the case of complying with a direction):

- Sections 33, 34 and 47 of the Environmental Protection Act 1990,
- Sections 171G, 179, 187, 187A, 216 and 331 of the Town and Country Planning Act 1990,
- Section 23 of the Planning (Hazardous Substances) Act 1990,
- Regulation 65 of the Hazardous Waste (Wales) Regulations 2005,
- Regulation 56 of the Waste Batteries and Accumulators Regulations 2009,
- Parts 5, 8, and 9 of the Waste (England and Wales) Regulations 2011, and
- Regulation 38 of the Environmental Permitting (England and Wales) Regulations 2016.

## Procedure

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Negative.

## Technical Scrutiny

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

## Merits Scrutiny

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The following 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 issue of public policy likely to be of interest to the Senedd.**



The Committee notes that no consultation or regulatory impact assessment was carried out in respect of these Regulations, and notes also the explanations set out in the Explanatory Memorandum:

“The proposed Waste (Prescribed Enactments) (Wales) Regulations 2020 were not consulted on as they do not introduce sufficient changes in policy or impact on businesses or the public that would make consultation necessary. The purpose of the Regulations is to facilitate the use of existing powers and reduce the risk of challenge or failure to comply with a direction. There is no legal consultation requirement.” And:

“The need for the regulations has been identified as part of the contingency planning for issues that may arise from the spread of Covid-19. Due to the limited time available to prepare the proposed Waste (Prescribed Enactment) (Wales) Regulations 2020 an Impact Assessment has not been produced. No significant, impact on the private, voluntarily or public sector is foreseen. No substantive policy changes will be created by the legislation. The purpose of the Regulations is to facilitate the use of existing powers and reduce the risk of challenge or failure to comply with any directions.”

## Implications arising from exiting the European Union

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

## Government Response

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A Welsh Government response is not required.

### **Legal Advisers**

**Legislation, Justice and Constitution Committee**

**26 June 2020**



Senedd Cymru

**Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad**

Welsh Parliament

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**Legislation, Justice and Constitution Committee**

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

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**2020 No. 594 (W. 135)**

**ENVIRONMENT, WALES**

**The Waste (Prescribed Enactments)  
(Wales) Regulations 2020**

**EXPLANATORY NOTE**

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

These Regulations prescribe various enactments for the purposes of section 57(6) of the Environmental Protection Act 1990 (“the 1990 Act”).

Under section 57(1) of the 1990 Act, the Welsh Ministers may direct the holder of any environmental permit authorising a waste operation to accept and keep, or accept and treat or dispose of, waste at specified places on specified terms.

Under section 57(2) of the 1990 Act, the Welsh Ministers may direct any person who is keeping waste on land to deliver the waste to a specified person on specified terms, with a view to it being treated or disposed of by that person.

Section 57(6) of the 1990 Act allows enactments to be prescribed by Regulations to ensure that a person shall not be guilty of an offence under such enactments by reason of anything done in order to comply with a Direction under section 57.

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 was not carried out as to the likely costs and benefits of complying with these Regulations.

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

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**2020 No. 594 (W. 135)**

**ENVIRONMENT, WALES**

**The Waste (Prescribed Enactments)  
(Wales) Regulations 2020**

*Made* 15 June 2020

*Laid before Senedd Cymru* 17 June 2020

*Coming into force* 9 July 2020

The Welsh Ministers make the following Regulations in exercise of the power conferred by section 57(6) of the Environmental Protection Act 1990<sup>(1)</sup>.

**Title, commencement and expiry**

1.—(1) The title of these Regulations is the Waste (Prescribed Enactments) (Wales) Regulations 2020.

(2) These Regulations come into force on 9 July 2020.

**Enactments prescribed for the purpose of section 57(6) of the Environmental Protection Act 1990**

2.—(1) The following enactments are prescribed for the purposes of section 57(6) of the Environmental Protection Act 1990—

- (a) sections 33, 34 and 47 of the Environmental Protection Act 1990<sup>(2)</sup>;

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(1) 1990 c. 43. The powers of the Secretary of State in so far as exercisable in relation to Wales under section 57 were transferred to the National Assembly for Wales by virtue of article 2 of, and paragraph 1 of Schedule 1 to, the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672). These powers were subsequently transferred to the Welsh Ministers by virtue of section 162 of, and paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c. 32).

(2) Section 33 is amended by the Environment Act 1995, the Clean Neighbourhoods and Environment Act 2005, S.I. 2007/3538, S.I. 2006/937, S.I. 2009/1799, S.I. 2015/664, S.I. 2016/1154 and S.I. 2019/620. Section 34 is amended by S.I. 2000/1973, S.I. 2005/2900, S.I. 2006/123 (W. 16), S.I. 2007/3538, S.I. 2009/1799, S.I. 2010/675 and S.I. 2011/988.



- (b) sections 171G, 179, 187, 187A, 216 and 331 of the Town and Country Planning Act 1990(1);
- (c) section 23 of the Planning (Hazardous Substances) Act 1990(2);
- (d) regulation 65 of the Hazardous Waste (Wales) Regulations 2005(3);
- (e) regulation 56 of the Waste Batteries and Accumulators Regulations 2009(4);
- (f) parts 5, 8, and 9 of the Waste (England and Wales) Regulations 2011(5); and
- (g) regulation 38 of the Environmental Permitting (England and Wales) Regulations 2016(6).

(2) A person shall not be guilty of an offence under any of these enactments by reason of anything necessarily done or omitted in order to comply with a direction under section 57 of the Environmental Protection Act 1990.

*Hannah Blythyn*

Deputy Minister for Housing and Local Government,  
under the authority of the Minister for Housing and  
Local Government, one of the Welsh Ministers  
15 June 2020

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(1) 1990 c. 8. Section 171G was added by the Planning and Compulsory Purchase Act 2004 and amended by S.I. 2015/664. Section 179 was substituted by the Planning and Compensation Act 1991, and amended by S.I. 2015/664. Section 187 was amended by the Planning and Compensation Act 1991, and S.I. 2015/664. Section 187A was added by the Planning and Compensation Act 1991 and amended by the Localism Act 2011. Section 216 was amended by the Planning and Compensation Act 1991.

(2) 1990 c. 10 as amended by the Planning and Compensation Act 1991 and S.I. 2015/664.

(3) S.I. 2005/1806 (W. 138) as amended by S.I. 2011/971 (W. 141).

(4) S.I. 2009/890 as amended by S.I. 2019/188.

(5) S.I. 2011/988, to which there are various amendments.

(6) S.I. 2016/1154 as amended by S.I. 2018/1227.

## **Explanatory Memorandum to the Waste (Prescribed Enactments) (Wales) Regulations 2020.**

This Explanatory Memorandum has been prepared by the Department of Housing and Local Government and is laid before Senedd Cymru in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1

### **Minister/Deputy Minister's Declaration**

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Waste (Prescribed Enactments) (Wales) Regulations 2020

Hannah Blythyn  
Deputy Minister for Housing and Local Government  
17 June 2020

## **PART 1**

### **1. Description**

These Regulations would prevent the holder of an environmental permit, or a person keeping waste on land who is served with a direction by a Welsh Minister to take waste to a specific site or to accept specific wastes, from being liable to prosecution for breaching other enactments.

### **2. Matters of special interest to the Legislation, Justice and Constitution Committee**

None.

### **3. Legislative background**

The powers of the Secretary of State under section 57 of the Environmental Protection Act 1990 were transferred to the Senedd Cymru and have subsequently been transferred to the Welsh Ministers.

Under section 57(1) of the 1990 Act, the Welsh Ministers may direct the holder of any environmental permit authorising a waste operation to accept and keep, or accept and treat or dispose of, waste at specified places on specified terms.

Under section 57(2) of the 1990 Act, the Welsh Ministers may direct any person who is keeping waste on land to deliver the waste to a specified person on specified terms, with a view to it being treated or disposed of by that person.

Section 57(6) of the 1990 Act allows enactments to be prescribed by Regulations to ensure that a person shall not be guilty of an offence under such enactments by reason of anything done in order to comply with a Direction under section 57.

These Regulations prescribe the following enactments for the purposes of Section 57(6) of the Environmental Protection Act 1990 (defences in the case of complying with a direction);

- Sections 33, 34 and 47 of the Environmental Protection Act 1990,
- Sections 171G, 179, 187, 187A, 216 and 331 of the Town and Country Planning Act 1990,
- Section 23 of the Planning (Hazardous Substances) Act 1990,
- Regulation 65 of the Hazardous Waste (Wales) Regulations 2005,
- Regulation 56 of the Waste Batteries and Accumulators Regulations 2009,
- Parts 5, 8, and 9 of the Waste (England and Wales) Regulations 2011, and
- Regulation 38 of the Environmental Permitting (England and Wales) Regulations 2016.

Section 161 of the Act states that Regulations are subject to the negative resolution procedure.

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

The spread of COVID-19 could increase pressures on the management of waste in Wales. Intervention by Welsh Ministers may be required to prevent harm to the environment or public health caused by waste disposal difficulties in the waste sector. Ministers may need to use powers of Direction to require persons to take waste to specific sites and to require those sites to accept those wastes.

The purpose of these Regulations is to prevent those directed from being liable to prosecution for breaching other enactments, by prescribing the relevant enactments in Regulations.

The ability for Ministers to be able direct waste operators will be an important mitigating action in the event of serious issues arising with stockpiling of waste or unauthorised waste disposal. Directions may need to be served on operators that are not responsible for any of the issues caused by the waste, but, who have the facilities/ability to manage wastes in the most appropriate way. It would be unfair for a business that is being directed to help manage wider community problems to be made responsible for any associated breach of legislation. Without the Regulations the possibility of enforcement and prosecution against a company could have a financial and reputational impact on that company. Introducing the Regulations reduces the risk of challenge or non-compliance with a Direction, which will reduce the potential for delays at a time when there may be an urgent need to deal with any waste problems.

The use of a Direction, would be considered in cases of potential risk to human health or the environment or impacts on business and communities. The precise risks would be considered carefully at the time, before a decision to serve a Direction is made.

#### **5. Consultation**

The proposed Waste (Prescribed Enactments) (Wales) Regulations 2020 were not consulted on as they do not introduce sufficient changes in policy or impact on businesses or the public that would make consultation necessary. The purpose of the Regulations is to facilitate the use of existing powers and reduce the risk of challenge or failure to comply with a direction. There is no legal consultation requirement.

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

The need for the regulations has been identified as part of the contingency planning for issues that may arise from the spread of Covid-19. Due to the limited time available to prepare the proposed Waste (Prescribed Enactment) (Wales) Regulations 2020 an Impact Assessment has not been produced. No significant, impact on the private, voluntarily or public sector is foreseen. No

substantive policy changes will be created by the legislation. The purpose of the Regulations is to facilitate the use of existing powers and reduce the risk of challenge or failure to comply with any directions.

## **7. Post implementation review**

The Regulations are drafted in such a way that the enactments prescribed only have effect when waste operators are operating under a Direction. A post implementation review period is therefore not required.

## SL(5)562 – The Business Tenancies (Extension of Protection from Forfeiture etc.) (Wales) (Coronavirus) Regulations 2020

### Background and Purpose

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Section 82 of the Coronavirus Act 2020 ensures that re-entry or forfeiture for non-payment of rent may not be enforced in relation to all types of commercial tenants during the “relevant period”. Section 82(12) of the Coronavirus Act 2020 defines the “relevant period” as beginning on 26 March 2020, and ending on 30 June 2020, or such later date as may be specified in regulations made by the relevant national authority.

The Welsh Ministers are the relevant national authority in relation to Wales. Accordingly, these Regulations extend the “relevant period” until 30 September 2020. As a result of these Regulations, the moratorium provided by section 82 of the Coronavirus Act 2020 is extended until 30 September 2020.

### Procedure

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Negative.

### Technical Scrutiny

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

### Merits Scrutiny

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Two points 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 Senedd**

We note the breach of the 21-day rule (i.e. the rule that 21 days should pass between the date a “made negative” instrument is laid before the Senedd and the date the instrument comes into force), and the explanation for the breach provided by Rebecca Evans MS, Minister for Finance and Trefnydd, in a [letter](#) to the Llywydd dated 19 June 2020.

In particular, we note the following paragraphs from that letter:

“The Welsh Government has been engaging with the UK Government on this issue in relation to a Code of Practice for landlords and tenants which seeks to promote improved cooperation between parties in dealing with the business challenges of COVID-19 as it impacts on business tenancy arrangements. In order to allow sufficient consideration of the Code by relevant parties to take place, the Regulations have been laid less than 21 days before coming into force.

Not bringing the Regulations in to effect from 30 June 2020 would lead to an undesirable gap in the protections which are designed to promote stability and resilience within the Welsh economy at a period of significant difficulty. Not adhering to the 21-day convention is thought necessary and justifiable in this case.”



## **2. 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 Senedd**

We note there has been no formal consultation on these Regulations, but we welcome the clarity of the explanatory material (including the Explanatory Note, the Explanatory Memorandum and the Regulatory Impact Assessment), which very helpfully sets out the background to these Regulations.

Providing explanatory material in a clear and helpful way helps the Committee carry out effective and efficient scrutiny.

### Implications arising from exiting the European Union

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None.

### Government Response

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A Welsh Government response is not required.

#### **Legal Advisers**

**Legislation, Justice and Constitution Committee**

**29 June 2020**



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

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**2020 No. 606 (W. 140)**

**LANDLORD AND TENANT,  
WALES**

**The Business Tenancies (Extension  
of Protection from Forfeiture etc.)  
(Wales) (Coronavirus) Regulations  
2020**

**EXPLANATORY NOTE**

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

Section 82 of the Coronavirus Act 2020 ensures that re-entry or forfeiture for non-payment of rent may not be enforced in relation to all types of commercial tenants during the “relevant period”. Section 82(12) of the Act defines the “relevant period” as beginning on 26 March 2020, and ending on 30 June 2020, or such later date as may be specified in regulations made by the relevant national authority.

The Welsh Ministers are the relevant national authority in relation to Wales. Accordingly, these Regulations extend the “relevant period” until 30 September 2020. As a result of these Regulations, the moratorium provided by section 82 of the Act is extended until 30 September 2020.

The Welsh Ministers’ Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained from the Welsh Government, Cathays Park, Cardiff, CF10 3NQ and on the Welsh Government’s website at [www.gov.wales](http://www.gov.wales).



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W E L S H   S T A T U T O R Y  
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**2020 No. 606 (W. 140)**

**LANDLORD AND TENANT,  
WALES**

**The Business Tenancies (Extension  
of Protection from Forfeiture etc.)  
(Wales) (Coronavirus) Regulations  
2020**

<i>Made</i>	<i>17 June 2020</i>
<i>Laid before Senedd Cymru</i>	<i>19 June 2020</i>
<i>Coming into force</i>	<i>30 June 2020</i>

The Welsh Ministers make the following Regulations in exercise of the power conferred on them by section 82(12) of the Coronavirus Act 2020<sup>(1)</sup>.

**Title and commencement**

**1.**—(1) The title of these Regulations is the Business Tenancies (Extension of Protection from Forfeiture etc.) (Wales) (Coronavirus) Regulations 2020.

(2) These Regulations come into force on 30 June 2020.

**Extension of relevant period providing protection from forfeiture etc.**

**2.** For the purposes of section 82 (business tenancies in England and Wales: protection from forfeiture etc.) of the Coronavirus Act 2020, the “relevant period”, as defined in subsection (12) of that section ends, in relation to Wales, with 30 September 2020.

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(1) 2020 c.7.

*Ken Skates*  
Minister for Economy, Transport and North Wales  
17 June 2020

## **Explanatory Memorandum to the Business Tenancies (Extension of Protection from Forfeiture etc.) (Wales) (Coronavirus) Regulations 2020**

This Explanatory Memorandum has been prepared by the Economy, Skills & Natural Resources Group and is laid before Senedd Cymru 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 Business Tenancies (Extension of Protection from Forfeiture etc.) (Wales) (Coronavirus) Regulations 2020. I am satisfied that the benefits justify the likely costs.

Ken Skates MS

Minister for Economy, Transport and North Wales

19 June 2020

## **PART 1**

### **1. Description**

These Regulations make provision to extend the duration of the moratorium provided by section 82 of the Coronavirus Act (2020) (“the Act”), during which a right of re-entry or forfeiture, under a relevant business tenancy, for non-payment of rent may not be enforced, by action or otherwise.

### **2. Matters of special interest to the Legislation, Justice and Constitution Committee**

#### European Convention on Human Rights

Whilst the Regulations engage the right to the peaceful enjoyment of property (Article 1, Protocol 1) under the European Convention on Human Rights, the Government considers that the Regulations are proportionate, necessary and are in the public interest due to the exceptional circumstances arising out of COVID-19.

Article 1, Protocol 1 is a qualified right, which permits the Welsh Ministers to interfere with the exercise of that right where it is necessary in the general public interest and proportionate.

The restrictions imposed by section 82 of the Act are temporary and balance the need to maintain an appropriate response to the threat posed by the COVID-19 against the rights of individuals and businesses. Extending the restrictions by a further 3 months through these Regulations is necessary to protect the broader public interest caused by liquidity issues due to the current situation caused by COVID-19. The restrictions are proportionate in that they allow that rent will remain payable during this period, and a landlord will still be able to take action in response to non-payment at the end of the relevant period, providing that the landlord and the tenant have not entered into a rent deferment agreement or such other similar agreement which prevents the landlord from taking such action.

### **3. Legislative background**

Section 82 of the Act makes provision that a right of re-entry or forfeiture, under a relevant business tenancy, for non-payment of rent may not be enforced, by action or otherwise, during the “relevant period”. Section 82(12) of the Act defines the “relevant period” as beginning with the day after the day the Act was passed (26<sup>th</sup> March 2020), and ending with 30<sup>th</sup> June 2020, or such later date as may be specified by the relevant national authority in regulations. The power to specify a later date may be exercised on more than one occasion so as to further extend the period.

The Welsh Ministers are the “relevant national authority” in relation to Wales, and may therefore make regulations to extend the “relevant period” for protections

beyond 30<sup>th</sup> June 2020, thereby maintaining the protection provided by section 82 of the Act to such later date specified in regulations.

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

The purpose of the Regulations is to specify that the “relevant period”, as defined by section 82(12) of the Act, is to end with 30<sup>th</sup> September 2020 in relation to Wales.

The effect of the Regulations is to extend the “relevant period” in which a right of re-entry or forfeiture, under a relevant business tenancy, for non-payment of rent may not be enforced, by action or otherwise for a further 3 months to 30<sup>th</sup> September 2020.

## **PART 2 – REGULATORY IMPACT ASSESSMENT**

### **5. Options**

Two options have been considered:

Option 1: Do nothing - Allow the provision protecting commercial tenants from eviction due to non-payment of rent to lapse on 30<sup>th</sup> June 2020.

Option 2: Lay Regulations to extend the protection for a further 3 months to 30<sup>th</sup> September 2020.

#### **Costs and benefits**

There are potential financial implications associated with both options. With option 2 there may be increasing pressure for Welsh Ministers to provide additional financial support to commercial landlords during this period to counteract the protection provided to tenants. Extending the protection is intended to facilitate the re-starting of the economy by trying to ensure businesses are still in a position to operate when the current restrictions are lifted. The following is a qualitative assessment of the likely impact of each option. It has not been possible to produce a quantified assessment at this time.

#### **Option 1: Do nothing - Allow the provision protecting commercial tenants from forfeiture proceedings due to non-payment of rent to lapse on 30<sup>th</sup> June 2020.**

Without making amending Regulations, the protection will lapse and as a result there is an increased risk that commercial tenants could be evicted from their premises for non-payment of rent. As the principle aim of the original legislation was to protect commercial tenants and jobs, removal of the current protection would put those commercial tenants, some of which may have been supported financially by both the Welsh and UK Governments, back at risk as the economy recovers.

A consequence of this option is that commercial landlords will be free to take action for non-payment of rent. This will lead either to payment of some or all of rent owed by commercial tenants, or forfeiture proceedings. However, due to the uncertainty of the current economic climate, landlords would need to carefully consider whether they would benefit financially as tenants may in any event not be able make the necessary payments. It might be difficult to find a replacement tenant, or to sell the property, as demand for commercial space in some sectors (e.g. leisure, retail and hospitality) is likely to have reduced, at least in the short term.

More businesses might be at risk over the next quarter as the full effects of Coronavirus restrictions mean that many businesses have not had the opportunity to generate revenue sufficient to pay the next quarter's rent.

The conclusion is that Option 1 would not achieve the policy objective of supporting business and protecting commercial tenants from forfeiture during the Coronavirus pandemic.

### **Option 2 – Lay Regulations to extend the protection for a further 3 months to 30<sup>th</sup> September 2020**

Coronavirus has reduced economic activity, leading to a drop in income for many businesses. This option will allow the Welsh Government to continue to protect commercial tenants during this difficult time, but also does not excessively remove the rights and remedies which enable landlords to pursue non-payment of rent.

The commercial property sector and market plays an important role in the economy and in delivering and providing business critical infrastructure in the form of commercial premises from which businesses can operate and grow. It is therefore important to recognise the needs of both landlord and tenant businesses.

This option does impact on landlords, their suppliers, lenders and investors. Unofficial sources<sup>1</sup> estimate that commercial rent collection for the March quarter fell by over 25% in the UK, compared to the previous two years. The position is expected to worsen for the June quarter. Some landlords will potentially face another 3 months without rental income, with associated difficulty in servicing debt/ paying dividends to investors. Feedback from landlord representatives inform us that one of the unintended consequences of the moratorium on forfeiture for non-payment of rent is that some businesses considered capable of paying rent have taken advantage of the position and not paid landlords.

This protection does not remove the requirement to pay rent, but suspends a landlord's right to take forfeiture action for non-payment of rent. Tenants will still be liable for any arrears, and will have to pay any rent owed once the protection is lifted or face actions such as forfeiture. The landlord's actions will not prejudice them from exercising a right to forfeit in the future, once the moratorium is over, unless the landlord and tenant have agreed otherwise by way of a rent deferment agreement or such similar agreement in relation to the payment of rent.

It is understood that the UK Government and the other Devolved Administrations in Scotland and Northern Ireland are considering a similar extension. The temporary protection would be reviewed before 30<sup>th</sup> September 2020, and at that point a decision will be taken on whether a further extension is required or not.

In recommending Option 2, the Welsh Government recognises the position of landlords, as investors in and providers of critical business infrastructure. The provisions of Option 2 will continue to put landlords at something of a disadvantage in negotiating rent deferment arrangements to ease tenants' current predicaments whilst seeking to protect their assets. The UK Government has announced its intention to put in place a Code of Practice for Landlords and

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<sup>1</sup> <https://global.re-leased.com/covid19-insightsuk>

Tenants to encourage parties to work together, protect businesses and speed up recovery. The detailed provisions are in development and officials from the Devolved Administrations including the Welsh Government are involved. It is envisaged that this Code would help improve negotiations between Landlords and Tenants in reaching sensible and commercially sustainable solutions.

The UK Government continue to work with lenders to ensure flexible support is provided to commercial landlords, including payment holidays and restructuring facilities, and the Welsh Government supports this approach.

## **6. Consultation**

No public consultation has been undertaken. The policy proposals are in direct response to the Coronavirus pandemic and restrictions.

## **7. Competition Assessment**

On completion of the Competition Filter test it was determined that there are no effects on competition.

## **8. Post implementation review**

The effect of these Regulations is time limited and the position will be reviewed prior to the proposed extension end date of 30th September 2020.



Rebecca Evans AS/MS  
Y Gweinidog Cyllid a'r Trefnydd  
Minister for Finance and Trefnydd



Llywodraeth Cymru  
Welsh Government

Elin Jones AS/MS  
Llywydd Senedd Cymru  
Bae Caerdydd  
Caerdydd  
CF99 1SN

19 June 2020

Dear Llywydd,

### **The Business Tenancies (Extension of Protection from Forfeiture etc.) (Wales) (Coronavirus) Regulations 2020**

In accordance with section 11A(4) of the Statutory Instruments Act 1946, as inserted by Sch.10 para 3 of the Government of Wales Act 2006, I am notifying you that this statutory instrument will come into force less than 21 days from the date of laying. The Explanatory Memorandum for these Regulations is attached for your information.

The Regulations make provision to extend the duration of the moratorium provided by section 82 of the Coronavirus Act 2020 ("the Act"), during which a right of re-entry or forfeiture, under a relevant business tenancy, for non-payment of rent may not be enforced, by action or otherwise. The Act initially covered the relevant period concluding on 30 June 2020. However, the statutory instrument extends the protections for an additional 3 months; concluding on 30 September 2020.

The Welsh Government has been engaging with the UK Government on this issue in relation to a Code of Practice for landlords and tenants which seeks to promote improved cooperation between parties in dealing with the business challenges of COVID-19 as it impacts on business tenancy arrangements. In order to allow sufficient consideration of the Code by relevant parties to take place, the Regulations have been laid less than 21 days before coming into force.

Not bringing the Regulations in to effect from 30 June 2020 would lead to an undesirable gap in the protections which are designed to promote stability and resilience within the Welsh economy at a period of significant difficulty. Not adhering to the 21-day convention is thought necessary and justifiable in this case.

The Explanatory Memorandum is attached for your information; a Regulatory Impact Assessment has been prepared for these Regulations and is also included as part of the Explanatory Memorandum. Both are being laid, together with the Regulations, in the Table Office.

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

Bae Caerdydd • Cardiff Bay  
Caerdydd • Cardiff  
CF99 1SN


[Correspondence.Rebecca.Evans@gov.wales](mailto:Correspondence.Rebecca.Evans@gov.wales)  
[Gohebiaeth.Rebecca.Evans@llyw.cymru](mailto: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.

A copy of this letter goes to Mick Antoniw MS, Chair of the Legislation, Justice and Constitution Committee, Sian Wilkins, Head of Chamber and Committee Services and Julian Luke, Head of Policy and Legislation Committee Service

Yours sincerely,

A handwritten signature in black ink that reads "Rebecca Evans." The signature is written in a cursive style with a period at the end.

**Rebecca Evans AS/MS**  
Y Gweinidog Cyllid a'r Trefnydd  
Minister for Finance and Trefnydd

# SL(5)565 – The Education (Induction Arrangements for School Teachers) (Wales) (Amendment) (Coronavirus) Regulations 2020

## Background and Purpose

The Education (Induction Arrangements for School Teachers) (Wales) (Amendment) (Coronavirus) Regulation 2020 (“the Regulations”) are made under sections 17 and 47(1) of the Education (Wales) Act 2014. The Regulations amend the Education (Induction Arrangements for School Teachers) (Wales) Regulations 2015 (“the 2015 Regulations”).

The 2015 Regulations provide that newly qualified teachers (“NQTs”) must undertake a statutory induction period comprising of three school terms, or 380 sessions, in a school or, in certain circumstances, another institution. NQTs can count periods of employment undertaken on a full-time or part-time basis towards this requirement. Due to the re-purposing of schools in response to the Covid-19 pandemic, some NQTs who are undertaking their induction on a part-time basis are not able to meet the 380 session requirement during the current academic year. This is likely to also affect the 2020-2021 academic year.

The Regulations therefore amend the 2015 Regulations to:-

- (i) allow the “appropriate body”, namely the local authority, to reduce the required induction period for a person to a minimum of 110 school sessions, provided that the person consents (the standards required of the person undertaking the induction will remain unchanged); and
- (ii) allow sessions of professional learning to count towards a person’s induction period, subject to certain conditions. These sessions must not exceed 16% of the total length of the induction period.

## Procedure

Negative.

## Technical Scrutiny

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

### **1. That for any particular reason its form or meaning needs further explanation.**

Regulation 7 of the Regulations inserts a new Regulation 7A into the 2015 Regulations. This states that a session of professional learning undertaken by a person may count towards that person’s induction period, subject to three conditions. One of the conditions is that the learning takes place between 26 March 2020 and 31 August 2021 and another condition is that such learning is approved by the appropriate body, which would be the relevant local authority.

It is not clear from the drafting of Regulation 7A:

- (i) What standards a local authority is required to apply in order to approve professional learning sessions. The Regulations do not define what is meant by “professional learning sessions”. They



are silent as to what form or content a learning session should have in order for it to be approved and they do not provide for any guidance to be issued on this point. Alternatively, the Regulations are silent as to whether it is entirely at the discretion of the local authority as to what form or content the sessions must have in order to gain the approval of the authority.

- (ii) Whether the local authority is required to have approved any professional learning sessions prior to the sessions taking place or whether they may approve them after the event. If it is the case that the sessions must be approved before taking place then this means that any sessions which took place after 26 March 2020 but before the Regulations come into force on 15 July 2020 will not be able to achieve the status of professional learning sessions for the purpose of the Regulations. Alternatively, if the local authority is permitted to retrospectively approve sessions which took place after 26 March 2020 but before the Regulations come into force on 15 July 2020, the power to do so should be included on the face of the Regulations for the purpose of clarity.

It is noted that paragraph 5.2 of the Explanatory Memorandum states that "Revised guidance will be published and shared with stakeholders prior to the 2020 Regulations coming into force to ensure that those involved in induction will be able to clearly understand the changes made." There is no indication as to whether this guidance will address the issues raised in this technical scrutiny point.

## Merits Scrutiny

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Three 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 Senedd.**

Regulation 7 inserts a new Regulation 7A into the 2015 Regulations. This permits a session of professional learning undertaken by a person to count towards that person's induction period, subject to three conditions. One of the conditions is that the sessions must have taken place during the period commencing on 26 March 2020 and ending on 31 August 2021. The start date for this period pre-dates the date upon which the Regulations will come into force on 15 July 2020. Consideration has been given as to whether this gives the Regulations retrospective effect, in that they change the law of the past. It is considered that these Regulations do not have retrospective effect as they do not change the law of the past, but state that any sessions of professional learning which were undertaken since 26 March 2020 will, from the date upon which these Regulations come into force, be treated as professional learning sessions for the purpose of the induction arrangements, as amended by these Regulations.

### **2. 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 Senedd.**

Regulation 2 of the Regulations states that the Regulations expire on 31 August 2021. The Explanatory Memorandum to the Regulations sets out that:

"This is considered a suitable expiry date because it should allow sufficient time for the current cohort of NQTs and those starting in September 2020 to complete their induction period. Welsh Government will review the 2020 Regulations following the conclusion of one school term of the 2020/21 academic year to consider whether they are still appropriate and will continue to review them termly thereafter."



The Regulations will continue to have limited effect after 31 August 2021 in that where a person undertakes a session of professional learning which satisfies the conditions of the new Regulation 7A of the 2015 Regulations (as inserted by these Regulations), then such sessions may count towards that person's induction period as if they were school sessions after the expiry of these Regulations (provided that the maximum number of such sessions is 18). The expiry of the Regulations on 31 August 2021 will not affect the validity of anything done under the Regulations before that date.

### **3. 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 Senedd.**

It is noted that no formal consultation has taken place in relation to the Regulations. The Explanatory Memorandum notes that this is due to the urgency required to introduce this change of policy in response to the COVID-19 situation. The Explanatory Memorandum further notes that officials have engaged with key stakeholders and workforce unions in the development of the Regulations.

### **Implications arising from exiting the European Union**

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

### **Government Response**

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A Welsh Government response is required in relation to both parts of the technical scrutiny point.

#### **Legal Advisers**

**Legislation, Justice and Constitution Committee**

**30 June 2020**



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

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**2020 No. 623 (W. 143)**

**EDUCATION, WALES**

**The Education (Induction  
Arrangements for School Teachers)  
(Wales) (Amendment)  
(Coronavirus) Regulations 2020**

**EXPLANATORY NOTE**

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

These Regulations amend the Education (Induction Arrangements for School Teachers) (Wales) Regulations 2015 (S.I. 2015/484 (W. 41)) (“the 2015 Regulations”). The 2015 Regulations, together with sections 17 and 19 of the Education (Wales) Act 2014 (“the 2014 Act”), deal with the requirements for school teachers to undertake a period of induction.

Regulations 3 and 4 provide that regulations 5 to 9 will continue to have effect following the expiry of these Regulations in prescribed, limited circumstances. Otherwise, as provided for by in regulation 2, these Regulations will expire on 31 August 2021.

The Welsh Ministers will be required to review the effectiveness of these Regulations during the period they have effect (regulation 2).

These Regulations amend the 2015 regulations in two ways:

(1) They allow the appropriate body to reduce the induction period which the person is required to serve to a minimum of 110 school sessions provided the person consents (see regulation 8). The person will still be required to achieve the standards mentioned in section 18 of the 2014 Act.

(2) Regulation 8(d) inserts a new regulation 8(6) and 8(7) into the 2015 Regulations. These regulations allow sessions of professional learning to count towards a person’s induction period, provided those sessions meet the conditions set out in new regulation 7A (see regulation 7). These professional learning sessions must not exceed 16% of the total length of the induction period.

These Regulations are considered necessary as newly qualified teachers may not have been able to attend a school in order to complete their induction period due to spread of severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) in Wales.

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 as to the likely costs and benefits of complying with these Regulations has been undertaken and a copy can be obtained from the Pedagogy, Professional Standards and A level branch, the Pedagogy, Leadership and Professional Learning Division, Welsh Government, Cathays Park, Cardiff, CF10 3NQ or [inductioninfo@gov.wales](mailto:inductioninfo@gov.wales).

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

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**2020 No. 623 (W. 143)**

**EDUCATION, WALES**

**The Education (Induction  
Arrangements for School Teachers)  
(Wales) (Amendment)  
(Coronavirus) Regulations 2020**

*Made* 22 June 2020

*Laid before Senedd Cymru* 23 June 2020

*Coming into force* 15 July 2020

The Welsh Ministers make the following Regulations in exercise of the powers conferred on them by sections 17 and 47(1) of the Education (Wales) Act 2014<sup>(1)</sup>.

**Title, coming into force and interpretation**

**1.**—(1) The title of these Regulations is the Education (Induction Arrangements for School Teachers) (Wales) (Amendment) (Coronavirus) Regulations 2020.

(2) These Regulations come into force on 15 July 2020.

(3) In these Regulations, “the 2015 Regulations” means the Education (Induction Arrangements for School Teachers) (Wales) Regulations 2015<sup>(2)</sup>.

**Review and the expiry of regulations 5 to 9**

**2.**—(1) The Welsh Ministers must review the effectiveness of regulations 5 to 9 during the period for which they have effect.

(2) Subject to regulations 3 and 4, regulations 5 to 9 cease to have effect on 31 August 2021.

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(1) 2014 anaw 5.

(2) S.I. 2015/484 (W. 41).



### **Saving provisions**

3. Where a person undertakes a session of professional learning which satisfies the conditions of regulation 7A of the 2015 Regulations (as inserted by regulation 7) then such sessions may count towards that person's induction period as if they were school sessions after the expiry of these Regulations provided that the maximum number of such sessions is 18.

4. The expiry of regulations 5 to 9 under regulation 2 does not affect the validity of anything done in accordance with these provisions before the expiry date.

### **Amendment of the 2015 Regulations**

5. The 2015 Regulations are amended as follows.

6. In regulation 3(2)(b) after “(comprising only periods of employment which count towards an induction period under regulation 9)” insert “or regulation 8(5) (appropriate body determination where standards met)”.

7. After regulation 7 insert—

#### **“Professional learning that may count towards an induction period**

7A. A session of professional learning undertaken by a person may count towards that person's induction period where that session of professional learning is—

- (a) undertaken between 26 March 2020 and 31 August 2021,
- (b) a minimum of 3 hours (whether consecutive or not), and
- (c) approved by the appropriate body.”

8. In regulation 8—

- (a) In paragraph (1), after “and (4)” insert “and (5)”;
- (b) After sub-paragraph (3)(e) insert—  
“f) where paragraph (5) applies.”;
- (c) In sub-paragraph (4)(b) for “in all other cases” substitute “where paragraph (3)(a), (b), (c) or (e) applies”;
- (d) After paragraph (4) insert—

“(5) The appropriate body may, with the consent of the person concerned, reduce the length of an induction period which the person is required to serve to a minimum of 110 school sessions if the appropriate body is satisfied that the person has achieved the standards mentioned in section 18 of the 2014 Act.

(6) In paragraphs (4) and (5) a “school session” may include a session of professional learning that satisfies the conditions of regulation 7A.

(7) The sessions of professional learning that may count as school sessions must not exceed 16% of the total length of an induction period.”

**9.** In regulation 13 (completion of an induction period) —

(a) After sub-paragraph (1)(b) insert—

“(c) at the completion of the induction period, that person has undertaken a session of professional learning referred to in regulation 7A.”

*Kirsty Williams*

Minister for Education, one of the Welsh Ministers

22 June 2020

## **Explanatory Memorandum to The Education (Induction Arrangements for School Teachers) (Wales) (Amendment) (Coronavirus) Regulations 2020**

This Explanatory Memorandum has been prepared by the Education and Public Services Group and is laid before Senedd Cymru 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 Education (Induction Arrangements for School Teachers) (Wales) (Amendment) (Coronavirus) Regulations 2020. I am satisfied that the benefits justify the likely costs.

Kirsty Williams MS  
**Minister for Education**  
23 June 2020

## **PART 1**

### **1. Description**

- 1.1 The Education (Induction Arrangements for School Teachers) (Wales) (Amendment) (Coronavirus) Regulations 2020 (“the 2020 Regulations”) amend the Education (Induction Arrangements for School Teachers) (Wales) Regulations 2015 (S.I. 2015/484 (W.141)) (“the 2015 Regulations”). The 2015 Regulations, together with sections 17 and 19 of the Education (Wales) Act 2014 (“the 2014 Act”), deal with the requirements for school teachers to undertake a period of induction.
- 1.2 The 2020 Regulations amend the 2015 Regulations in two ways:
- (i) They allow the appropriate body to reduce the induction period which the person is required to serve to a minimum of 110 school sessions provided the person consents (see regulation 8). The person will still be required to achieve the standards mentioned in section 18 of the 2014 Act.
  - (ii) Regulation 8(d) inserts a new regulation 8(6) and 8(7) into the 2015 Regulations. These regulations allow sessions of professional learning to count towards a person’s induction period, provided those sessions meet the conditions set out in new regulation 7A (see regulation 7). These professional learning sessions must not exceed 16% of the total length of the induction period.
- 1.3 In addition, Regulations 3 and 4 provide that Regulations 5 to 9 will continue to have effect following the expiry of the 2020 Regulations in prescribed, limited circumstances. Otherwise, as provided for by in regulation 2, the 2020 Regulations will expire on 31 August 2021.

### **2. Matters of special interest to the Legislation, Justice and Constitution Committee**

- 2.1 These Regulations are being made in response to the repurposing of schools in Wales due to the COVID-19 situation and provide that some session of professional learning undertaken before the coming into force of these Regulations can count towards an induction period, when in the absence of these Regulations they would not.
- 2.2 These regulations are considered necessary as newly qualified teachers (NQTs) may not have been able to attend a school in order to complete their induction period due to spread of COVID-19 in Wales.

### **3. Legislative background**

- 3.1 These Regulations are being made under sections 17 and 47(1) of the Education (Wales) Act 2014.

3.2 These Regulations are being made under the negative resolution procedure.

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

4.1 In response to the COVID-19 pandemic, Welsh Government announced that all schools would close on 20 March and be re-purposed to operate as hubs for the children of key workers from 23 March. Teaching and learning for learners has continued via distance learning.

4.2 The purpose of the changes is to ensure that NQTs undertaking induction are not disadvantaged as a result of the COVID-19 situation.

4.3 Under the 2015 Regulations, NQTs are required to undertake a statutory induction period, comprising of three school terms or 380 sessions in a school, or in certain circumstances, another institution. NQTs can count periods of employment undertaken on a full-time or part-time basis towards their induction, and record all periods of employment with the Education Workforce Council (EWC) via the appropriate forms.

4.4 The COVID-19 outbreak and the subsequent re-purposing of schools has meant that some NQTs (i.e. those undertaking induction on a part-time basis) are not able to meet the requirements to serve three terms or 380 sessions during this academic year. It is also likely that the COVID-19 situation will continue to cause disruption during the 2020/21 academic year, therefore, the 2020 Regulations will continue to have effect for NQTs undertaking induction during that period.

4.5 Local authorities are the appropriate bodies (ABs) in the induction process. The AB has the overall statutory responsibility for the supervision and training of all NQTs within the area it covers and for making the final decision at the end of the induction period (pass / fail / requires an extension).

4.6 The 2020 Regulations allow the AB the discretion to reduce the induction period, which the NQT is required to serve, to a minimum of 110 school sessions provided that the person consents to the reduction and that they meet the standards mentioned in section 18 of the 2014 Act.

4.7 The 2020 Regulations will also allow a maximum of 16% of the total number of sessions that NQTs undertake in order to complete induction, to be sessions of professional learning. The professional learning must be:

- undertaken between 26 March 2020 and 31 August 2021;
- a minimum of 3 hours duration (whether consecutive or not) to count as a session, and
- approved by the AB.

The effect of this change is to enable NQTs to count time that they will be spending on professional learning towards their induction period. This change reflects the significance of career-long professional learning which

has even greater importance at this time, when the opportunities for NQTs to complete their induction period have been affected by COVID-19 and teachers may need to develop their skills to teach via distance or blended methods. The ABs, as part of their role in approving professional learning, will be required to ensure that there is a balance between professional learning and practice. An NQT with a disproportionate amount of professional learning compared to teaching practice may not have sufficient practical experience to be able to meet the professional standards and complete induction.

- 4.8 The effect of these changes will enable NQTs who demonstrate that they meet the professional standards, to successfully complete induction should it not be possible for them to meet the three terms / 380 session requirement. It allows more flexibility during a time of unprecedented disruption and will enable NQTs to complete the induction process within an academic year, or equivalent.
- 4.9 The risk if these changes are not made is that the 2019/20 cohort of NQTs will be unable to move to the next stage of their career, despite meeting the professional standards. This may have implications for NQTs' salary and any future employment offered on the basis that they would have completed their induction. Not making the change will also require increased funding to support two cohorts of NQTs (2019/20 and 2020/21) from September.
- 4.10 The 2020 Regulations are time limited and expire on 31 August 2021. This is considered a suitable expiry date because it should allow sufficient time for the current cohort of NQTs and those starting in September 2020 to complete their induction period. Welsh Government will review the 2020 Regulations following the conclusion of one school term of the 2020/21 academic year to consider whether they are still appropriate and will continue to review them termly thereafter.
- 4.11 Other requirements relating to the induction of NQTs will continue to apply, as set out in the 2015 Regulations (as amended by the 2020 Regulations) and the Welsh Government Induction Guidance (2015).

## **5. Consultation**

- 5.1 No formal public consultation was undertaken due to the urgency required to introduce this change of policy in direct response to the COVID-19 situation. However, officials have engaged with key stakeholders including Regional Consortia Induction Leads, a representation of ABs and EWC in the development of the Regulations. We have also engaged with workforce unions. Stakeholders have welcomed the changes as a pragmatic solution in exceptional circumstances.
- 5.2 Revised guidance will be published and shared with stakeholders prior to the 2020 Regulations coming into force to ensure that those involved in induction will be able to clearly understand the changes made.

## **PART 2 – REGULATORY IMPACT ASSESSMENT**

### **6. Options**

Two options have been considered:

Option 1: Do nothing, retain the Induction Arrangements for School Teachers (Wales) Regulations 2015 as currently in force.

Option 2: Amend the Induction Arrangements for School Teachers (Wales) Regulations 2015.

#### **Option 1: Do nothing, retain the Induction Arrangements for School Teachers (Wales) Regulations 2015 as currently in force.**

The changes are required to ensure that NQTs undertaking induction are not disadvantaged as a result of the ongoing COVID-19 pandemic.

Not making the amendments contained in the 2020 Regulations would have implications for the future employment of some NQTs who were expected to complete induction this summer, as well as leading to increased costs and resources to continue to support them from September 2020. It would also have an impact on NQTs who gain qualified teacher status this summer who wish to commence induction in September. The posts that they would be expected to apply for could still be occupied by NQTs who were unable to complete this summer. NQTs who were unable to complete induction could also be affected financially as they may not progress to the next step of the pay scale in accordance with the School Teachers Pay and Conditions Document (STPCD).

#### **Option 2: Amend the Induction Arrangements for School Teachers (Wales) Regulations 2015.**

Amending the 2015 Regulations in the way described in Part 1 meets the policy objective of ensuring that NQTs are not disadvantaged as a result of the COVID-19 pandemic.

The effect of these changes will enable NQTs, who demonstrate that they meet the professional standards, to successfully complete induction without the need to meet the three terms / 380 session requirement. It allows more flexibility for ABs to enable them to adopt a more pragmatic approach during a time of unprecedented disruption. The changes also allow for sessions of professional learning to count towards the completion of the induction period.

### **7. Costs and benefits**

#### **Option 1: Do nothing, retain the Induction Arrangements for School Teachers (Wales) Regulations 2015 as currently in force.**

Under the current arrangements, EWC is responsible for administering induction funding on behalf of the Welsh Government, which includes funding for schools to enable them to release NQTs from 10% of their teaching timetable and funding for the supervision and training provided by mentors and external verifiers. EWC also receives funding to administer the induction programme on Welsh Government's behalf, which entails:

- collecting and maintaining a central source of data on teachers, including their status and progress in relation to induction, i.e. not commenced / commenced / passed / failed / requires extension;
- issuing induction certificates, and
- hearing induction appeals.

The total annual funding allocated to EWC for these purposes is £3,935,000.

This option could lead to increased costs for the Welsh Government in both the 2020-21 and 2021-22 financial years should NQTs, who started their induction during the 2019/20 academic year, be required to continue in the 2020/21 academic year. This is because Welsh Government would need to support two cohorts of NQTs for a period of time.

This option could lead to some savings for schools / local authorities with regard to pay. The STPCD notes that the relevant body must decide on pay progression on an annual basis, and in the case of NQTs, use evidence from the induction process. Therefore, if NQTs do not pass induction, the relevant body may decide not to increase their pay from September 2020. It is difficult to quantify the exact savings as it would be on a case-by-case basis, and some schools / local authorities may choose to offer the pay progression regardless of whether an NQT passes induction.

This option does not achieve any of the stated policy benefits associated with amending the 2015 Regulations.

### **Option 2: Amend the Induction Arrangements for School Teachers (Wales) Regulations 2015.**

This option could lead to some savings as a result of enabling NQTs to complete induction in a reduced amount of time.

For example, currently, a school receives approximately £700 per term to fund the 10% time that NQTs are released from their teaching timetable. Should an NQT complete their induction in less than 3 school terms, then the funding allocated to the school would be reduced accordingly. The requirement for mentors or external verifiers to support NQTs could also reduce leading to further savings. However, although the 2020 Regulations would allow for a reduced induction period to apply, Welsh Government will advise ABs that NQTs should take between 2-3 terms / 220 – 380 sessions to complete their induction, and therefore, the cost savings would vary according to individual circumstances of NQTs.



There will be minimal administrative cost for the Welsh Government to develop the guidance referred to support the implementation of the 2020 Regulations. This option achieves the stated policy benefits as outlined in Part 1. NQTs will only pass induction on evidence that they meet the professional standards, therefore, there should be no detrimental impact on learners.

## **8. Consultation**

No formal public consultation was undertaken due to the urgency required to introduce this change of policy in direct response to COVID-19 restrictions.

## **9. Competition Assessment**

On completion of the Competition Filter test it was determined that there are no effects on competition.

## **10. Post implementation review**

It is normally recommended to review legislation three years after implementation. The effect of these Regulations is inherently time limited due to COVID-19 outbreak. However, Welsh Government will review the 2020 Regulations following the conclusion of one school term of the 2020/21 academic year to consider whether they are still appropriate and will continue to review them termly thereafter.

# SL(5)566 – The Education (Notification of School Term Dates) (Wales) (Amendment) (Coronavirus) Regulations 2020

## Background and Purpose

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These Regulations made under the Education Act 2002 amend the Education (Notification of School Term Dates) (Wales) Regulations 2014 (SI 2014/1249) ('the 2014 Regulations'). The 2014 Regulations provide that local authorities must notify the Welsh Ministers of the school dates determined at least two years in advance (i.e. by the final working day in August two years before the school year in question).

The amendments made by these Regulations amend the 2014 Regulations and specifically, the date in regulation 4 for the 2022/23 school year so that local authorities are required to notify the Welsh Ministers of their proposed term dates by 31 December 2020 instead of the last working day of August 2020.

## Procedure

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Negative.

## Technical Scrutiny

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

## Merits Scrutiny

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The following 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 issue of public policy likely to be of interest to the Senedd.**

The Committee notes the comments provided in the Explanatory Memorandum by the Welsh Government concerning Children's rights – *"We have undertaken a Children's Rights Impact Assessment. No conflict with the UNCRC has been identified and there are no negative impacts on children and young people. The purpose of the Term Dates Regulations 2020 is to ensure that parents, learners and other stakeholders can plan ahead for the 2022/23 academic year without undue burden on local authorities during the coronavirus (COVID-19) emergency"*.

## Implications arising from exiting the European Union

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

## Government Response

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A Welsh Government response is not required.





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

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**2020 No. 622 (W. 142)**

**EDUCATION, WALES**

**The Education (Notification of  
School Term Dates) (Wales)  
(Amendment) (Coronavirus)  
Regulations 2020**

**EXPLANATORY NOTE**

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

Section 32A of the Education Act 2002 requires a local authority to determine the term dates for each community, voluntary controlled or community special school or maintained nursery school in its area. In doing so, local authorities must co-operate and co-ordinate with each other and with relevant governing bodies in their area to ensure that school terms dates for maintained schools are the same (or as similar as can be).

The Education (Notification of School Term Dates) (Wales) Regulations 2014 (S.I. 2014/1249 (W. 130)) (“the 2014 Regulations”) provide that local authorities must notify the Welsh Ministers of the school dates determined at least two years in advance (i.e. by the final working day in August two years before the school year in question).

These Regulations, which are made under section 32A and 210 of the Education Act 2002, amend the 2014 Regulations so that the notice for the school year 2022-23 must be sent to the Welsh Ministers by 31 December 2020. Schools and local authorities are likely to be under increased pressure over the summer due to spread of severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) in Wales. The requirement to notify Welsh Ministers of term dates by 31 August 2020 is likely to place a disproportionate administrative burden on local authorities. Extending the notification deadline to 31 December 2020 will ease the burden whilst ensuring that other statutory requirements relating to the co-ordination of school term dates can be met.

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

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

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**2020 No. 622 (W. 142)**

**EDUCATION, WALES**

**The Education (Notification of  
School Term Dates) (Wales)  
(Amendment) (Coronavirus)  
Regulations 2020**

<i>Made</i>	<i>19 June 2020</i>
<i>Laid before Senedd Cymru</i>	<i>23 June 2020</i>
<i>Coming into force</i>	<i>16 July 2020</i>

The Welsh Ministers, in exercise of the powers conferred on them by sections 32A and 210 of the Education Act 2002<sup>(1)</sup>, make the following Regulations:

**Title and commencement**

1. The title of these Regulations is the Education (Notification of School Term Dates) (Wales) (Amendment) (Coronavirus) Regulations 2020 and they come into force on 16 July 2020.

**Amendment of the Education (Notification of School Term Dates) (Wales) Regulations 2014**

2. Regulation 4 of the Education (Notification of School Term Dates) (Wales) Regulations 2014<sup>(2)</sup> is amended as follows—

- (a) the existing provision becomes paragraph (1);
- (b) at the beginning of paragraph (1) insert “Subject to paragraph (2),”;
- (c) after paragraph (1) insert—

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<sup>(1)</sup> 2002 c. 32. Section 32A was inserted by section 42 of the Education (Wales) Act 2014 (anaw 5). Section 210(7) was amended by section 21(3)(c)(i) and (ii) of the Learner Travel (Wales) Measure 2008 (nawm 2). The function of the National Assembly for Wales under section 210 was transferred to the Welsh Ministers by paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c. 32).

<sup>(2)</sup> S.I. 2014/1249 (W. 130).

“(2) For the school year 2022-2023, a local authority must notify the Welsh Ministers of all term dates which have been determined for the maintained schools in its area for that school year no later than 31 December 2020.”

*Kirsty Williams*

Minister for Education, one of the Welsh Ministers  
19 June 2020

# **Explanatory Memorandum to The Education (Notification of School Term Dates) (Wales) (Amendment) (Coronavirus) Regulations 2020**

This Explanatory Memorandum has been prepared by the Education and Public Services Department of the Welsh Government and is laid before Senedd Cymru 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 Education (Notification of School Term Dates) (Wales) (Amendment) (Coronavirus) Regulations 2020.

Kirsty Williams  
Minister for Education  
23 June 2020



## **1. Description**

1.1 The Education (Notification of School Term Dates) (Wales) (Amendment) (Coronavirus) Regulations 2020 amend The Education (Notification of School Term Dates) (Wales) Regulations 2014 (“the 2014 Regulations”).

1.2 The amendment is to the deadline by which local authorities must inform Welsh Ministers of their proposed term dates for the 2022/23 academic year. The deadline has been changed from the last working day in August 2020 to 31 December 2020.

1.3 This change is being made to allow more time for local authorities to work with schools and other local authorities to harmonise their school term dates for 2022/23 during the coronavirus (COVID-19) emergency. This is due to the restricted operation of schools necessitated by the pandemic and the significant pressure local authorities are currently under, meaning that complying with this requirement would place a disproportionate administrative burden on them at a time when they are already stretched.

## **2. Matters of special interest to the Legislation, Justice and Constitution Committee**

2.1 None.

## **3. Legislative background**

3.1 These Regulations are made under powers in section 32A and 210 of the Education Act 2002. They are subject to negative resolution procedure.

3.2 Under section 32A(1) of the Education Act 2002 (“the 2002 Act”), a local authority in Wales must determine the term dates for each community, voluntary controlled or community special school or maintained nursery school in its area. A governing body of a foundation or voluntary aided school in Wales (a “relevant governing body”) must determine the term dates for its school. In exercising its functions under section 32A(1), a local authority must cooperate and coordinate with each relevant governing body in its area, and every other local authority in Wales, to ensure that the term dates determined are the same (or as similar as can be) for every maintained school in Wales.

3.3 Under section 32B of the 2002 Act the Welsh Ministers may direct a local authority in Wales or a relevant governing body to determine such term dates for a maintained school in Wales, as may be specified in the direction. Before making such a direction the Welsh Ministers must carry out such consultation as they consider appropriate.

3.4 Regulation 4 of the 2014 Regulations, requires local authorities to notify the Welsh Ministers of all term dates which have been determined for the maintained schools in its area no later than the final working day in August in the year two years immediately preceding the beginning of the school year for

which the terms dates have been determined. In order to comply with this requirement local authorities will need to be co-ordinating with all their maintained schools as well as other local authorities over the summer.

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

4.1 These Regulations amend the 2014 Regulations to amend the date in regulation 4 for the 2022/23 school year so that local authorities are required to notify the Welsh Ministers of their proposed term dates by 31 December 2020 instead of the last working day of August 2020.

4.2 The remaining requirements relating to the notification of school term dates are unaffected and are as set out in the 2014 Regulations.

4.3 An Integrated Impact Assessment has been carried out in the making of the Term Dates Regulations 2020. The Impact Assessment and the Regulations will be kept under review during the period they are in force.

#### **5. Consultation**

5.1 There is no statutory requirement to consult on these Regulations. However, during the period leading up to the laying of these Regulations, we have engaged with local authorities in Wales and diocesan authorities. The feedback has been positive and the extension of the deadline for completing the term dates harmonisation exercise, have been welcomed.

5.2 A statement was issued to interested parties on 7 May 2020. This set out the proposal and was intended to assist local authorities to plan their priority work over the summer period.

#### **6. Regulatory Impact Assessment**

6.1 There are no costs or savings resulting from this amendment, therefore a Regulatory Impact Assessment has not been completed. No impact on business, charities or voluntary bodies is foreseen and the Term Dates Regulations 2020 have effect only for the 2022/23 term dates exercise that must be completed in 2020.

6.2 The impact on the public sector is on the state-funded schools sector including local authorities and school governing bodies to the extent that these bodies are responsible for setting and agreeing school term dates. As a result of these amending regulations, local authorities will have more flexibility as to how they can respond and deploy their resources during the coronavirus (COVID-19) outbreak. The extended deadline is welcomed by the sector.

#### **Welsh Language**

6.3 There are no positive or adverse impact implications on the Welsh Language.

### **Children's Rights**

6.4 We have undertaken a Children's Rights Impact Assessment. No conflict with UNCRC has been identified and there are no negative impacts on children and young people. The purpose of the Term Dates Regulations 2020 is to ensure that parents, learners and other stakeholders can plan ahead for the 2022/23 academic year without undue burden on local authorities during the coronavirus (COVID-19) emergency.

### **Equality and Human Rights**

6.5 The provisions in the Equality Act 2010 and Human Rights Act 1998 are not affected by extending the deadline to 31 December 2020.

6.6 An Integrated Impact Assessment has been undertaken as part of the legislative development process.

### **Privacy**

6.7 The provisions in the General Data Protection Regulation 2016 are not affected by extending the deadline to 31 December 2020.

### **Justice Impact Assessment (JIA)**

6.8 Whilst no formal JIA has been undertaken, no impacts have been identified when considering these Regulations.

# SL(5)563 – The Health Protection (Coronavirus Restrictions) (Wales) (Amendment) (No. 6) Regulations 2020

## Background and Purpose

These Regulations amend the Health Protection (Coronavirus Restrictions) (Wales) Regulations (“the principal regulations”) and came into force at 12:01am on 22<sup>nd</sup> June 2020. These regulations ease specific restrictions that were put in place by the principal regulations.

The purpose of the principal Regulations, which these Regulations amend, is to:

- put restrictions on the movement of individuals, setting out circumstances in which they may leave the place where they live and preventing gatherings of groups of more than two people, except in certain circumstances; and
- require the closure of certain businesses and impose requirements on other businesses, as well as duties to close certain public footpaths and land, to protect against the risks to public health arising from coronavirus.

Specifically, these Regulations:

- permit certain premises to be open for the training of elite athletes and providing that it is a reasonable excuse for elite athletes to be away from their local area, or to gather with other persons for the purposes of training or competition;
- permit shops previously required to be closed (and car dealerships, betting shops and outdoor markets) to open. These shops will be subject to requirements relating to physical distancing (i.e. to take all reasonable measures to ensure that persons on the premises maintain a distance of 2 metres between each other, that persons waiting to enter the premises are similarly distanced and that the number of persons in the premises is limited so as to allow for 2 metre distancing to be observed). Customers will need to continue to abide by the ‘stay local’ requirements.
- in places of worship, marriage ceremonies and civil partnerships may take place subject to physical distancing requirements. People may leave their local area to attend a marriage or civil partnership, and may gather with others for that purpose, although they must follow the arrangements put in place for physical distancing. Places of worship may also open for private prayer.
- permit a place of worship, or community centre, to open on the request of the Welsh Ministers or a local authority in order to provide any public service. The explanatory memorandum gives the example of a community centre being opened to provide childcare facilities.
- expand the list of reasonable excuses to include
  - (a) voting in an election where it is not possible to vote otherwise than in person (this includes elections in other countries where those entitled to vote who currently live in Wales may need to travel to an embassy in London in order to vote);



- (b) move house;
- (c) prepare a property for someone to move in;
- (d) visit an estate or letting agent, developer sales office or show home in connection with the purchase, sale or rental of an unoccupied property. This therefore means that only unoccupied properties can be marketed at this point in time;
- (e) view an unoccupied property with a view to purchasing or renting it.

These measures will allow home moves where properties are untenanted or unoccupied and the completion of sales already agreed, but have until now been postponed because of the coronavirus outbreak.

The amending Regulations also make necessary consequential and savings provisions.

The principal Regulations (and these amendments) expire at the end of the period of six months beginning with the day on which they come into force – they came into force on 26 March 2020 and will therefore expire on 26 September 2020.

## Procedure

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Made Affirmative: the Regulations have already been made, but require Senedd approval for them to stay into force for more than 28 days.

## Technical Scrutiny

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

## Merits Scrutiny

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The following 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 or public policy likely to be of interest to the Assembly.**

The Committee acknowledge that although these regulations lift restrictions in certain areas of public life they do not change the engagement under the principal Regulations of individual rights under the Human Rights Act 1998 and the European Charter of Fundamental Rights. The Committee note that Article 8 (right to respect for private and family life), Article 11 (freedom of assembly and association) and Article 1 of the First Protocol (protection of property) are engaged by the principal Regulations.

However the Committee acknowledge that these are qualified rights, which permit the Welsh Ministers to interfere with the exercise of the rights if necessary in a democratic society in the interests of public safety or for the protection of health. The Committee notes the Government's analysis on the engagement of human rights in the explanatory memorandum which amongst other matters states that the "further easing of the restrictions made by these amending Regulations, is a proportionate response balancing the need to maintain an appropriate response to the threat posed by the coronavirus against the rights of individuals and businesses, in a manner which remains proportionate to the need to avoid an increase to the rate of transmission of the coronavirus, taking into account the scientific evidence."



## Implications arising from exiting the European Union

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

## Government Response

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A Welsh Government response is not required.

### **Legal Advisers**

**Legislation, Justice and Constitution Committee**

**29 June 2020**



Senedd Cymru

**Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad**

Welsh Parliament

**Legislation, Justice and Constitution Committee**

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*Regulations made by the Welsh Ministers, laid before Senedd Cymru under section 45R of the Public Health (Control of Disease) Act 1984 (c. 22), for approval by resolution of Senedd Cymru within twenty-eight days beginning with the day on which the instrument is made, subject to extension for periods of dissolution or recess for more than four days.*

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

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**2020 No. 619 (W. 141)**

**PUBLIC HEALTH, WALES**

**The Health Protection (Coronavirus  
Restrictions) (Wales) (Amendment)  
(No. 6) Regulations 2020**

**EXPLANATORY NOTE**

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

Part 2A of the Public Health (Control of Disease) Act 1984 enables the Welsh Ministers, by regulations, to make provision for the purpose of preventing, protecting against, controlling or providing a public health response to the incidence or spread of infection or contamination in Wales.

These Regulations are made in response to the serious and imminent threat to public health which is posed by the incidence and spread of severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) in Wales.

Regulation 2 of these Regulations amends the Health Protection (Coronavirus Restrictions) (Wales) Regulations 2020.

The amendments consist of provision—

- (a) permitting certain premises to be open for elite athletes to train and providing that it is a reasonable excuse for elite athletes to be away from their local area, or to gather with other persons for the purposes of training or competition;
- (b) permitting shops previously required to be closed (and similar premises including car dealerships and outdoor markets) to open, but note that they must comply with requirements

relating to physical distancing and their customers must remain in the area local to where they are living;

- (c) removing limitations on marriage and civil partnership ceremonies taking place, subject to physical distancing requirements;
- (d) permitting places of worship to open for private prayer;
- (e) making it clear that a place of worship or community centre may open (at the request of the Welsh Ministers or a local authority) in order to provide any public service;
- (f) stating that it is a reasonable excuse to leave your local area or be inside with other persons in order to vote in an election, but only where it is not reasonably practicable to vote otherwise than in person;
- (g) stating that it is a reasonable excuse to leave your local area or gather indoors with other persons in order to—
  - (i) move house;
  - (ii) prepare a property for someone to move in;
  - (iii) visit an estate or letting agent, developer sales office or show home in connection with the purchase, sale or rental of an unoccupied property;
  - (iv) view an unoccupied property.

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 not been prepared as to the likely cost and benefit of complying with these Regulations.



*Regulations made by the Welsh Ministers, laid before Senedd Cymru under section 45R of the Public Health (Control of Disease) Act 1984 (c. 22), for approval by resolution of Senedd Cymru within twenty-eight days beginning with the day on which the instrument is made, subject to extension for periods of dissolution or recess for more than four days.*

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

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**2020 No. 619 (W. 141)**

**PUBLIC HEALTH, WALES**

**The Health Protection (Coronavirus  
Restrictions) (Wales) (Amendment)  
(No. 6) Regulations 2020**

*Made* 19 June 2020

*Coming into force* at 12.01 a.m. on 22 June 2020

*Laid before Senedd Cymru* at 11.00 a.m. on 22 June 2020

The Welsh Ministers make the following Regulations in exercise of the powers conferred by sections 45C(1) and (3)(c), 45F(2) and 45P of the Public Health (Control of Disease) Act 1984(1).

These Regulations are made in response to the serious and imminent threat to public health which is posed by the incidence and spread of severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) in Wales.

The Welsh Ministers consider that the amendments made by these Regulations are proportionate to what they seek to achieve, which is a public health response to that threat.

In accordance with section 45R of that Act the Welsh Ministers are of the opinion that, by reason of urgency, it is necessary to make this instrument without a draft

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(1) 1984 c. 22. Sections 45C, 45F and 45P were inserted by section 129 of the Health and Social Care Act 2008 (c. 14). The functions under these sections are conferred on “the appropriate Minister”. Under section 45T(6) of the 1984 Act the appropriate Minister, as respects Wales, is the Welsh Ministers.

having been laid before, and approved by a resolution of, Senedd Cymru.

### **Title and coming into force**

1. The title of these Regulations is the Health Protection (Coronavirus Restrictions) (Wales) (Amendment) (No. 6) Regulations 2020 and they come into force at 12.01 a.m. on 22 June 2020.

### **Amendment of the Health Protection (Coronavirus Restrictions) (Wales) Regulations 2020**

2.—(1) The Health Protection (Coronavirus Restrictions) (Wales) Regulations 2020<sup>(1)</sup> are amended as follows.

(2) In regulation 1—

(a) in paragraph (3), after sub-paragraph (b) insert—

“(ba) “elite athlete” means an individual designated as such for the purposes of these Regulations by the Sports Council for Wales;”

(b) after paragraph (3) insert—

“(4) For the purposes of the definition of “elite athlete” in paragraph (3)—

(a) an individual is designated by the Sports Council for Wales only if the individual has been nominated for designation by a relevant sporting body and the Council has accepted the nomination, and

(b) “relevant sporting body” means the national governing body of a sport which may nominate athletes to represent—

(i) Great Britain and Northern Ireland at the Olympic or Paralympic Games, or

(ii) Wales at the Commonwealth Games.

(5) For the purposes of these Regulations—

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(1) S.I. 2020/353 (W. 80) as amended by the Health Protection (Coronavirus Restrictions) (Wales) (Amendment) Regulations 2020 (S.I. 2020/399 (W. 88)), the Health Protection (Coronavirus Restrictions) (Wales) (Amendment) (No. 2) Regulations 2020 (S.I. 2020/452 (W. 102)), the Health Protection (Coronavirus Restrictions) (Wales) (Amendment) (No. 3) Regulations 2020 (S.I. 2020/497 (W. 118)), the Health Protection (Coronavirus Restrictions) (Wales) (Amendment) (No. 4) Regulations 2020 (S.I. 2020/529 (W. 124)) and the Health Protection (Coronavirus Restrictions) (Wales) (Amendment) (No. 5) Regulations 2020 (S.I. 2020/557 (W. 129)).

- (a) there is a gathering when two or more people are in the same place in order to do something together, and
- (b) premises are indoors if they are enclosed or substantially enclosed within the meaning given by regulation 2 of the Smoke-free Premises etc. (Wales) Regulations 2007(1).”

(3) In regulation 4—

- (a) in paragraph (1)(b), for “6(1)” substitute “6(2)”;
- (b) in paragraph (5), after sub-paragraph (b) insert—
  - “(ba) premises for training for elite athletes, including skating rinks, swimming pools, indoor fitness studios, gyms, indoor leisure centres and other sports facilities (whether indoors or outdoors);”.

(4) For regulation 6 substitute—

**“General restriction on shops and certain other businesses and services**

**6.—(1) Paragraph (2) applies—**

- (a) to a person (“P”) responsible for carrying on a business, or providing a service, listed in Part 4 of Schedule 1, and
- (b) in respect of any premises where the business is carried on or the service is provided.

(2) P must take all reasonable measures to ensure—

- (a) that a distance of 2 metres is maintained between any persons on the premises (except between two members of the same household, or a carer and the person assisted by the carer),
- (b) that persons are only admitted to the premises in sufficiently small numbers to make it possible to maintain that distance, and
- (c) that a distance of 2 metres is maintained between persons waiting to enter the premises (except between two members of the same household, or a carer and the person assisted by the carer).”

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(1) S.I. 2007/787 (W. 68)

(5) In regulation 6A(2), omit sub-paragraph (b) and the “or” before it.

(6) In regulation 7—

(a) in paragraph (2)—

(i) for sub-paragraph (aa) substitute—

“(za) for the solemnization of a marriage or formation of a civil partnership,”;

(ii) after sub-paragraph (a) insert—

“(aa) for prayer by—

(i) an individual,

(ii) members of the same household,  
or

(iii) an individual and the individual’s  
carer,

which does not form part of communal  
worship,”;

(iii) in sub-paragraph (b)(ii) omit “allowed by  
sub-paragraph (aa)”;

(iv) in sub-paragraph (c) omit “urgent” and  
the words after “public services” to the  
end;

(b) in paragraph (5)(a) omit “urgent” and the  
words after “public services” to the end.

(7) In regulation 7A(1), for sub-paragraph (b)  
substitute—

“(b) regulation 6(2),”.

(8) In regulation 8—

(a) in paragraph (1)(b), for “be indoors”  
substitute “gather in indoor premises”;

(b) in paragraph (2)—

(i) for paragraph (a) substitute—

“(a) obtain goods or services from any  
business or service listed in Part 4 of  
Schedule 1;”;

(ii) after sub-paragraph (g) insert—

“(ga) where the person is an elite athlete,  
train or compete;”;

(iii) in sub-paragraph (i) omit the words “,  
where a party to the marriage or civil  
partnership is seriously ill and not  
expected to recover”;

(iv) after sub-paragraph (l) insert—

“(la) vote in an election (including in an  
election being held outside Wales),  
where it is not reasonably practicable  
to vote by post, by proxy or by other  
similar means;”;

(v) for sub-paragraph (q) substitute—

- “(q) move home;
- (qa) prepare a residential property for persons to move in;
- (qb) undertake the following activities in connection with the purchase, sale, letting or rental of unoccupied residential property—
  - (i) visiting estate or letting agents, developer sales offices or show homes;
  - (ii) viewing such a property;”
- (c) for paragraph (3) substitute—

“(3) For the purposes of paragraph (1)(a), it is not a reasonable excuse for a person to leave, or remain away from, the area local to the place where the person is living—

  - (a) to obtain goods or services from a business or service listed in paragraphs 50 to 54 of Schedule 1;
  - (b) to do anything else if it would be reasonably practicable for the person to do that thing within the area.”;
- (d) after paragraph (5), insert—

“(6) For the purposes of paragraph (2)(qb), a property is treated as unoccupied if no person occupies the property as a residence.”.
- (9) In regulation 8B—
  - (a) in sub-paragraph (c) after “funeral” insert “, marriage or formation of a civil partnership”;
  - (b) after sub-paragraph (d)(i) insert—

“(ia) for elite athletes to train or compete;”.
- (10) In Schedule 1—
  - (a) omit paragraph 12;
  - (b) in paragraph 21, omit “, sports courts”;
  - (c) omit paragraphs 22 and 23;
  - (d) after paragraph 48 insert—

**49.** Estate or letting agents, developer sales offices and show homes.

**50.** Car dealerships.

**51.** Outdoor markets.

**52.** Betting shops.

**53.** Indoor shopping centres and indoor shopping arcades.

**54.** Any other business or premises offering goods or services for sale or hire in a shop.”.

**Savings for offences and penalties in relation to prior acts**

3. Regulations 12 and 13 of the Health Protection (Coronavirus Restrictions) (Wales) Regulations 2020 continue to have effect in relation to any offence committed, or reasonably believed to have been committed, before these Regulations came into force as if the amendments set out in regulation 2 had not been made.

*Mark Drakeford*

The First Minister, one of the Welsh Ministers  
19 June 2020

## **Explanatory Memorandum to the Health Protection (Coronavirus Restrictions) (Wales) (Amendment) (No. 6) Regulations 2020**

This Explanatory Memorandum has been prepared by the Welsh Government and is laid before Senedd Cymru 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 Health Protection (Coronavirus Restrictions) (Wales) (Amendment) (No. 6) Regulations 2020.

Vaughan Gething  
Minister for Health and Social Services

22 June 2020

## **1. Description**

These Regulations amend the Health Protection (Coronavirus Restrictions) (Wales) Regulations 2020 (“the principal Regulations”) which –

- impose restrictions on the movement of individuals including setting out circumstances in which they may leave and remain away from the area local to where they live, and
- require the closure of certain businesses and impose requirements on other businesses, as well as duties to close certain public footpaths and land, to protect against the risks to public health arising from coronavirus.

## **2. Matters of special interest to the Legislation, Justice and Constitution Committee**

These Regulations are made under the emergency procedure set out in section 45R of the Public Health (Control of Disease) Act 1984 (c. 22) (“the 1984 Act”). The Regulations are made without a draft having been laid and approved by the Senedd. It is the opinion of the Welsh Ministers that, by reason of urgency, it is necessary to make the Regulations without a draft being so laid and approved so that public health measures can be taken in order to quickly respond to the threat to human health from coronavirus. In particular, the Welsh Ministers consider it important to relax the restrictions contained in the principal Regulations as soon as it is considered no longer necessary or proportionate to retain them in their existing form. The Welsh Ministers are of the opinion that the restrictions as amended by these Regulations are necessary and proportionate as a public health response to the current threat posed by coronavirus.

The Regulations cease to have effect at the end of the period of 28 days (excluding recess) beginning with the day on which the instrument is made unless, during that period, the Regulations are approved by the Senedd.

### European Convention on Human Rights

The amendments contained in these Regulations do not change the engagement under the principal Regulations of individual rights under the Human Rights Act 1998 and the European Charter of Fundamental Rights, the Government considers that they are justified for the purpose of preventing the spreading of infectious diseases and/or the interference is permitted on the basis that it is in pursuit of a legitimate aim, namely of protecting public health and are proportionate.

Article 8 (right to respect for private and family life), Article 11 (freedom of assembly and association) and Article 1 of the First Protocol (protection of property) are engaged by the principal Regulations.



Each of these are qualified rights, which permit the Welsh Ministers to interfere with the exercise of the rights if necessary in a democratic society in the interests of public safety or for the protection of health. All such restrictions and requirements must be justified on the basis that they are in pursuit of a legitimate aim, namely of protecting public health and are proportionate. The further easing of the restrictions made by these amending Regulations, is a proportionate response balancing the need to maintain an appropriate response to the threat posed by the coronavirus against the rights of individuals and businesses, in a manner which remains proportionate to the need to avoid an increase to the rate of transmission of the coronavirus, taking into account the scientific evidence.

### **3. Legislative background**

The Regulations are made under sections 45C(1) and (3)(c), 45F(2) and 45P of the 1984 Act.

The 1984 Act and Regulations made under it provide a legislative framework for health protection in England and Wales. Part 2A of the 1984 Act was inserted by the Health and Social Care Act 2008, and provides a legal basis to protect the public from threats arising from infectious disease.

Section 45C of the 1984 Act provides a power for the appropriate Minister to make regulations for the purpose of preventing, protecting against, controlling or providing a public health response to the incidence or spread of infection or contamination. It includes powers to impose restrictions or requirements on or in relation to persons, things or premises in the event of, or in response to, a threat to public health. Section 45F enables the making of supplementary provision including provision for the enforcement of restrictions and requirements imposed under the Regulations and the creation of offences.

The functions under these sections are conferred on “the appropriate Minister”. Under section 45T(6) of the 1984 Act the appropriate Minister, as respects Wales, means the Welsh Ministers.

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

The principal Regulations were made in response to the serious and imminent threat to public health which is posed by the incidence and spread of severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) which causes the disease known as COVID-19 or “coronavirus”.

The principal Regulations are now being amended, as follows:

- to permit certain premises to be open for the training of elite athletes and providing that it is a reasonable excuse for elite athletes to be away from their local area, or to gather with other persons for the purposes of training or competition;

- to permit shops previously required to be closed (and car dealerships, betting shops and outdoor markets) to open. These shops will be subject to requirements relating to physical distancing (i.e. to take all reasonable measures to ensure that persons on the premises maintain a distance of 2 metres between each other, that persons waiting to enter the premises are similarly distanced and that the number of persons in the premises is limited so as to allow for 2 metre distancing to be observed). It is not expected that all businesses will chose to open on the first day but instead businesses will be able to open as and when they consider it is appropriate for them to do so. Customers will need to continue to abide by the 'stay local' requirements. Retailers are being asked to consider staggering their open times to minimise the pressure on public transport.
- in places of worship, marriage ceremonies and civil partnerships may take place subject to physical distancing requirements. People may leave their local area to attend a marriage or civil partnership, and may gather with others for that purpose, although they must follow the arrangements put in place for physical distancing. Places of worship may also open for private prayer. Discussions on how this can be implemented have taken place with faith leaders, and initially not all places of worship are expected to re-open.
- a place of worship, or community centre, may open on the request of the Welsh Ministers or a local authority in order to provide any public service. For example, this would mean a community centre could open to provide childcare facilities.
- the list of reasonable excuses has been expanded to include voting in an election where it is not possible to vote otherwise than in person (this includes elections in other countries where those entitled to vote who currently live in Wales may need to travel to an embassy in London in order to vote). The list now also includes the need to:
  - move house;
  - prepare a property for someone to move in;
  - visit an estate or letting agent, developer sales office or show home in connection with the purchase, sale or rental of an unoccupied property. This therefore means that only unoccupied properties can be marketed at this point in time;
  - view an unoccupied property with a view to purchasing or renting it.

This will allow home moves where properties are untenanted or unoccupied and the completion of sales already agreed, but have until now been postponed because of the coronavirus outbreak.

The amending Regulations also make necessary consequential and savings provisions in light of the changes set out above.

The principal Regulations (and these amendments) expire at the end of the period of six months beginning with the day on which they come into force – they came into force on 26 March 2020 and will therefore expire on 26 September 2020.

It is critical to take all reasonable steps to limit onward transmission of coronavirus. Coronavirus was declared a Public Health Emergency of International Concern on 30 January 2020 by the World Health Organisation, and steps are being taken worldwide to limit its transmission. The Chief Medical Officer for Wales together with the other Chief Medical Officers across the UK continue to assess the risks to public health stemming from coronavirus to be high.

The Welsh Ministers consider that restrictions and requirements imposed by the principal Regulations are proportionate to what they seek to achieve, which is to respond to a serious and imminent threat to public health.

## **5. Consultation**

Given the serious and imminent threat arising from coronavirus and the need for an urgent public health response, there has been no public consultation in relation to these amending Regulations. Individuals and businesses have been informed about the restrictions in the principal Regulations through wide scale and ongoing public information broadcasts across the UK, including by the Chief Medical Officer for Wales, the First Minister of Wales and the Prime Minister. The First Minister announced the proposed changes to be brought in by these amending Regulations during his Press Conference on 19 June, which were subsequently widely reported.

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

There has been no regulatory impact assessment in relation to these Regulations due to the need to put them in place urgently to deal with a serious and imminent threat to public health.



Elin Jones, MS  
Llywydd  
Senedd Cymru  
Cardiff Bay  
CF99 1SN

19 June 2020

Dear Elin

**The Health Protection (Coronavirus Restrictions) (Wales) (Amendment) (No. 6) Regulations 2020**

I have today made the Health Protection (Coronavirus Restrictions) (Wales) (Amendment) (No. 6) Regulations 2020 under sections 45C(1), (3)(c), (4)(d), 45F(2) and 45P of the Public Health (Control of Disease) Act 1984. These Regulations will come into force at the beginning of 22 June 2020. I attach a copy of the statutory instrument and I intend to lay this and an accompanying Explanatory Memorandum once the statutory instrument has been registered.

In accordance with the emergency procedure set out in section 45R of the Public Health (Control of Disease) Act 1984, this instrument must be approved by the Senedd by 16 July 2020 in order for it to remain in effect. 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.

I am copying this letter to the Minister for Finance and Trefnydd, Mick Antoniw MS as Chair of the Legislation, Justice and Constitution Committee, Sian Wilkins, Head of Chamber and Committee Services and Julian Luke, Head of Policy and Legislation Committee Service.

Yours sincerely

**MARK DRAKEFORD**

Bae Caerdydd • Cardiff Bay  
Caerdydd • Cardiff  
CF99 1NA

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:  
0300 0604400  
[YP.PrifWeinidog@llyw.cymru](mailto:YP.PrifWeinidog@llyw.cymru) • [ps.firstminister@gov.wales](mailto:ps.firstminister@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.

# Agenda Item 2.6

## 3L(5)564 – The Curriculum Requirements (Amendment of paragraph 7(5) of Schedule 17 to the Coronavirus Act 2020) (Wales) Regulations 2020

### Background and Purpose

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These Regulations amend paragraph 7(5) of Schedule 17 to the Coronavirus Act 2020.

Paragraph 7(5) of Schedule 17 to the Coronavirus Act 2020 lists enactments that can be disapplied by the Welsh Ministers for a specified period by notice.

Regulation 2 adds section 69 of, and Schedule 19 to, the School Standards and Framework Act 1998 and sections 109, 110 and 116A to 116K of the Education Act 2002, together with orders made under section 108 of that Act, to that list.

The provisions added confer functions on local authorities, governing bodies, head teachers and others in relation to the provision of religious education, the National Curriculum for Wales and the local curriculum.

The related notice, Disapplication of Curriculum Requirements in Wales Notice 2020, was issued on 23 June 2020 and published on the Welsh Government's website. The notice also disapplies section 101(1) of the Education Act 2002, which was already listed in paragraph 7(5) of Schedule 17 to the Coronavirus Act 2020.

### Procedure

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Made affirmative.

These Regulations were made by the Welsh Ministers before they were laid before the Senedd. The Regulations cease to have effect at the end of the period of 40 days (excluding recess of more than 4 days) beginning with the day on which the instrument is made unless, during that period, the Regulations are approved by the Senedd.

### Technical Scrutiny

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

### Merits Scrutiny

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The following 2 points are identified for reporting under Standing Order 21.3 in respect of this instrument.

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

1. We note that no formal consultation has taken place in relation to these Regulations. The Explanatory Memorandum states that this is in light of the unprecedented situation created by the Coronavirus pandemic and the challenging timescales within which they need to be made.



It is noted that regular engagement has taken place with key representative bodies such as ADEW and local authority representatives, to help inform the policy proposals around legislative requirements that are going to be modified or disapplied. These discussions have helped to inform the provisions that are included within these regulations.

The Explanatory Memorandum also notes that there has been no regulatory impact assessment completed in relation to these Regulations as there are no associated costs or benefits. These Regulations only add areas to the list of enactments in paragraph 7(5) in respect of which the Welsh Ministers can make notices to disapply statutory requirements.

In respect of any notices that are made, the impact of these will be detailed in an integrated impact assessment.

2. We note the Minister's title is not included in the signature to the Regulations, in both the Welsh language and English language texts.

## Implications arising from exiting the European Union

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

## Government Response

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A Welsh Government response is not required.

### **Legal Advisers**

**Legislation, Justice and Constitution Committee**

**29 June 2020**



*Regulations made by the Welsh Ministers, laid before Senedd Cymru under paragraph 8 of Schedule 17 to the Coronavirus Act 2020 (c.7), for approval by resolution of Senedd Cymru within 40 days beginning with the day on which the instrument is made.*

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

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**2020 No. 624 (W. 144)**

**EDUCATION, WALES**

**The Curriculum Requirements  
(Amendment of paragraph 7(5) of  
Schedule 17 to the Coronavirus Act  
2020) (Wales) Regulations 2020**

**EXPLANATORY NOTE**

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

Paragraph 7(5) of Schedule 17 to the Coronavirus Act 2020 lists enactments that can be disapplied by the Welsh Ministers for a specified period by notice. Regulation 2 adds section 69 of, and Schedule 19 to, the School Standards and Framework Act 1998 and sections 109, 110 and 116A to 116K of the Education Act 2002, together with orders made under section 108 of that Act, to that list. The provisions added confer functions on local authorities, governing bodies, head teachers and others in relation to the provision of religious education, the National Curriculum for Wales and the local curriculum.

*Regulations made by the Welsh Ministers, laid before Senedd Cymru under paragraph 8 of Schedule 17 to the Coronavirus Act 2020 (c.7), for approval by resolution of Senedd Cymru within 40 days beginning with the day on which the instrument is made.*

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

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**2020 No. 624 (W. 144)**

**EDUCATION, WALES**

**The Curriculum Requirements  
(Amendment of paragraph 7(5) of  
Schedule 17 to the Coronavirus Act  
2020) (Wales) Regulations 2020**

*Made* at 10.00 a.m. on 22 June 2020

*Laid* before Senedd  
*Cymru* at 4.00 p.m. on 22 June 2020

*Coming into force* 23 June 2020

The Welsh Ministers make the following Regulations in exercise of their powers under paragraph 8 of Schedule 17 to the Coronavirus Act 2020(1).

**Title and coming into force**

1.—(1) The title of these Regulations is the Curriculum Requirements (Amendment of paragraph 7(5) of Schedule 17 to the Coronavirus Act 2020) (Wales) Regulations 2020.

(2) These Regulations come into force on 23 June 2020.

**Amendment of paragraph 7(5) of Schedule 17 to the Coronavirus Act 2020**

2. In paragraph 7(5) of Schedule 17 to the Coronavirus Act 2020—

---

(1) 2020 c. 7.



- (a) insert after paragraph (c)—
  - “(ca) section 69 of, and Schedule 19 to, the School Standards and Framework Act 1998 (duty to secure due provision of religious education);”;
- (b) insert after paragraph (e)—
  - “(ea) section 109 of that Act (implementation of the National Curriculum in maintained schools);
  - (eb) section 110 of that Act (implementation of the National Curriculum in nursery schools etc.);
  - (ec) sections 116A to 116K of that Act (the local curricula);”;
- (c) insert after paragraph (g)—
  - “(h) the National Curriculum (Key Stage 2 Assessment Arrangements) (Wales) Order 2004 (S.I. 2004/2915 (W. 254));
  - (i) the National Curriculum (Key Stage 3 Assessment Arrangements) (Wales) Order 2005 (S.I. 2005/1394 (W. 108));
  - (j) the Education (National Curriculum) (Assessment Arrangements for Reading and Numeracy) (Wales) Order 2013 (S.I. 2013/433 (W. 51));
  - (k) the National Curriculum (Assessment Arrangements for the Foundation Phase and the Second and Third Key Stages) (Wales) Order 2014 (S.I. 2014/1999 (W. 200));
  - (l) the National Curriculum (Moderation of Assessment Arrangements for the Second and Third Key Stages) (Wales) Order 2015 (S.I. 2015/1309 (W. 113));
  - (m) the National Curriculum (Desirable Outcomes, Educational Programmes and Baseline and End of Phase Assessment Arrangements for the Foundation Phase) (Wales) Order 2015 (S.I. 2015/1596 (W. 195)).”

*Kirsty Williams*

Title of Minister, one of the Welsh Ministers

At 10.00 a.m. on 22 June 2020

**Explanatory Memorandum to the Curriculum Requirements (Amendment of paragraph 7(5) of Schedule 17 to the Coronavirus Act 2020) (Wales) Regulations 2020**

This Explanatory Memorandum has been prepared by the Welsh Government and is laid before Senedd Cymru in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

**Minister/Deputy Minister's Declaration**

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Curriculum Requirements (Amendment of paragraph 7(5) of Schedule 17 to the Coronavirus Act 2020) (Wales) Regulations 2020

Kirsty Williams  
22 June 2020

## **PART 1**

### **1. Description**

These regulations amend paragraph 7(5) of Schedule 17 to the Coronavirus Act 2020 (“the 2020 Act”) so as to add:

- Section 69 of, and Schedule 19 to, the School Standards and Framework Act 1998,
- Sections 109, 110 and 116A to 116K of the Education Act 2002,
- Orders made under section 108 of the Education Act 2002,

to the list of enactments that can be disapplied by the Welsh Ministers for a specified period by notice.

The provisions added to this list of enactment confer functions on local authorities, governing bodies, head teachers and others in relation to the basic curriculum for Wales. That basic curriculum includes the following:

- Religious education
- Sex education
- Work-related education
- Personal and social education
- National Curriculum for Wales and
- local curriculum.

### **2. Matters of special interest to the Legislation, Justice and Constitution Committee**

These Regulations are made in accordance with the procedure set out in paragraph 8 of Schedule 17 to the 2020 Act.

As set out in paragraph 8 of Schedule 17, the Regulations are made without a draft having been laid and approved by the Senedd. It is the opinion of the Welsh Ministers that, by reason of urgency, it is necessary to make the Regulations without a draft being so laid and approved. This is to ensure that the legislative requirements related to the provision of the curriculum can be disapplied prior to the increased operation of schools. This is necessary to ensure schools have the flexibility to focus on the health and well-being of learners, supporting them to re-integrate back into a school environment. It will also support schools to operate a blended learning approach of in-school and remote learning, creating space to do this by removing prescriptions that were designed to be delivered in a classroom environment.

The Regulations will be laid before the Senedd as soon as reasonably practicable after being made. The Regulations cease to have effect at the end

of the period of 40 days (excluding recess) beginning with the day on which the instrument is made unless, during that period, the Regulations are approved by the Senedd.

### **3. Legislative background**

Paragraph 8 of Schedule 17 to the 2020 Act gives the Welsh Ministers the power to make regulations to add provisions relating to children, education or training to the list of enactments in paragraph 7(5) of the 2020 Act that can be disapplied by the Welsh Ministers for a specified period by notice.

These Regulations are being made under the made affirmative procedure.

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

Paragraph 7(5) of Schedule 17 to the 2020 Act sets out areas in respect of which the Welsh Ministers may issue notices to temporarily disapply statutory education requirements to help mitigate the effects of the COVID-19 pandemic and enable the sector to adapt to the circumstances it is currently operating in. One of these areas is section 101 of the Education Act 2002 which places requirements on maintained schools in Wales to provide a basic curriculum including; the national curriculum, religious education, personal and social education, work related education and for secondary schools, sex education.

In preparing for the increased operations of schools consideration has been given to current statutory requirements and whether schools and governing bodies could effectively meet these without a disproportionate administrative burden and in line with social distancing requirements. This identified the need to disapply related curriculum provisions and associated assessment arrangements, namely:

- Section 69 of, and Schedule 19 to, the School Standards and Framework Act 1998 regarding the provision of religious education.
- Section 109 of the 2002 Act which requires the National Curriculum for Wales to be implemented in maintained schools in Wales and section 110 which requires it to be implemented in maintained nursery schools and some other nursery education settings in Wales.
- Sections 116A to 116K of the 2002 Act which make provision about the local curriculum including requirements that all young people are provided with a minimum offer of choices:
  - 25 choices at KS4 with a minimum of 3 vocational choices
  - 30 choices at post 16 with a minimum of 5 vocational choices
- Orders made under section 108 of the 2002 Act. This section enables Welsh Ministers to make orders relating to the national curriculum imposes requirements on schools to deliver desirable outcomes, education programmes, and assessment arrangements for Foundation Phase

provision, and attainment targets, assessment arrangements including moderation and programmes of study in respect of Key Stages 2, 3 and 4. The requirements for all learners in Year 2 to 9 in relation to the paper based reasoning tests and the online personalised numeracy and reading assessments, are imposed via Orders made under section 108. There is no need to disapply section 108 because no duties arise under that section – only the orders made under it.

These provisions are not currently listed in paragraph 7(5) of Schedule 17 to the 2020 Act and as such regulations need to be made to add these provisions to paragraph 7(5) so that the Welsh Ministers may issue notices to temporarily disapply statutory requirements.

#### *Rationale for proposed disapplication*

Since 20 March 2020 schools have remained open only for vulnerable children and young people and children of critical workers, in order to reduce the transmission of coronavirus and whilst attendance has fluctuated it represents approximately 1.4% of the overall school population.

Since the start of the summer term, the majority of learners have therefore been undertaking remote learning with their schools, supported by the resources and guidance provided by the Welsh Government's continuity of learning programme "Stay Safe, Stay Learning". The nature of this remote learning will vary by school – the approach that they are taking and the resources and staff they have, the age of the learner, the ability of the learner to engage with remote learning and the resources available to the learner at home both in terms of parental or carer support and also working environment, digital resources and connectivity.

On 3 June, the Minister for Education announced that schools would increase operations from the 29 June until the 24 July, so all learners have the opportunity to 'check in, catch up and prepare for summer and September'. As more learners return to the physical school environment, practitioners will be operating in a very different context. This will continue for the foreseeable future and will be a blended learning approach – a combination of face to face learning with remote learning.

As such disapplication of the curriculum requirements and associated assessment arrangements will give schools and nursery settings the flexibility to respond to the unprecedented circumstances presented by COVID 19 and allow maintained schools and maintained nursery schools to focus and prioritise learning to meet the changing needs of learners in this time. Particularly as these the curriculum and assessment requirements were designed for traditional classroom based practice. Schools will be focusing on the health and well-being of learners and as they start to welcome certain learners back, further space and flexibility will be required to allow schools to focus on supporting learners back into a normal school environment, particularly where many learners will have faced different challenges and therefore progressed at different paces.

## **5. Consultation**

No formal consultation has taken place in relation to these Regulations, in light of the unprecedented situation created by the Coronavirus pandemic and the challenging timescales within which they need to be made.

However, regular engagement has taken place with key representative bodies such as ADEW and local authority representatives, to help inform the policy proposals around legislative requirements that are going to be modified or disapplied. These discussions have helped to inform the provisions that are included within these regulations.

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

There has been no regulatory impact assessment completed in relation to these Regulations as there are no associated costs or benefits. These regulations only add areas to the list of enactments in paragraph 7(5) in respect of which the Welsh Ministers can make notices to disapply statutory requirements.

In respect of any notices that are made, the impact of these will be detailed in an integrated impact assessment. However there will be no costs or benefits to private or voluntary sectors or charity sectors. In respect of schools there is likely to be no net costs or benefits, schools will not have to teach the curriculum or undertake the associated assessment arrangements, but they may choose to do so if that is of benefit to their local context and learners.



Ein cyf/Our ref: MA/KW/1683/20

Elin Jones, MS  
Llywydd  
Senedd Cymru  
Cardiff Bay  
CF99 1SN

22 June 2020

Dear Elin,

**The Curriculum Requirements (Amendment of paragraph 7(5) of Schedule 17 to the Coronavirus Act 2020) (Wales) Regulations 2020**

I have today made the Curriculum Requirements (Amendment of paragraph 7(5) of Schedule 17 to the Coronavirus Act 2020) (Wales) Regulations 2020 under paragraph 8 of Schedule 17 to the Coronavirus Act 2020 which comes into force on 23 June. 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.

This instrument will come into force before it will be laid before the Senedd. This is necessary to enable a notice to be issued to disapply the basic curriculum prior to the increased operations of schools. This is needed to create the space and flexibility for schools to focus on supporting the health and well-being of learners as they start to return, recognising the continuing public health considerations and social distancing requirements mean that a blended learning approach of in school and remote based learning will be needed for the foreseeable future.

In accordance with the procedure set out in paragraph 8 of Schedule 17 to the Coronavirus Act 2020, this instrument must be approved by the Senedd by 26 September 2020 in order for it to remain in effect. 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 15 July.

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

Bae Caerdydd • Cardiff Bay  
Caerdydd • Cardiff  
CF99 1SN

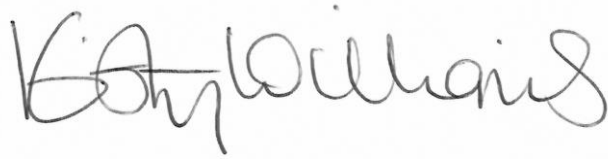
[Gohebiaeth.Kirsty.Williams@llyw.cymru](mailto:Gohebiaeth.Kirsty.Williams@llyw.cymru)  
[Correspondence.Kirsty.Williams@gov.wales](mailto:Correspondence.Kirsty.Williams@gov.wales)

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.

I am copying this letter to the Minister for Finance and Trefnydd, Mick Antoniw MS, Chair of the Legislation, Justice and Constitution Committee, Sian Wilkins, Head of Chamber and Committee Services and Julian Luke, Head of Policy and Legislation Committee Service.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Kirsty Williams'.

**Kirsty Williams AS/MS**

Y Gweinidog Addysg  
Minister for Education



# Agenda Item 3.1

## SL(5)561 – The Vegetable Plant Material and Seed (Miscellaneous Amendments) (Wales) Regulations 2020

### Background and Purpose

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These Regulations amend—

- the Marketing of Vegetable Plant Material Regulations 1995 (S.I. 1995/2652) (“the 1995 Regulations”) in relation to Wales, and
- the Seed Marketing (Wales) Regulations 2012 (S.I. 2012/245) (W. 39) (“the 2012 Regulations”).

These Regulations implement Commission Implementing Directive (EU) 2019/990 amending the list of genera and species in Article 2(1)(b) of Council Directive 2002/55/EC, in Annex II to Council Directive 2008/72/EC and in the Annex to Commission Directive 93/61/EEC (OJ No. L 160, 18.6.2019, p. 14) (“the 2019 Directive”).

The 1995 Regulations implement Council Directive 2008/72/EC on the marketing of vegetable propagating and planting material, other than seed (OJ No. L 205, 1.8.2008, p. 28), and Commission Directive 93/61/EEC setting out the schedules indicating the conditions to be met by vegetable propagating and planting material, other than seed pursuant to Council Directive 2008/72/EC (OJ No. L 250, 7.10.1993, p. 19). The 2012 Regulations implement Council Directive 2002/55/EC on the marketing of vegetable seed.

Regulation 2 updates definitions in the 1995 Regulations to ensure that references to Directives 2008/72/EC and 93/61/EEC refer to those Directives as amended by the 2019 Directive.

Regulation 3 amends the list of vegetable plants and their associated common names in Schedule 1 to the 2012 Regulations (seed to which these Regulations apply) to make explicit where all varieties of a species are included and where only certain varieties of a species are included. It also provides for the application of the 2012 Regulations to hybrids of the species and groups of vegetable plants listed.

### Procedure

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Negative.

### Technical Scrutiny

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

### Merits Scrutiny

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

### Implications arising from exiting the European Union

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These Regulations are made under section 2(2) of the European Communities Act 1972 (in addition to section 16(1) and (1A) of the Plant Varieties and Seeds Act 1964). As such, they will form part of retained EU law after IP completion day (i.e. the end of the implementation period, on 31 December 2020).



## Government Response

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A Welsh Government response is not required.

### **Legal Advisers**

**Legislation, Justice and Constitution Committee**

**June 2020**



Senedd Cymru

**Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad**

Welsh Parliament

**Legislation, Justice and Constitution Committee**

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

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**2020 No. 601 (W. 138)**

**PLANT HEALTH, WALES**

**SEEDS, WALES**

**The Vegetable Plant Material and  
Seed (Miscellaneous Amendments)  
(Wales) Regulations 2020**

**EXPLANATORY NOTE**

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

These Regulations amend—

- the Marketing of Vegetable Plant Material Regulations 1995 (S.I. 1995/2652) (in relation to Wales only) (“the 1995 Regulations”), and
- the Seed Marketing (Wales) Regulations 2012 (S.I. 2012/245) (W. 39) (“the 2012 Regulations”).

These Regulations implement Commission Implementing Directive (EU) 2019/990 amending the list of genera and species in Article 2(1)(b) of Council Directive 2002/55/EC, in Annex II to Council Directive 2008/72/EC and in the Annex to Commission Directive 93/61/EEC (OJ No. L 160, 18.6.2019, p. 14) (“the 2019 Directive”).

The 1995 Regulations implement Council Directive 2008/72/EC on the marketing of vegetable propagating and planting material, other than seed (OJ No. L 205, 1.8.2008, p. 28), and Commission Directive 93/61/EEC setting out the schedules indicating the conditions to be met by vegetable propagating and planting material, other than seed pursuant to Council Directive 2008/72/EC (OJ No. L 250, 7.10.1993, p. 19). The 2012 Regulations implement Council Directive 2002/55/EC on the marketing of vegetable seed.

Regulation 2 updates definitions in the 1995 Regulations to ensure that references to Directives 2008/72/EC and 93/61/EEC refer to those Directives as amended by the 2019 Directive (see section 26 of the Legislation (Wales) Act 2019 (anaw 4)).

Regulation 3 amends the list of vegetable plants and their associated common names in Schedule 1 to the 2012 Regulations (seed to which these Regulations apply) to make explicit where all varieties of a species are included and where only certain varieties of a species are included. It also provides for the application of the 2012 Regulations to hybrids of the species and groups of vegetable plants listed.

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

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

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**2020 No. 601 (W. 138)**

**PLANT HEALTH, WALES**

**SEEDS, WALES**

**The Vegetable Plant Material and  
Seed (Miscellaneous Amendments)  
(Wales) Regulations 2020**

*Made* 16 June 2020

*Laid before Senedd Cymru* 17 June 2020

*Coming into force* 10 July 2020

The Welsh Ministers are designated for the purposes of section 2(2) of the European Communities Act 1972<sup>(1)</sup> in relation to the common agricultural policy<sup>(2)</sup>.

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- (1) 1972 c. 68. The European Communities Act 1972 (“the 1972 Act”) was repealed by section 1 of the European Union (Withdrawal) Act 2018 (c. 16) (“the 2018 Act”) with effect from exit day. “Exit day” is defined in section 20 of the 2018 Act as 31 January 2020 at 11pm. Despite that repeal the 1972 Act continues to have effect with modifications until IP completion day, by virtue of section 1A of the 2018 Act. Section 1A was inserted by section 1 of the European Union (Withdrawal Agreement) Act 2020 (c. 1) (“the 2020 Act”). “IP completion day” is defined in section 1A as 31 December 2020 at 11pm (the meaning given in section 39 of the 2020 Act). Section 2(2) of the 1972 Act was previously amended by section 27(1) of the Legislative and Regulatory Reform Act 2006 (c. 51) and by section 3(3) of, and Part 1 of the Schedule to, the European Union (Amendment) Act 2008 (c. 7).
- (2) S.I. 2010/2690, which is prospectively revoked by S.I. 2018/1011 from IP completion day.

The Welsh Ministers have consulted representatives of such interests as appear to them to be concerned in accordance with section 16(1) of the Plant Varieties and Seeds Act 1964<sup>(1)</sup>.

The Welsh Ministers make these Regulations in exercise of the powers conferred by section 16(1) and (1A) of the Plant Varieties and Seeds Act 1964 and section 2(2) of the European Communities Act 1972.

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

1. The title of these Regulations is the Vegetable Plant Material and Seed (Miscellaneous Amendments) (Wales) Regulations 2020, they apply in relation to Wales and come into force on 10 July 2020.

### **Amendment of the Marketing of Vegetable Plant Material Regulations 1995**

2.—(1) The Marketing of Vegetable Plant Material Regulations 1995<sup>(2)</sup> are amended as follows.

(2) In regulation 2(1)—

(a) for the definition of “Directive 93/61/EEC” substitute—

““Directive 93/61/EEC” means Commission Directive 93/61/EEC setting out the schedules indicating the conditions to be met by vegetable propagating and planting material, other than seed pursuant to Directive 92/33/EEC<sup>(3)</sup>”;

(b) for the definition of “Directive 2008/72/EC” substitute—

““Directive 2008/72/EC” means Council Directive 2008/72/EC on the marketing of

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- (1) 1964 c. 14. Section 16(1A) was inserted by section 4 of, and paragraph 5 of Schedule 4 to, the European Communities Act 1972. *See* section 38(1) for a definition of “the Minister”. In accordance with article 2(1) of, and Schedule 1 to, the Transfer of Functions (Wales) (No. 1) Order 1978 (S.I. 1978/272) the functions of the Minister of Agriculture, Fisheries and Food under the Plant Varieties and Seeds Act 1964 were, so far as exercisable in relation to Wales, transferred to the Secretary of State. In accordance with article 2 of, and Schedule 1 to, the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) the functions transferred to the Secretary of State by the 1978 Order were transferred to the National Assembly for Wales. By virtue of paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c. 32) those functions are now exercisable by the Welsh Ministers.
- (2) S.I. 1995/2652, amended by S.I. 2014/519 (W. 61); there are other amending instruments but none are relevant.
- (3) OJ No. L 250, 7.10.1993, p. 19, as last amended by Commission Implementing Directive (EU) 2020/177 (OJ No. L 41, 13.2.2020, p. 1).

vegetable propagating and planting material, other than seed<sup>(1)</sup>”.

**Amendment of the Seed Marketing (Wales) Regulations 2012**

3.—(1) The Seed Marketing (Wales) Regulations 2012<sup>(2)</sup> are amended as follows.

(2) In Schedule 1, in the table, for the sub-heading “Vegetables” and the entries beneath that sub-heading substitute—

<b>“Vegetables</b>	
<i>Allium cepa</i> L.	—
—Cepa Group	Onion, Echalion
<i>Allium porrum</i> L.	Leek
—all varieties	
<i>Apium graveolens</i> L.	—
—Celery Group	—
—Celeriac Group	—
<i>Asparagus officinalis</i> L.	Asparagus
—all varieties	
<i>Beta vulgaris</i> L.	—
—Garden Beet Group	Beetroot including Cheltenham beet
—Leaf Beet Group	Spinach beet or Chard
<i>Brassica oleracea</i> L.	—
—Kale Group	—
—Cauliflower Group	—
—Capitata Group	Red cabbage and White cabbage
—Brussel Sprouts Group	—
—Kohlrabi Group	—
—Savoy Cabbage Group	—
—Broccoli Group	Calabrese type and Sprouting type
—Palm Kale Group	—
—Tronchuda Group	Portuguese cabbage
<i>Brassica rapa</i> L.	—
—Chinese Cabbage Group	—
—Vegetable Turnip Group	—
<i>Cichorium endivia</i> L.	Endive
—all varieties	
<i>Cucumis melo</i> L.	Melon
—all varieties	
<i>Cucumis sativus</i> L.	—
—Cucumber Group	—
—Gherkin Group	—
<i>Cucurbita maxima</i>	Gourd
Duchesne	
—all varieties	

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(1) OJ No. L 205, 1.8.2008, p. 28, as last amended by Commission Implementing Directive (EU) 2019/990 (OJ No. L 160, 18.6.2019, p. 14).

(2) S.I. 2012/245 (W. 39), amended by S.I. 2014/519 (W. 61); there are other amending instruments but none are relevant.

<i>Cucurbita pepo</i> L.	Marrow, including mature pumpkin and scallop squash, or Courgette, including immature scallop squash
—all varieties	
<i>Daucus carota</i> L.	Carrot and Fodder Carrot
—all varieties	
<i>Lactuca sativa</i> L.	Lettuce
—all varieties	
<i>Solanum lycopersicum</i> L.	Tomato
—all varieties	
<i>Petroselinum crispum</i> (Mill.) Nyman ex A. W. Hill	—
—Leaf Parsley Group	—
—Root Parsley Group	—
<i>Phaseolus coccineus</i> L.	Runner bean
—all varieties	
<i>Phaseolus vulgaris</i> L.	—
—Dwarf French Bean Group	—
—Climbing French Bean Group	—
<i>Pisum sativum</i> L.	—
—Round Pea Group	—
—Wrinkled Pea Group	—
—Sugar Pea Group	—
<i>Raphanus sativus</i> L.	—
—Radish Group	—
—Black Radish Group	—
<i>Spinacia oleracea</i> L.	Spinach
—all varieties	
<i>Vicia faba</i> L.	Broad bean
—all varieties	
<i>Zea mays</i> L.	—
—Sweet Corn Group	—
—Popcorn Group	—
Any hybrid of the vegetable species or Groups listed above”.	

*Lesley Griffiths*

Minister for Environment, Energy and Rural Affairs,  
one of the Welsh Ministers  
16 June 2020



## **Explanatory Memorandum to The Vegetable Plant Material and Seed (Miscellaneous Amendments) (Wales) Regulations 2020**

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 Senedd Cymru 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 Vegetable Plant Material and Seed (Miscellaneous Amendments) (Wales) Regulations 2020.

Lesley Griffiths MS  
Minister for Environment, Energy and Rural Affairs  
17 June 2020

## **PART 1**

### **1. Description**

These Regulations amend the Marketing of Vegetable Plant Material Regulations 1995 (“the 1995 Regulations”) in relation to Wales and the Seed Marketing (Wales) Regulations 2012 (“the 2012 Regulations”). These Regulations make amendments which are related to amendments being made to the Seeds (National Lists of Varieties) Regulations 2001 (“the 2001 Regulations”) by the Vegetable Plant Material and Seed (Miscellaneous Amendments) Regulations 2020.

These Regulations are required to assist the UK to meet its obligations under the Withdrawal Agreement to transpose EU law into domestic legislation until the end of the Implementation Period (31st December 2020). These Regulations transpose Commission Implementing Directive (EU) 2019/990 (“the 2019 Directive”) amending the list of genera and species in Article 2(1)(b) of Council Directive 2002/55/EC, in Annex II to Council Directive 2008/72/EC, and in the Annex to Commission Directive 93/61/EEC.

These Regulations change the common names of certain vegetable species in accordance with the grouping used in the International Code of Nomenclature for Cultivated Plants. They also bring hybrids between the species and groups listed into the scope of the 2012 Regulations. The changes aim to provide greater clarity for businesses.

These Regulations also bring into line the species *Cichorium intybus L.* (Chicory) with Commission Implementing Decision (EU) 2017/478. As the United Kingdom is released from the obligation to apply Directive 2002/55/EC in respect of *Cichorium intybus L.* the 2001 Regulations are being amended by the Vegetable Plant Material and Seed (Miscellaneous Amendments) Regulations 2020 to extend the derogation from the requirement to provide a national list and restrict marketing, to that species in its entirety. The 2012 Regulations will, therefore, no longer regulate *Cichorium intybus L.* of the type large-leaved (Italian) chicory.

### **2. Matters of special interest to the Legislation, Justice and Constitution Committee**

Section 2(2) of the European Communities Act 1972 offers a choice between negative and affirmative procedures. The negative procedure will be used in this case as the discretion of the Welsh Ministers is limited over the content of these Regulations because they are giving effect to EU provisions. Further, these Regulations amend Regulations that were subject to the negative procedure.

### **3. Legislative background**

The following domestic legislation prescribe the requirements for the marketing of vegetable seed, plant and propagating material:

- The 1995 Regulations, which implement Council Directive 2008/72/EC on the marketing of vegetable propagating and planting material, other than seed and Council Directive 93/61/EEC setting out the schedules indicating the conditions to be met by vegetable propagating and planting material, other than seed pursuant to Council Directive 2008/72/EC. They extend and apply to Great Britain. Similar legislation operates in Northern Ireland;
- The 2001 Regulations, which implement those elements of Council Directive 2002/55/EC which require member States to establish national lists of vegetable varieties. They extend and apply to the United Kingdom; and
- The 2012 Regulations, which implement Council Directive 2002/55/EC. They apply to Wales. Similar legislation operates in England, Scotland, and Northern Ireland.

The 2019 Directive amends the list of vegetable species and their associated common names covered by Council Directive 2002/55/EC and Directive 2008/72/EC, to specify the varieties covered by the scope of those Directives. The 2019 Directive takes into account the species where all varieties fall within their scope and those where only certain varieties are covered. It brings into the scope of Council Directive 2002/55/EC hybrids between the species and groups listed. The 2019 Directive also updates the botanical names of certain species in Directive 93/61/EEC, in accordance with the development of scientific knowledge. These Regulations amend the 1995 Regulations and the 2012 Regulations to implement those changes.

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

The marketing of vegetable seed, plant and propagating material is regulated at EU level by Council Directives 2002/55/EC, 2008/72/EC and Commission Directive 93/61/EEC. These Directives establish a regime to ensure that purchasers throughout the European Union receive vegetable seed, plants and propagating material which is healthy and of good quality. They set quality standards to be met by certain genera and species of vegetable seed, plants and propagating material when marketed and prescribe conditions to be satisfied by suppliers of propagating material. Directive 2002/55/EC also provides for a national catalogue to be established listing the vegetable varieties officially accepted for certification and marketing in a Member State's territory.

The Directives specified above are transposed by the 1995 Regulations, the 2001 Regulations and the 2012 Regulations. These three Regulations provide

for the vegetable species they cover by way of a table listing both the scientific names and associated common names. However, certain varieties belong to species listed under their scientific names, but not to the types of varieties described by their common names, risking confusion as to whether a variety is covered by the scope of the regulations. These Regulations amend the 2012 Regulations to update the list of vegetable species and associated common names in order to more clearly define which varieties are regulated and, where necessary, specify the species where all varieties fall within the scope of the Regulations and those of which only certain varieties are covered. They also bring hybrids between the species and groups listed within the scope of the 2012 Regulations.

As the United Kingdom is released from the obligation to apply Directive 2002/55/EC in respect of *Cichorium intybus* L. The 2001 Regulations are being amended by the Vegetable Plant Material and Seed (Miscellaneous Amendments) Regulations 2020 to extend the derogation from the requirement to provide a national list and restrict marketing, to that species in its entirety. The 2012 Regulations will, therefore, no longer regulate *Cichorium intybus* L. of the type large-leaved (Italian) chicory.

## **5. Consultation**

Given the minor and technical nature of these amendments, the Welsh Government has not undertaken a full public consultation on these Regulations, but has carried out a targeted consultation with organisations including the British Society of Plant Breeders, the Agricultural Industries Confederation and the National Farmers Union. These industry organisations represent the businesses directly affected by the amendments across Great Britain and have raised no concerns with the Welsh Government's approach.

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

These Regulations make minor technical amendments to existing Regulations, do not reflect a change of policy and will not have a substantive impact on current practices, because the underlying processes and standards are unchanged. The amendments aim to provide greater clarity for businesses in terms of the varieties covered and not covered by the scope of the regulations being amended. As such, no RIA has been prepared. This is in line with the Welsh Ministers' RIA Code.

# Agenda Item 4.1 SL(5)567 – Disapplication of Curriculum Requirements in Wales Notice 2020

## Background and Purpose

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This Notice is made by the Welsh Ministers under section 38(1) of, and paragraph 7 of Schedule 17 to, the Coronavirus Act 2020.

The Notice disapplies various provisions contained in primary and secondary legislation relating to the curriculum in Wales, during the period 24 June 2020 to 23 July 2020.

The Notice states:

- The temporary disapplication of requirements relating to the provision of the curriculum will give maintained schools, maintained nursery schools and other funded nursery education providers the flexibility to respond in the most appropriate way to the current circumstances and allow them to focus on the changing needs of children. In particular schools and nursery education providers need to be able to focus on the health and well-being of children.
- Much of the National Curriculum is intended to be delivered in a physical classroom and to a full time table. Remote learning may be in place for some time and the requirements imposed relating to the curriculum and assessment under section 108 of the Education Act 2002 were not designed to be delivered remotely, either in whole or in part.
- Disapplying requirements relating to the curriculum does not prevent schools from undertaking assessments in a way which is appropriate and relevant to their local context and the needs of children, many of whom are likely to have been affected differently by the current disruption to their schooling. This will require a more individualised approach to assessment, and that is enabled by the temporary disapplication of requirements relating to the provision of the basic curriculum.

## Procedure

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No procedure.

## Scrutiny under Standing Order 21.7

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Two points are identified for reporting under Standing Order 21.7(v) in respect of this Notice.

### 1. The Coronavirus Act 2020 and laying before the Senedd

We note that the Coronavirus Act 2020 gives the Welsh Ministers power temporarily to disapply primary legislation and secondary legislation relating to the curriculum in Wales.

We also note that the Coronavirus Act 2020 does not require the Notice to be laid before the Senedd, but that the Notice has been [published on the Welsh Government's website](#) and that Kirsty Williams MS, Minister for Education, made a written statement regarding the Notice on 23 June 2020, which was circulated to all Members of the Senedd and has been [published on the Welsh Government's website](#).



## **2. The period during which the Notice applies**

From reading the Notice, it appears to us that the disapplication applies during the period 24 June 2020 to 23 July 2020. However, the Minister for Education's written statement says that the Notice will apply "from 22 June to 21 July".

## **Implications arising from exiting the European Union**

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None.

## **Government Response**

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A Welsh Government response is not required.

### **Legal Advisers**

**Legislation, Justice and Constitution Committee**

**29 June 2020**



Senedd Cymru

**Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad**

—

Welsh Parliament

**Legislation, Justice and Constitution Committee**

**2020 (WG20-35)**

**CORONAVIRUS ACT 2020**

**Disapplication of Curriculum  
Requirements in Wales Notice 2020**

The Welsh Ministers, in exercise of the powers conferred by section 38(1) of, and paragraph 7 of Schedule 17 to, the Coronavirus Act 2020<sup>(1)</sup>, issue the following notice.

**Disapplication of curriculum requirements**

1. The following enactments are disapplied for the specified period—

- (a) section 69 of, and Schedule 19 to, the School Standards and Framework Act 1998<sup>(2)</sup> (duty to secure due provision of religious education);
- (b) section 101(1) of the Education Act 2002<sup>(3)</sup> (curriculum of maintained schools in Wales to comprise a basic curriculum);
- (c) section 109 of that Act (implementation of the National Curriculum in maintained schools);
- (d) section 110 of that Act (implementation of the National Curriculum in maintained nursery schools and other nursery education settings);
- (e) sections 116A to 116K of that Act (the local curriculum);
- (f) the National Curriculum (Key Stage 2 Assessment Arrangements) (Wales) Order 2004<sup>(4)</sup>;
- (g) the National Curriculum (Key Stage 3 Assessment Arrangements) (Wales) Order 2005<sup>(5)</sup>;

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(1) 2020 c. 7.  
(2) 1998 c. 31.  
(3) 2002 c. 32.  
(4) S.I. 2004/2915 (W. 254).  
(5) S.I. 2005/1394 (W. 108).

- (h) the Education (National Curriculum) (Assessment Arrangements for Reading and Numeracy) (Wales) Order 2013<sup>(1)</sup>;
- (i) the National Curriculum (Assessment Arrangements for the Foundation Phase and the Second and Third Key Stages) (Wales) Order 2014<sup>(2)</sup>;
- (j) the National Curriculum (Moderation of Assessment Arrangements for the Second and Third Key Stages) (Wales) Order 2015<sup>(3)</sup>;
- (k) the National Curriculum (Desirable Outcomes, Educational Programmes and Baseline and End of Phase Assessment Arrangements for the Foundation Phase) (Wales) Order 2015<sup>(4)</sup>.

### **Reasons for issuing the notice**

2.—(1) The Welsh Ministers consider that the issuing of this notice is an appropriate and proportionate action in all the circumstances relating to the incidence or transmission of coronavirus for the following reasons.

(2) Since 20 March 2020 maintained schools, maintained nursery schools and other funded nursery education providers have remained open for vulnerable children and children of critical workers. Schools have also been making provision to deliver education remotely to other children, relying on parents and carers to assist.

(3) Parents and carers assisting children cannot fulfil the same role as teachers. Teachers are providing support remotely but this is not equivalent to the support provided in a classroom. Not all children are able or willing to engage effectively with remote learning, particularly younger children and those with additional learning needs. Some children and households do not have access to adequate resources and technology required to undertake remote learning. It is therefore unlikely that all requirements relating to the provision of the curriculum can be met.

(4) The temporary disapplication of requirements relating to the provision of the curriculum will give maintained schools, maintained nursery schools and other funded nursery education providers the flexibility to respond in the most appropriate way to the current circumstances and allow them to focus on the changing needs of children. In particular schools and nursery education providers need to be able to focus on the health and well-being of children. Schools

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(1) S.I. 2013/433 (W. 51).  
 (2) S.I. 2014/1999 (W. 200).  
 (3) S.I. 2015/1309 (W. 113).  
 (4) S.I. 2015/1596 (W. 195).



and other funded nursery education providers will also need to be able to focus on supporting children's return as more children attend school and nursery premises again. Many children will have faced different challenges and will therefore have progressed at different paces.

(5) Much of the National Curriculum is intended to be delivered in a physical classroom and to a full time table. Remote learning may be in place for some time and the requirements imposed relating to the curriculum and assessment under section 108 of the Education Act 2002 were not designed to be delivered remotely, either in whole or in part.

(6) Disapplying requirements relating to the curriculum does not prevent schools from undertaking assessments in a way which is appropriate and relevant to their local context and the needs of children, many of whom are likely to have been affected differently by the current disruption to their schooling. This will require a more individualised approach to assessment, and that is enabled by the temporary disapplication of requirements relating to the provision of the basic curriculum.

### **Specified period**

3. In this notice "specified period" means the period of 30 days beginning with 24 June 2020.

*Signed by Kirsty Williams*

*Minister for Education, one of the Welsh Ministers*

*23 June 2020*



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## **WRITTEN STATEMENT BY THE WELSH GOVERNMENT**

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<b>TITLE</b>	<b>Creating Flexibility for Schools &amp; Settings – Disapplication of the Basic Curriculum</b>
<b>DATE</b>	<b>23/06/2020</b>
<b>BY</b>	<b>Kirsty Williams MS, Minister for Education</b>

Today, using powers under the Coronavirus Act 2020, I have issued a notice temporarily disapplying the basic curriculum requirements for Wales and associated assessment arrangements for schools and funded non-maintained nursery settings (those funded pursuant to arrangements with local authorities).

As schools open to more learners, I have been clear that the priority should be focusing on the health and well-being of learners supporting them to prepare for and re-engage with school learning, particularly those learners who have been most affected by the current period of disruption. I will also expect schools and practitioners to be using this time to be preparing for a blended learning approach that will comprise a combination of face-to-face and remote learning. Disapplying these provisions will provide practitioners the necessary space and flexibility to focus on these priorities.

The provisions that have been disappplied include:

- Section 101 of the Education Act 2002 (“the 2002 Act”) which places requirements on maintained schools in Wales to provide a basic curriculum including; the national curriculum, religious education, personal and social education, work related education and for secondary schools, sex education.
- Section 109 of the 2002 Act which requires the National Curriculum for Wales to be implemented in maintained schools in Wales, as well as section 110 which requires it to be implemented in maintained nursery schools and some other nursery education settings in Wales.
- Sections 116A to 116K of the 2002 Act which make provision about the local curriculum including requirements that all young people are provided with a minimum offer of choices: 25 choices at KS4 with a minimum of 3 vocational choices and 30 choices at post-16 with a minimum of 5 vocational choices.

- Orders made under section 108 of the 2002 Act relating to the national curriculum which impose requirements on schools to deliver:
- Desirable outcomes, education programmes, and assessment arrangements for Foundation Phase provision.
- Attainment targets, assessment arrangements including moderation and programmes of study in respect of Key Stages 2, 3 and 4.
- The paper based reasoning tests and the online personalised numeracy and reading assessments for all learners in Years 2 to 9.

I am suspending these statutory requirements as they were designed to be delivered in a classroom based environment. That does not stop schools making use of the programmes of study or assessment arrangements such as the personalised assessments, where these are appropriate to their local context and the needs of their learners. We have also published guidance that provides advice on learning and teaching that schools and settings may wish to provide for the remainder of the summer term.

As mandated under the powers in the Coronavirus act 2020, the notice will initially apply for a period of one month from 22 June to 21 July. I will keep this under review, in light of the public health advice and the operating arrangements for schools and settings, during the remainder of the summer term.

A copy of the notice can be viewed here:

<https://gov.wales/coronavirus-legislation-and-guidance-law#CoronavirusAct2020>

# SL(5)571 – Modification of section 3 of the Education Act 1996 (Wales) Notice 2020

## Background and Purpose

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Section 3 of the Education Act 1996 defines “pupil” as a person for whom education is being provided at a school (subject to some exceptions).

This Notice modifies the application of section 3 so that a person is not to be treated as a pupil at a school in Wales merely because any education is provided for that person at the school on a temporary basis, for reasons relating to the incidence or transmission of coronavirus.

This modification has effect only for the purposes of the registration of pupils. In contexts other than registration, the meaning of “pupil” in section 3 is not modified.

The Notice states at paragraphs 2(4) and (5):

- There are potential disadvantages to pupils of schools receiving children temporarily if those children become registered pupils. These disadvantages include the possibility of large class sizes and unfairness to other children who would have priority for admission.
- The modification [of section 3] will prevent unintended consequences arising from the temporary attendance by registered pupils of one school at another school.

This modification of section 3 applies during the period 29 June 2020 to 28 July 2020.

## Procedure

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No procedure.

## Scrutiny under Standing Order 21.7

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One point is identified for reporting under Standing Order 21.7(v) in respect of this Notice.

### 1. The Coronavirus Act 2020 and laying before the Senedd

We note that the Coronavirus Act 2020 gives the Welsh Ministers power, by notice, temporarily to modify primary legislation relating to education in Wales.

We also note that the Coronavirus Act 2020 does not require the Notice to be laid before the Senedd, but that the Notice has been published on the Welsh Government’s website.

## Implications arising from exiting the European Union

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None.

## Government Response

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A Welsh Government response is not required.

### Legal Advisers

### Legislation, Justice and Constitution Committee



30 June 2020



Senedd Cymru

**Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad**

—

Welsh Parliament

**Legislation, Justice and Constitution Committee**

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**2020 (WG20-38)**

**CORONAVIRUS ACT 2020**

**Modification of section 3 of the  
Education Act 1996 (Wales) Notice  
2020**

The Welsh Ministers, in exercise of the powers conferred by section 38(1) of, and paragraph 7 of Schedule 17 to, the Coronavirus Act 2020<sup>(1)</sup>, issue the following notice.

**Modification of section 3 of the Education Act 1996**

**1.**—(1) This paragraph applies for the specified period.

(2) Section 3 of the Education Act 1996<sup>(2)</sup> (definition of pupil etc.) is modified in its application so that, for the purposes of the Education Act 1996, a person is not to be treated as a pupil at a school in Wales merely because any education is provided for that person at the school on a temporary basis, for reasons relating to the incidence or transmission of coronavirus.

(3) The modification in sub-paragraph (2) has effect only for the purposes of section 434 of the Education Act 1996 (registration of pupils) and the Education (Pupil Registration) (Wales) Regulations 2010<sup>(3)</sup>.

**Reasons for issuing the notice**

**2.**—(1) The Welsh Ministers consider that the issuing of this notice is an appropriate and proportionate action in all the circumstances relating to the incidence or transmission of coronavirus for the following reasons.

(2) Since 20 March 2020 schools have remained open only for vulnerable children and children of critical workers in order to reduce the spread of coronavirus.

(3) Schools are now planning to increase their operations from 29 June 2020 to enable learners to check in, catch up and prepare for the summer and start

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(1) 2020 c.7.  
(2) 1996 c.56.  
(3) SI 2010/1954 (W. 187).

of the next school year. The number of learners in schools will be limited and it is possible that some children will attend a school other than the school at which they are registered.

(4) There are potential disadvantages to pupils of schools receiving children temporarily if those children become registered pupils. These disadvantages include the possibility of large class sizes and unfairness to other children who would have priority for admission.

(5) The modification made by paragraph 1(2) of this notice will prevent unintended consequences arising from the temporary attendance by registered pupils of one school at another school.

(6) The limitation to this modification by paragraph 1(3) preserves other duties and responsibilities that exist with regards to ‘pupils’ that need to continue.

### **Specified period**

**3.** In this notice “specified period” means the period of 30 days beginning with 29 June 2020.

*Signed by Kirsty Williams*

*Minister for Education, one of the Welsh Ministers*

*12:45 p.m. on 25 June 2020*

Lesley Griffiths AS/MS  
Gweinidog yr Amgylchedd, Ynni a Materion Gwledig  
Minister for Environment, Energy and Rural Affairs

Ein cyf/Our ref: MA-LG-1999-20

Mr Mick Antoniw AS/MS  
Chair of Legislation, Justice and Constitution Committee  
Welsh Parliament  
Cardiff Bay  
Cardiff  
CF99 1SN

[SeneddLJC@senedd.wales](mailto:SeneddLJC@senedd.wales)

30 June 2020

Dear Mick

**Legislation, Justice and Constitution Committee report on the Legislative Consent Memorandum in relation to the UK Fisheries Bill 2019-21.**

Thank you for the Committee's consideration and report on the Legislative Consent Memorandum in relation to the UK Fisheries Bill 2019-21.

I would like to take this opportunity to update the Committee on the situation with UK Parliament and Senedd Cymru scrutiny of the Bill. The House of Lords Report stage was held on 22 and 24 June. I note a small number of amendments were made and as such, I will be laying a Supplementary Legislative Consent Memorandum. Third Reading in the House of Lords is planned for 1 July, and the Bill will then be introduced into the House of Commons.

Given the delays to the UK Parliament timetable due to COVID-19, it has been deemed necessary to postpone the legislative consent motion debate in the Senedd, which was scheduled for 8 July. As a best estimate, as dates remain unconfirmed for all of the next stages in the House of Commons, I expect the appropriate time to hold the debate will be after summer recess – to take account of any amendments made at House of Commons Committee stage.

Bae Caerdydd • Cardiff Bay  
Caerdydd • Cardiff  
CF99 1SN

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

[Gohebiaeth.Lesley.Griffiths@llyw.cymru](mailto:Gohebiaeth.Lesley.Griffiths@llyw.cymru)  
[Correspondence.Lesley.Griffiths@gov.wales](mailto: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.



As soon as is possible, I will re-instate a date for the consent motion debate and provide all the necessary information for all Members of the Senedd to adequately consider their consent decision. In the meantime, I have considered the recommendations and have provided my responses in the Annex to this letter.

### Financial implications

This is a framework bill and it will be necessary to consider how we implement new functions, in the context of the wider work of the Marine and Fisheries Division. Where additional costs may arise, they will be drawn from existing programme budgets.

However, in addition, Welsh Government officials are undertaking planning work for how new functions, including from exit related primary legislation, are to be delivered as we exit the EU transition period. This will include any emerging legislation. It is too early to tell, at this stage, the scope and scale of any change. A clearer picture should emerge when we understand our future relationship with the EU.

Yours sincerely

A handwritten signature in black ink that reads "Lesley Griffiths". The signature is written in a cursive style with a large, sweeping flourish at the end.

**Lesley Griffiths AS/MS**

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

**Welsh Government response to the Legislation, Justice and Constitution Committee report (published 21 May 2020) on the Welsh Government’s Legislative Consent Memorandum on the Fisheries Bill 2019-21**

Recommendation	Welsh Government Response
<p><b>Recommendation 1.</b> The Minister should, as a matter of urgency and ahead of the Welsh Government tabling a legislative consent motion for the Bill, clarify and confirm which specific provisions in the Bill are necessary for the purpose of achieving the desired aim of a UK-wide legislative common framework for fisheries</p>	<p><b>Accept</b></p> <p>I am happy to clarify. The majority of the UK Fisheries Bill contains provisions which are necessary for the purpose of achieving the desired aim of a UK-wide common framework for fisheries. It creates the primary legislative elements of the UK Framework for fisheries management and support, providing a uniform set of objectives, duties and powers.</p> <p>This is a framework bill. It is being brought forward to replace the Common Fisheries Policy. There are provisions which are required for a fully functioning UK-wide legislative Common Framework for fisheries. These provisions will apply across the UK, to all fisheries administrations.</p> <p>The core elements of the common framework are:</p> <p><i>Clause 1 – 11 and Schedule 1 - Fisheries objectives, fisheries statements and fisheries management plans</i></p> <p><i>Clauses 12 – 13 , Schedule 2 &amp; 4- Access to British fisheries and regulation of foreign fishing boats</i></p> <p><i>Clause 14 – 22 and Schedule 3 - Licensing of fishing boats</i></p> <p><i>Clause 23 – 27 and Schedule 5 - Fishing opportunities</i> including provisions on the sale of fishing opportunities to ensure we are able to exploit, what we hope will be a greater share of quota for Welsh fishers, following our exit from the European Union (EU). These powers are equivalent to powers of the Secretary of State (SoS).</p> <p>The clauses set out above provide for the four administrations of the UK to work together to develop the policies of the common framework. The Bill then goes on to provide a number executive powers or tools, which are vested in the individual administrations in order to maximise each administrations’ ability and power to manage their own fisheries. These tools will be used to implement and deliver the policies developed in the framework. These regulation making functions are more operational in nature but are necessary to ensure we can put the policies agreed within the framework into effect in Wales, but in a way which is best tailored to the needs of Wales. They are:</p> <p><i>Clause 33 and Schedule 6 – provides each of the UK administrations with powers to grant financial assistance to replicate the powers those bodies currently exercise under the European Maritime and Fisheries Fund.</i></p>

Recommendation	Welsh Government Response
	<p><i>Clause 34, and Schedule 7</i> enables the Welsh Ministers (with equivalent powers for the Marine Management Organisation and all fisheries administrations) to charge for services provided in connection with carrying out fisheries functions more widely than before. These are essentially administrative powers, which are not necessary for the framework but will enable better regulation and use of public monies.</p> <p><i>Clauses 36 - 42 and Schedule 8</i>, provide SI making powers to each administration to make provision on fisheries and aquaculture. These are important powers which enable us to amend retained EU legislation, without seeking primary legislation as we transition away from fisheries management under the Common Fisheries Policy towards fisheries management under the Joint Fisheries Statement (JFS) and fisheries management plans (FMPs). Of course this would allow us to deviate from the EU where we felt it was necessary, implement new international obligations, or keep pace with the EU, as it is clear fisheries legislation is continually evolving.</p> <p>This regulation making powers ensure all administrations have the tools they will need to implement the policies and targets formulated and agreed within the JFS and the FMPs. It is therefore both an important aspect of the common framework, whilst at the same time sufficiently flexible so each administration can ensure the regulations made are specific to the needs and priorities of each administration.</p> <p><i>Section 44 and Schedule 9</i> introduce significant amendments to the Marine and Coastal Access Act 2009 in relation to the regulation of the exploitation of the sea fisheries resources. The amendments provide the Welsh Ministers with new order making powers to manage the exploitation of sea fisheries resources in order to conserve marine flora and fauna or to conserve marine habitats. These powers are fundamentally important to deliver flexible fisheries management and we intend to use these as soon as possible. These powers are being given to all fisheries administrations.</p> <p>We will rely on these regulation and order making powers to introduce legislation necessary to give effect to the policies agreed in the framework and to deliver joined up approaches with the other fisheries administrations, or deliver at the same time as the other fisheries administrations e.g. introduction of a fisheries support scheme. It is therefore prudent to take these powers through this Bill also, and not risk disadvantaging Welsh interests until we can introduce further powers in a Welsh Fisheries Bill.</p>
<p><b>Recommendation 2.</b> The Minister should, ahead of the Welsh Government tabling a legislative consent motion for the Bill, clarify:</p>	<p><b>Accept</b></p> <p>There are clearly a number of reasons why there has been a delay to the introduction of a Welsh Fisheries Bill. Of course, the delay to the UK Fisheries Bill has had a knock on effect on our ability to bring forward a Welsh Fisheries Bill, given the dependency of the Welsh Bill on the UK Bill. We have introduced a Bill on the legislative competence for the Senedd.</p>

Recommendation	Welsh Government Response
<ul style="list-style-type: none"> <li>▪ why a Welsh Fisheries Bill has been delayed to an unknown time in the future, when it was the Welsh Government's position last year that such a Bill would be introduced within the next 12 months;</li> <li>▪ the time that will be needed to prepare a Welsh Fisheries Bill.</li> </ul>	<p>We are in a significant period of uncertainty for our fishing industry. COVID-19 has already impacted heavily on the industry and our coastal communities and Brexit impacts are yet to be realised. With the uncertainty of the ongoing fisheries negotiations and our future relationship with the EU – the situation we find ourselves in is constantly changing and we need to remain flexible and responsive to ensure we can take the right policy and legislative action at the right time.</p> <p>I absolutely agree with your assertion in your report on the need to provide some certainty around the likely timing of a Welsh fisheries policy and an appropriate Welsh Bill, to stakeholders.</p> <p>It is this Government's intention to bring forward a Welsh Fisheries Bill in the next Senedd term. The time needed to prepare a Bill will involve the usual stages of Bill development, including a white paper and this will necessarily be steered by the timings of a future Welsh fisheries policy.</p> <p>Brexit and Our Seas was the start of an ongoing conversation with our Welsh stakeholders, which will inform the development of a future Welsh fisheries policy. We intend to continue the conversation. The publication of the response to the Brexit and Our Seas consultation was delayed due to the COVID-19 pandemic. I am reviewing the response in light of the pandemic and continued uncertainty regarding EU transition.</p>
<p><b>Recommendation 3.</b> The Minister should explain, in advance of the Welsh Government tabling a legislative consent motion for the Bill, how a future Welsh Fisheries Bill will work within a UK-wide common fisheries framework.</p>	<p><b>Accept</b></p> <p>Alongside identifying and co-ordinating a common UK-wide approach, the role of the fisheries framework is to recognise the ability of each government to develop tailored policy for their individual territories and provide the opportunity for them to come together and consider how this is managed across the UK.</p> <p>The UK Fisheries Bill will provide the core legislative provisions necessary for the UK fisheries common framework. A key element of the framework is the UK Fisheries Objectives, a common set of objectives which we need to work towards. Any future Welsh Fisheries Bill would need to consider these objectives. The JFS explicitly provides for each administration to have its own policies, tailored to its own needs, to deliver the objectives, where required.</p> <p>Consequentially I would expect the key framework provisions, such as the objectives and the JFS to remain in the UK Bill.</p> <p>A Welsh Fisheries Bill would also be subject to discussions around our forward looking fisheries policy, which we will be developing with stakeholders.</p> <p>Until we have had those conversations it is difficult to predict exactly what further powers we would require and how they will work within</p>

Recommendation	Welsh Government Response
	<p>the fisheries common framework. The Welsh Ministers are signed up to the common framework approach and any future Welsh Fisheries Bill will, of course, take it into account. To reiterate, it is important to remember, fisheries management is a devolved matter. It is entirely in the gift of the Welsh Ministers to exercise functions and to bring forward legislation. The framework respects devolution and enables different approaches across the UK, where appropriate, as outlined in the Joint Ministerial Committee principles.</p>
<p><b>Recommendation 4.</b> The Minister should:</p> <ul style="list-style-type: none"> <li>▪ seek an amendment to the Bill to insert provision 'sunsetting' the clauses in the Bill applicable to Wales by 2024, in order to ensure there is future clarity about the application of primary legislation on fisheries in Wales;</li> <li>▪ keep the Committee updated with detailed information about her discussions with the UK Government about such an amendment.</li> </ul>	<p><b>Reject</b></p> <p>I fully recognise the reason behind this recommendation, and agree clarity about the timings of a Welsh Fisheries Bill is desirable and agree it is essential it remains a priority for government. As I have noted above, it is this Government's intention to bring forward a Welsh Fisheries Bill in the next Senedd term.</p> <p>Sunset clauses are usually considered where there is a clear timetable for replacement of Welsh provisions and as I note above, we are in a significant period of uncertainty for our fishing industry. Pushing forward with legislation for the sake of it is not the way to deliver good policy or legislation. It is imperative we take the time to reflect and take stock on the situation as we find it.</p> <p>In the meantime, we will need to ensure we have the necessary toolkit in place to manage the challenges of Brexit (and now COVID-19) on our fisheries industry, so we need to retain these powers in this UK Bill, for as long as we may need them. We do not want to impose a sunset clause which creates the risk of key powers for Wales being lost, by automatic function of law. We want to introduce Welsh legislation which has been developed with sufficient time to allow for proper scrutiny and consideration. I am not prepared to seek a sunset clause which will potentially disadvantage the Welsh fishing industry in comparison to the rest of the UK industry.</p> <p>However, I can also assure you it is not my intention to have these powers in a UK Bill for any longer than is necessary and I will keep the Committee up-to-date on progress with bringing forward a Welsh Fisheries Bill.</p>
<p><b>Recommendation 5.</b> The Minister should clarify why it is appropriate for the Senedd to be asked for its consent to the relevant provisions in the Bill without the memorandum of understanding having been agreed.</p>	<p><b>Recommendation 5 - Accept</b> <b>Recommendation 6 - Accept</b></p> <p>My officials are working with Defra and the other devolved governments to progress the development of the Memorandum of Understanding (MoU). We are pressing for progress to be made on this matter, and it is my intention Members should have the opportunity to review the MoU, in relation to clause 23, in advance of its consent decision.</p>

<b>Recommendation</b>	<b>Welsh Government Response</b>
<p><b>Recommendation 6.</b> The Minister should provide the Committee with regular updates regarding progress being made in finalising the memorandum of understanding, including a dispute resolution mechanism.</p>	<p>I will provide regular updates to the Committee regarding progress being made in finalising the MoU, including a dispute resolution mechanism.</p>
<p><b>Recommendation 7.</b> The Minister should provide information, in either a supplementary document or within any supplementary LCM, justifying why it is appropriate to take each of the regulation-making powers for the Welsh Ministers contained within the Bill, and the choice of procedure for each regulation-making power.</p>	<p><b>Accept</b></p> <p>I will provide the information in a supplementary document or within any Supplementary Legislative Consent Memorandum.</p>
<p><b>Recommendation 8.</b> The Minister should, in advance of the Welsh Government tabling a legislative consent motion for the Bill, provide further clarity on the regulation-making powers in Schedule 3, and specifically under what circumstances the Welsh Ministers would consider it necessary and expedient to exercise these powers as a sea fish licensing authority.</p>	<p><b>Accept</b></p> <p>Licensing is a key tool of fisheries management. It enables regulators to apply controls on the level of commercial fishing activity. This is a devolved matter however, we have entered into a joined up approach, to ensure there is a clear framework for the licensing of fishing in the UK.</p> <p>The provisions and powers within clauses 14 to 17 and Schedule 3 of the Bill replace existing equivalent licensing provisions which are currently contained in both the Sea Fish (Conservation) Act 1967 and the Sea Fish Licensing Order 1992 in relation to British fishing boats. They also impose new licensing requirements upon foreign fishing boats fishing within British fishery limits, which are required in consequence of the UK's exit from the EU.</p> <p>The Bill makes consequential amendments to three existing licensing statutory instruments: the Sea Fish (Licensing) Order 1992 (which contains powers for British sea fishery officers); the Sea Fishing (Licences and Notices) Regulations 1994 (which make provision for the services of licences, and notices issued under licences); and the Sea Fish Licensing (Time at Sea) (Principles) Order 1993 (which provides for principles to be applied in determining an allocation of days which can be spent at sea within a licence). The amendments ensure these three statutory instruments will continue to function with the new licensing powers in the Bill. The regulation making power within Schedule 3 enables the Welsh</p>

Recommendation	Welsh Government Response
	<p>Ministers to manage the licensing system in Wales and make changes in future should it be necessary, to ensure we have in place a robust licensing system. However there is no current intention to change the provision made in the Bill and these three instruments.</p> <p>The Bill sets a framework but it is possible we may want to introduce further details in future to support the effective running of our licensing system.</p> <p>Regulations including provision described above will be subject to the approval of the Senedd. We will include the requested table providing a justification for approval process applicable to each Welsh Ministers regulation making power within the Supplementary Legislative Consent Memorandum.</p>
<p><b>Recommendation 9.</b> The Minister should commit to laying a written statement giving notification of any relevant order made under sections 134A or 134B of the Marine and Coastal Access Act 2009 in order to ensure openness and transparency.</p>	<p><b>Reject</b></p> <p>Section 135 of the Marine and Coastal Access Act 2009, as amended by the Bill, will make provision for Orders made under sections 134A and 134B to be published by the Welsh Ministers and as such will be within the public domain ensuring openness and transparency. Section 135 requires the Welsh Ministers to publish the order in a way most likely to bring it the attention of those persons affected by the making of the order, which would include the Senedd. Publication would include placing it on the Welsh Government website. I therefore think this commitment is unnecessary.</p>
<p><b>Recommendation 10.</b> The Minister should, in advance of the Welsh Government tabling a legislative consent motion for the Bill, write to the Committee to clarify why the Senedd's consent is not required for clause 4 of the Bill.</p>	<p><b>Accept</b></p> <p>Given the links between clause 4 and clause 23, I can understand why the Committee has raised this question. However, we don't believe Senedd consent is required.</p> <p>Clause 4 is in relation to the SoS Fisheries Statement and concerns the setting of policies by the SoS on how they will meet the UK fisheries objectives, through the exercise of their functions, which can include the UK quota functions and other reserved matters. It is not our view this specific provision therefore requires consent.</p> <p>In terms of the relationship between clause 4 and clause 23. Under clause 4 the SoS would be setting UK Government policy which will outline how the SoS exercises UK quota function under clause 23.</p> <p>In contrast under clause 23, the SoS will be exercising a function more operational in nature to determine fishing opportunities for all British fishing boats which could include a provision for a geographical area solely within Wales. We do not believe this is the intention behind clause 23, and it is why we have agreed for assurances to be set out in the MoU on the use of the power.</p>

# Agenda Item 7

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

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Mick Antoniw MS  
Legislation, Justice and Constitution Committee  
10 Market Street  
Pontypridd  
CF37 2ST

[Mick.Antoniw@senedd.wales](mailto:Mick.Antoniw@senedd.wales)

29 June 2020

Dear Mick

**Legislation, Justice and Constitution Committee's report on the Legislative Consent Memorandum on the Agriculture Bill 2019-21**

Thank you and members of the Legislation, Justice and Constitution Committee for your consideration of the Legislative Consent Memorandum (LCM) on the Agriculture Bill which I laid before the Senedd on 12 February. I have reflected on the Committee's Report, and my response to each of the 3 recommendations raised is provided in the annex to this letter.

I would like to take this opportunity to provide the Committee with an update on the progress of the Bill. On 13 May, the Bill completed its passage in the House of Commons, where amendments were made to a number of provisions relating to Wales to ensure their operability. Details of these amendments are provided in the Supplementary LCM laid before the Senedd on 11 June. The Bill had its First Reading in the House of Lords on 18 May, the Second Reading on 10 June, and the first two dates for Committee Stage have now been confirmed as 7 and 9 July.

During the Bill's Second Reading in the House of Lords, a significant number of Peers raised concerns regarding the absence of legislative protection for UK's agricultural standards in future trade agreements. We have always been clear with the UK Government no future trade agreement should undermine our domestic legislation or the high product and production standards we have in Wales. On 12 June, I wrote to George Eustice MP, the Secretary of State for Environment, Food and Rural Affairs, setting out the Welsh Government's position

Bae Caerdydd • Cardiff Bay  
Caerdydd • Cardiff  
CF99 1SN

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

[Gohebiaeth.Lesley.Griffiths@llyw.cymru](mailto:Gohebiaeth.Lesley.Griffiths@llyw.cymru)  
[Correspondence.Lesley.Griffiths@gov.wales](mailto: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.

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on animal health and welfare, as well as key Sanitary and Phytosanitary matters in respect of future trade agreements. Food safety along with animal health and welfare are devolved matters, and the Welsh Government's policy is clear that high food safety, animal welfare and environmental standards must be maintained in Wales.

I remain committed to introducing an Agriculture (Wales) Bill in the next Senedd term. Building on our two consultations, *Brexit and Our Land* and *Sustainable Farming and Our Land*, I intend to publish a White Paper later this year to set out the Welsh Government's plans for the future of agriculture in Wales and pave the way for the Agriculture (Wales) Bill.

As stated in my LCM on the UK Agriculture Bill, powers are being taken for Welsh Ministers as a temporary measure to allow us to continue supporting farmers in Wales and to ensure agricultural sectors across the UK can operate effectively once we leave the EU. During this period of unprecedented uncertainty when we continue to prepare for our departure from the EU while dealing with a crippling global pandemic, the Bill is an important legislative vehicle to provide much needed continuity and stability for Welsh agriculture.

Yours sincerely

A handwritten signature in black ink that reads "Lesley Griffiths". The signature is written in a cursive style with a large, sweeping flourish at the end.

**Lesley Griffiths AS/MS**

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

**ANNEX**

**Response to the Legislation, Justice and Constitution Committee’s Report on the  
Legislative Consent Memorandum in relation to the UK Agriculture Bill 2019-21  
(published 12<sup>th</sup> May 2020)**

<b>Committee’s Recommendation</b>	<b>Welsh Government’s Response</b>
<p><b>Recommendation 1</b></p> <p>The Minister should write to us explaining the extent to which the Bill relates to any common framework and, if appropriate, clearly identify the provisions that are necessary to achieve that framework.</p>	<p><b>Noted</b></p> <p>Following extensive discussions, the four governments of the UK are of the view that implementation of a common framework is best managed through a Ministerial Concordat. The Welsh Government continues to work with the other governments of the UK to develop the proposed framework which is expected to cover areas such as market intervention, data collection and sharing arrangements alongside arrangements to reduce bureaucracy and provide clarity for cross border holdings.</p>
<p><b>Recommendation 2</b></p> <p>The Minister should provide information, in either a supplementary document or within any supplementary LCM, justifying why it is appropriate to take each of the regulation-making powers for the Welsh Ministers contained within the Bill, and the choice of procedure for each regulation-making power.</p>	<p><b>Accept</b></p> <p>The regulation-making powers being taken for the Welsh Ministers are those needed to provide continuity and stability for farmers in Wales as we prepare to leave the EU.</p> <p>In response to previous concerns raised by the Senedd, officials have reviewed the choice of procedure for the Welsh Ministers’ regulation making powers. Where appropriate the affirmative resolution procedure has been chosen to give the Senedd a greater role in scrutinising subordinate legislation. Those instruments subject to the negative resolution procedure will be laid before the Senedd who will have the opportunity to object in the usual way.</p> <p>A full summary of the Welsh Ministers’ regulation making powers will be provided as part of the Welsh Government’s response to the Committee’s report on the Supplementary LCM laid on 11 June.</p>
<p><b>Recommendation 3</b></p> <p>The Minister should continue to provide the Committee with regular updates on the areas of disagreement and concern between the Welsh and UK Governments during the Bill’s progress through the UK Parliament.</p>	<p><b>Accept</b></p> <p>My officials have had productive discussions with the UK Government on the areas of concern highlighted in the LCM for this Bill. I will continue to provide the Committee with an update of further progress in due course.</p>

# Agenda Item 8

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

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