

# Agenda – Legislation, Justice and Constitution Committee

---

Meeting Venue:	For further information contact:
Video conference via Zoom	<b>Gareth Williams</b>
Meeting date: 23 November 2020	Committee Clerk
Meeting time: 10.00	0300 200 6565
	<a href="mailto:SeneddLJC@senedd.wales">SeneddLJC@senedd.wales</a>

---

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 (09.30–10.00)

**1 Introduction, apologies, substitutions and declarations of interest**  
10.00

**2 Instruments previously considered for sifting and now subject to  
scrutiny under Standing Orders 21.2 and 21.3**  
10.00–10.05

Negative Resolution Instruments

**2.1 SL(5)656 – The Teachers' Qualifications (Amendment) (Wales) (EU Exit)  
Regulations 2020**

(Pages 1 – 14)

CLA(5)–34–20 – Paper 1 – Report

CLA(5)–34–20 – Paper 2 – Regulations

CLA(5)–34–20 – Paper 3 – Explanatory Memorandum

**2.2 SL(5)657 – The Fisheries and Marine Management (Amendment) (Wales) (EU  
Exit) Regulations 2020**

(Pages 15 – 30)

CLA(5)–34–20 – Paper 4 – Report

CLA(5)–34–20 – Paper 5 – Regulations



CLA(5)–34–20 – Paper 6 – Explanatory Memorandum

### **3 Instruments that raise issues to be reported to the Senedd under Standing Order 21.2 or 21.3**

10.05–10.10

Negative Resolution Instruments

#### **3.1 SL(5)655 – The Non–Domestic Rating (Demand Notices) (Wales) (Amendment) (EU Exit) Regulations 2020**

(Pages 31 – 38)

CLA(5)–34–20 – Paper 7 – Report

CLA(5)–34–20 – Paper 8 – Regulations

CLA(5)–34–20 – Paper 9 – Explanatory Memorandum

Made Affirmative Resolution Instruments

#### **3.2 SL(5)659 – The Non–Domestic Rating (Multiplier) (Wales) Order 2020**

(Pages 39 – 53)

CLA(5)–34–20 – Paper 10 – Report

CLA(5)–34–20 – Paper 11 – Order

CLA(5)–34–20 – Paper 12 – Explanatory Memorandum

CLA(5)–34–20 – Paper 13 – Letter from the Minister for Finance and Trefnydd, 11 November 2020

#### **3.3 SL(5)660 – The Health Protection (Coronavirus, International Travel and Restrictions) (Amendment) (No. 2) (Wales) Regulations 2020**

(Pages 54 – 72)

CLA(5)–34–20 – Paper 14 – Report

CLA(5)–34–20 – Paper 15 – Regulations

CLA(5)–34–20 – Paper 16 – Explanatory Memorandum

CLA(5)–34–20 – Paper 17 – Letter from the Minister for Health and Social Services, 13 November 2020

CLA(5)–34–20 – Paper 18 – Written statement, 12 November 2020

#### **4 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**

10.10–10.15

##### **4.1 SL(5)654 – The Equine Identification (Wales) (Amendment) (EU Exit) Regulations 2020**

(Pages 73 – 85)

CLA(5)–34–20 – Paper 19 – Report

CLA(5)–34–20 – Paper 20 – Regulations

CLA(5)–34–20 – Paper 21 – Explanatory Memorandum

#### **5 Instruments that raise issues to be reported to the Senedd under Standing Order 21.2 or 21.3 – previously considered**

10.15–10.20

##### **5.1 SL(5)648 – The National Health Service (Performers Lists) (Wales) (Amendment) Regulations 2020**

(Pages 86 – 89)

CLA(5)–34–20 – Paper 22 – Report

CLA(5)–34–20 – Paper 23 – Welsh Government response

##### **5.2 SL(5)649 – The Health Protection (Coronavirus Restrictions) (No. 4) (Wales) Regulations 2020**

(Pages 90 – 96)

CLA(5)–34–20 – Paper 24 – Report

CLA(5)–34–20 – Paper 25 – Welsh Government response

##### **5.3 SL(5)653 – The Health Protection (Coronavirus, International Travel and Restrictions) (Amendment) (Wales) Regulations 2020**

(Pages 97 – 101)

CLA(5)–34–20 – Paper 26 – Report

CLA(5)–34–20 – Paper 27 – Welsh Government response

#### **6 Written Statements under Standing Order 30C**

10.20–10.25

**6.1 WS-30C(5)204 – The Official Controls (Animals, Feed and Food, Plant Health etc) (Amendment) (EU Exit) Regulations 2020**

(Pages 102 – 108)

CLA(5)-34-20 – Paper 28 – Written statement

CLA(5)-34-20 – Paper 29 – Commentary

**6.2 WS-30C(5)205 – The Animals, Aquatic Animal Health, Invasive Alien Species, Plant Propagating Material and Seeds (Amendment) (EU Exit) Regulations 2020**

(Pages 109 – 118)

CLA(5)-34-20 – Paper 30 – Written statement

CLA(5)-34-20 – Paper 31 – Commentary

**7 Papers to note**

10.25–10.30

**7.1 Letter from the Minister for Environment, Energy and Rural Affairs: UK Fisheries Bill**

(Pages 119 – 121)

CLA(5)-34-20 – Paper 32 – Letter from the Minister for Environment, Energy and Rural Affairs, 17 November 2020

**7.2 Letter from the First Minister: The 2021 Senedd election and the report of the Elections Planning Group**

(Pages 122 – 126)

CLA(5)-34-20 – Paper 33 – Letter from the First Minister, 17 November 2020

CLA(5)-34-20 – Paper 34 – Letter to the First Minister, 12 November 2020

**7.3 Letter from the Minister for Environment, Energy and Rural Affairs: The Basic Payment Scheme and Rural Support Legislative Framework from 2021**

(Page 127)

CLA(5)-34-20 – Paper 35 – Letter from the Minister for Environment, Energy and Rural Affairs, 18 November 2020

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

10.30

- 9 Briefing on arrangements for 2021 Senedd election**  
10.30–10.35 (Pages 128 – 132)  
CLA(5)–34–20 – Paper 36 – Research Service briefing
- 10 Legislative Consent Memorandum on the UK Internal Market Bill – consideration of draft report**  
10.35–10.45 (Pages 133 – 165)  
CLA(5)–34–20 – Paper 37 – Draft report
- 11 Curriculum and Assessment (Wales) Bill – consideration of draft report**  
10.45–11.15 (Pages 166 – 222)  
CLA(5)–34–30 – Paper 38 – Draft report
- 12 Legislative Consent Memorandum on the Financial Services Bill – consideration of key issues**  
11.15–11.25 (Pages 223 – 229)  
CLA(5)–34–20 – Paper 39 – Legislative Consent Memorandum  
CLA(5)–34–20 – Paper 40 – Legal Advice Note

**Date of the next meeting – 30 November 2020**

## SL(5)656 – The Teachers’ Qualifications (Amendment) (Wales) (EU Exit) Regulations 2020

### Background and Purpose

These Regulations make technical amendments to the Teachers’ Qualifications (Amendment) (Wales) (EU Exit) Regulations 2019 (“the 2019 Regulations”) to update cross-references to provisions in the Recognition of Professional Qualifications (Amendment etc.) (EU Exit) Regulations 2019 (“RPQ Regulations 2019”), which arise as a result of amendments made by the Professional Qualifications and Services (Miscellaneous Provisions) (EU Exit) Regulations 2020.

The 2019 Regulations made amendments to the School Teachers’ Qualifications (Wales) Regulations 2012 in relation to the recognition of teachers’ qualifications in Wales in accordance with the RPQ Regulations 2019.

These Regulations come into force on Implementation Period Completion Day (at 11.00 pm on 31 December 2020).

### Procedure

Negative.

### Technical Scrutiny

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

### Merits Scrutiny

The following two 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.**

A draft of these Regulations was laid before the Senedd for sifting in accordance with paragraph 4 of Schedule 7 to the European Union (Withdrawal) Act 2018. The Committee agreed on 2 November 2020, that the negative procedure was the appropriate procedure for 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**

In paragraphs 2.1 and 3(b) of the Welsh version of the Explanatory Memorandum there are references to “Ddeddf Addysg 2020”, which appears to be a typographical error that should instead read “Ddeddf Addysg 2002”.



## Implications arising from exiting the European Union

The purpose of these Regulations is to ensure that retained EU law operates effectively once the UK leaves the EU.

## Welsh Government response

Given the current circumstances regarding coronavirus, a Welsh Government response is required in relation to the second merits point as soon as is reasonably practicable.

### Legal Advisers

**Legislation, Justice and Constitution Committee**

**17 November 2020**



Senedd Cymru

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

—

Welsh Parliament

**Legislation, Justice and Constitution Committee**

Pack Page 2

---

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

---

**2020 No. 1246 (W. 281)**

**EXITING THE EUROPEAN  
UNION, WALES**

**EDUCATION, WALES**

**The Teachers' Qualifications  
(Amendment) (Wales) (EU Exit)  
Regulations 2020**

**EXPLANATORY NOTE**

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

These Regulations are made in exercise of the powers conferred on the Welsh Ministers by paragraph 1 of Schedule 2 and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018 (c. 16) in order to address failures of retained EU law to operate effectively and other deficiencies arising from the withdrawal of the United Kingdom from the European Union.

They are also made in exercise of the powers in section 132 of the Education Act 2002 (c. 32).

These Regulations make technical amendments to the Teachers' Qualifications (Amendment) (Wales) (EU Exit) Regulations 2019 (S.I. 2019/444 (W. 107)). These technical amendments arise as a result of amendments which are made to the Recognition of Professional Qualifications (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/312) by the Professional Qualifications and Services (Amendments and Miscellaneous Provisions) (EU Exit) Regulations 2020 (S.I. 2020/1038).

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.



---

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

---

**2020 No. 1246 (W. 281)**

**EXITING THE EUROPEAN  
UNION, WALES**

**EDUCATION, WALES**

**The Teachers' Qualifications  
(Amendment) (Wales) (EU Exit)  
Regulations 2020**

*Sift requirements satisfied* 2 November 2020

*Made* 9 November 2020

*Laid before Senedd Cymru* 11 November 2020

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

The Welsh Ministers, in exercise of the powers conferred by section 132(1) and (2) of the Education Act 2002<sup>(1)</sup> and having consulted the Education Workforce Council as required by section 132(4)(2) of that Act, and in exercise of the powers in paragraph 1 of Schedule 2 and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018<sup>(3)</sup>, make the following Regulations.

The requirements of paragraph 4(2) of Schedule 7 to the European Union (Withdrawal) Act 2018 (relating to the appropriate Senedd procedure for these Regulations) have been satisfied.

- 
- (1) 2002 c. 32; for the meaning of “prescribed” and “regulations”, see section 212(1). The functions conferred on the National Assembly for Wales under these sections were transferred to the Welsh Ministers by paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c. 32).
- (2) In section 132(4), the words “Education Workforce Council” were substituted by the Education (Wales) Act 2014 (anaw 5), section 48, Schedule 3, Part 1, paragraph 1(1) and (4).
- (3) 2018 c. 16.

**Title, commencement and interpretation**

1.—(1) The title of these Regulations is the Teachers' Qualifications (Amendment) (Wales) (EU Exit) Regulations 2020.

(2) These Regulations come into force on IP completion day.

(3) In these Regulations, "IP completion day" has the meaning given in section 39(1) to (5) of the European Union (Withdrawal Agreement) Act 2020(1).

**Amendment of the Teachers' Qualifications (Amendment) (Wales) (EU Exit) Regulations 2019**

2.—(1) Regulation 3(2) of the Teachers' Qualifications (Amendment) (Wales) (EU Exit) Regulations 2019(2) is amended as follows.

(2) In sub-paragraph (1)(c) of the substituted paragraph 4 of Schedule 2, for "paragraph 48" substitute "paragraph 50 or paragraph 51".

*Kirsty Williams*

Minister for Education, one of the Welsh Ministers  
9 November 2020

---

(1) 2020 c. 1.  
(2) S.I. 2019/444 (W. 107).

## **Explanatory Memorandum to “The Teachers' Qualifications (Amendment) (Wales) (EU Exit) Regulations 2020”**

This Explanatory Memorandum has been prepared by the Welsh Government Education 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/Deputy Minister’s Declaration**

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of “The Teachers' Qualifications (Amendment) (Wales) (EU Exit) Regulations 2020”

I have made the statements required by the European Union (Withdrawal) Act 2018. These statements can be found in Part 2 of the annex to this memorandum

**Kirsty Williams, MS**  
**Minister for Education**

**11 November 2020**

## **PART 1**

### **1. Description**

1.1 The Regulations make technical amendments to the Teachers' Qualifications (Amendment) (Wales) (EU Exit) Regulations 2019 ("the 2019 Regulations") which arise as a result of amendments made to the Recognition of Professional Qualifications (Amendment etc.) (EU Exit) Regulations 2019 ("RPQ Regulations 2019") by the Professional Qualifications and Services (Miscellaneous Provisions) (EU Exit) Regulations 2020 ("PQS 2020 Regulations").

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

2.1 This instrument is being made under section 132 of the Education Act 2002 and section 11 of and paragraph 1 of Schedule 2 and paragraph 21 of Schedule 7 to the European Union (Withdrawal) Act 2018 ("the 2018 Act"). As set out in the Ministerial statement in Part 2 of this Explanatory Memorandum this instrument will be subject to the negative procedure. The Legislation, Justice and Constitution Committee considered this instrument on Monday 2 November and have laid their report. The report can be found at <https://senedd.wales/laid%20documents/cr-ld13657/cr-ld13657-e.pdf> and notes that the Committee agrees that the appropriate procedure for these Regulations is the negative resolution procedure. The instrument makes minor consequential amendments and as such is appropriate to be subject to annulment.

### **3. Legislative background**

- a) This instrument is being made using the power in Part 1 of Schedule 2 to the European Union (Withdrawal) Act 2018 in order to address failures of retained EU law to operate effectively or other deficiencies arising from the withdrawal of the United Kingdom from the European Union. In accordance with the requirements of that Act the Minister has made the relevant statements as detailed in Part 2 of the Annex to this Explanatory Memorandum.
- b) Alongside the EU (Withdrawal) Act 2018 powers the instrument is also being made under section 132(1) and (2) of the Education Act 2002 in relation to prescribing requirements to be met in order to attain the status of qualified teacher. The functions conferred on Senedd Cymru under these sections were transferred to the Welsh Ministers by paragraph 30 of Schedule 11 to the Government of Wales Act 2006.

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

***What did any relevant EU law do before exit day?***

4.1 The Teachers' Qualifications (Amendment) (Wales) (EU Exit) Regulations 2019 made amendments to the School Teachers' Qualifications (Wales) Regulations 2012 in relation to the recognition of teachers' qualifications in Wales in accordance with the Recognition of Professional Qualifications (Amendment etc) (EU Exit) Regulations 2019.

***Why is it being changed?***

4.2 This instrument makes minor consequential amendments to the Teachers' Qualifications (Amendment) (Wales) (EU Exit) Regulations 2019 in accordance with the changes made to the Recognition of Professional Qualifications (Amendment etc) (EU Exit) Regulations 2019 by the Professional Qualifications and Services (Miscellaneous Provisions) (EU Exit) Regulations 2020.

***What will it now do?***

4.3 The instrument makes minor technical amendments to the Teachers' Qualifications (Amendment) (Wales) (EU Exit) Regulations 2019 to update cross-references to provisions in the Recognition of Professional Qualifications (Amendment etc) (EU Exit) Regulations 2019 as changed by the Professional Qualifications and Services (Miscellaneous Provisions) (EU Exit) Regulations 2020. It will have little to no impact on Welsh Government education policy in regard to teacher qualifications; the instrument is intended to enable the current legislative and policy framework to remain effective.

**5. Consultation**

5.1 As there is no policy change, no public consultation was undertaken. The purpose of the instrument is solely to enable the current legislative and policy framework to remain effective following the end of the Implementation Period. We have consulted with Education Workforce Council as the competent authority for teachers in Wales. A consultation on the draft regulations for the EWC to consider was held 10<sup>th</sup> September 2020 to 21<sup>st</sup> September 2020. EWC advised they were content with the regulations and had no further comments to make. Ongoing engagement with EWC as the competent authority responsible for implementing the regulations will continue.

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

6.1 A Regulatory Impact Assessment has not been conducted. The Regulations are technical in nature and intended to enable the current legislative and policy framework to remain effective following the withdrawal of the United Kingdom from the European Union. No, or no significant, impact on the private or voluntary sector is foreseen as a result of the instrument.

6.2 These amending Regulations have no impact on the statutory duties as set out in sections 77 to 79 of the Government of Wales Act 2006 or the statutory partners as set out in sections 72 to 75 of the Government of Wales Act 2006.

# Annex

## Statements under the European Union (Withdrawal) Act 2018

### Part 1

#### Table of Statements under the 2018 Act

This table sets out the statements that may be required of the Welsh Ministers under the 2018 Act. The table also sets out those statements that may be required of Ministers of the Crown under the 2018 Act, which the Welsh Ministers have committed to also provide when required. The required statements can be found in Part 2 of this annex.

Statement	Where the requirement sits	To whom it applies	What it requires
Sifting	Paragraphs 3(7) and 4(3), Schedule 7  <i>Paragraph 3(7) (anticipated to be a requirement on Welsh Ministers in Standing Orders)</i>	The Welsh Ministers exercising powers in Part 1 of Schedule 2 to make a Negative SI  Paragraph 3(7) applies to Ministers of the Crown, but Welsh Ministers have committed to make the same statement	A statement to explain why the instrument should be subject to the negative procedure and, if applicable, why they disagree with the recommendation of the Legislation, Justice and Constitution Committee (as sifting committee)
Appropriate-ness	Sub-paragraph (2) of paragraph 28, Schedule 7	Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2	A statement that the SI does no more than is appropriate.
Good Reasons	Sub-paragraph (3) of paragraph 28, Schedule 7	Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have	A statement to explain the good reasons for making the instrument and that what is being done is a reasonable course of action.

		committed to make the same statement when exercising powers in Schedule 2	
Equalities	Sub-paragraphs (4) and (5) of paragraph 28, Schedule 7	Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2	<p>A statement to explain what, if any, amendment, repeals or revocations are being made to the Equalities Acts 2006 and 2010 and legislation made under them.</p> <p>A statement that the Minister has had due regard to the need to eliminate discrimination and other conduct prohibited under the Equality Act 2010.</p>
Explanations	Sub-paragraph (6) of paragraph 28, Schedule 7	Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2	A statement to explain the instrument, identify the relevant law before exit day, explain the instrument's effect on retained EU law and give information about the purpose of the instrument, e.g. whether minor or technical changes only are intended to the EU retained law.
Criminal offences	Sub-paragraphs (3) and (7) of paragraph 28, Schedule 7	Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2	A statement setting out the 'good reasons' for creating a criminal offence, and the penalty attached.
Sub-delegation	Paragraph 30, Schedule 7	Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and paragraph 1 of Schedule 4 to create a legislative power exercisable not by a Minister of the Crown or a Devolved Authority.	A statement to explain why it is appropriate to create such a sub-delegated power.



		Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2 or paragraph 1 of Schedule 4 to create a legislative power exercisable not by a Minister of the Crown or a Devolved Authority	
Urgency	Sub-paragraph (2) and (8) of paragraph 7, Schedule 7	Welsh Ministers exercising powers in Part 1 of Schedule 2 but using the urgent procedure in paragraph 7 of Schedule 7	A statement that the Welsh Ministers are of the opinion that it is necessary to make the SI using the urgent procedure and the reasons for that opinion.

## Part 2

### Statements required when using enabling powers under the European Union (Withdrawal) 2018 Act

#### 1. Sifting statement(s)

- 1.1 The Minister for Education, Kirsty Williams has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view the Teachers' Qualifications (Amendment) (Wales) (EU Exit) Regulations 2020 should be subject to annulment in pursuance of a resolution of the Senedd (i.e. the negative procedure)”. This is because this instrument provides for minor technical amendments intended to enable the current legislative and policy framework to remain effective.

#### 2. Appropriateness statement

- 2.1 The Minister for Education, Kirsty Williams has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view the Teachers' Qualifications (Amendment) (Wales) (EU Exit) Regulations 2020 do no more than is appropriate. This is the case because the amendments are technical in nature and designed to address failures of retained EU law to operate effectively after IP completion day”.

#### 3. Good reasons

- 3.1 The Minister for Education, Kirsty Williams has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view there are good reasons for the provisions in this instrument, and I have concluded they are a reasonable course of action. This is because the instrument makes technical amendments in relation to the regulations covering the qualification of teachers in Wales.”

#### 4. Equalities

- 4.1 The Minister for Education, Kirsty Williams has made the following statement

“The instrument does amend, repeal or revoke a provision or provisions in the Equality Act 2006 or the Equality Act 2010 or subordinate legislation made under those Acts”.

- 4.2 The Minister for Education, Kirsty Williams has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In relation to the instrument, I, Kirsty Williams, have had due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010.”

## **5. Explanations**

- 5.1 The explanations statement has been made in paragraph 4 (Purpose & intended effect of the legislation) of the main body of this explanatory memorandum.

## **6. Criminal offences**

- 6.1 Not applicable

## **7. Legislative sub-delegation**

Not applicable

## **8. Urgency**

- 8.1 Not applicable.

## **SL(5)657 – The Fisheries and Marine Management (Amendment) (Wales) (EU Exit) Regulations 2020**

### **Background and Purpose**

The Fisheries and Marine Management (Amendment) (Wales) (EU Exit) Regulations 2020 (“the Regulations”) are made under paragraph 1(1) of Schedule 2 and paragraph 21 of Schedule 7 to the European Union (Withdrawal) Act 2018. The purpose of the Regulations is to ensure retained EU law operates effectively once the UK leaves the EU.

These Regulations make amendments to the Fisheries and Marine Management (Amendment) (Wales) (EU Exit) Regulations 2019 (“the 2019 Regulations”).

Regulation 3 amends the 2019 Regulations, which in turn amend the Marine Licensing (Exempted Activities) (Wales) Order 2011 in order to correct an error in references.

Regulation 4 amends the 2019 Regulations, which in turn amend the European Maritime and Fisheries Fund (Grants) (Wales) Regulations 2016 (“the 2016 Regulations”). The EMFF scheme and funding will continue to be governed by the EU until the closure of those programmes and activities, as set out by Article 138 of the Withdrawal Agreement. The applicable Union law will continue to directly apply in the UK and will not become part of retained EU law, as a result of section 7A and section 3(2)(bi) of the EU Withdrawal Act 2018, as amended by the EU (Withdrawal Agreement) Act 2020. Amendments are therefore made to the 2019 Regulations, relating to the 2016 Regulations to reflect the position that the EU legislation referenced in the 2016 Regulations has effect by virtue of the Withdrawal Agreement, and the EU Withdrawal Act 2018.

These Regulations come into force immediately before Implementation Period Completion Day at 11.00 pm on 31 December 2020.

### **Procedure**

Negative.

### **Technical Scrutiny**

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

### **Merits Scrutiny**

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 issues of public policy likely to be of interest to the Senedd.**

A draft of these Regulations was laid before the Senedd for sifting in accordance with paragraph 4 of Schedule 7 to the European Union (Withdrawal) Act 2018. The Committee agreed on 9 November 2020, that the negative procedure was the appropriate procedure for these Regulations.

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

Save for those set out above, no other implications are identified for reporting under Standing Order 21.3 in respect of these Regulations.

## **Welsh Government response**

A Welsh Government response is not required.

### **Legal Advisers**

**Legislation, Justice and Constitution Committee**

**16 November 2020**



---

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

---

**2020 No. 1249 (W. 282)**

**EXITING THE EUROPEAN  
UNION, WALES**

**SEA FISHERIES, WALES**

**MARINE MANAGEMENT,  
WALES**

The Fisheries and Marine  
Management (Amendment) (Wales)  
(EU Exit) Regulations 2020

**EXPLANATORY NOTE**

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

These Regulations are made in exercise of the powers conferred by paragraph 1(1) of Schedule 2 and paragraph 21 of Schedule 7 to the European Union (Withdrawal) Act 2018 (c. 16) in order to address failures of retained EU law to operate effectively and other deficiencies arising from the withdrawal of the United Kingdom from the European Union.

In particular, these Regulations make amendments to the Fisheries and Marine Management (Amendment) (Wales) (EU Exit) Regulations 2019 (S.I. 2019/370 (W. 91)) which make amendments to subordinate legislation, which apply in relation to Wales and the Welsh zone, in the fields of fisheries and marine management.

These Regulations make provision under paragraph 1(1) of Schedule 2 to the European Union (Withdrawal) Act 2018 in order to correct an error within regulation 3 of the Fisheries and Marine Management (Amendment) (Wales) (EU Exit) Regulations 2019, concerning amendments made to the Marine Licensing (Exempted Activities) (Wales) Order 2011 (S.I. 2011/559 (W. 81)).

These Regulations also make provision substituting the corrections made by regulation 4 of the Fisheries and Marine Management (Amendment) (Wales) (EU

Exit) Regulations 2019, concerning amendments made to the European Maritime and Fisheries Fund (Grants) (Wales) Regulations 2016 (S.I. 2016/665 (W. 182)), in order to reflect the terms of the EU-UK Withdrawal Agreement.

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.

---

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

---

**2020 No. 1249 (W. 282)**

**EXITING THE EUROPEAN  
UNION, WALES**

**SEA FISHERIES, WALES**

**MARINE MANAGEMENT,  
WALES**

**The Fisheries and Marine  
Management (Amendment) (Wales)  
(EU Exit) Regulations 2020**

*Sift requirements satisfied* 9 November 2020

*Made* 10 November 2020

*Laid before Senedd Cymru* 12 November 2020

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

The Welsh Ministers, in exercise of the powers conferred by paragraph 1(1) of Schedule 2 and paragraph 21 of Schedule 7 to the European Union (Withdrawal) Act 2018<sup>(1)</sup>, make the following Regulations.

The requirements of paragraph 4(a) of Schedule 2 to the European Union (Withdrawal) Act 2018 (relating to the requirement for consultation in certain circumstances) and of paragraph 4(2) of Schedule 7 to that Act (relating to the appropriate Senedd Cymru<sup>(2)</sup> procedure for these Regulations) have been satisfied.

- 
- (1) 2018 c. 16. There are amendments to paragraph 21 of Schedule 7 which are not relevant to these Regulations.
- (2) The reference in the European Union (Withdrawal) Act 2018 to the National Assembly for Wales now has effect as a reference to Senedd Cymru, by virtue of section 150A(2) of the Government of Wales Act 2006 (c. 32).



### **Title and commencement**

1.—(1) The title of these Regulations is the Fisheries and Marine Management (Amendment) (Wales) (EU Exit) Regulations 2020.

(2) These Regulations come into force immediately before implementation period completion day.

### **Amendment to the Fisheries and Marine Management (Amendment) (Wales) (EU Exit) Regulations 2019**

2. The Fisheries and Marine Management (Amendment) (Wales) (EU Exit) Regulations 2019<sup>(1)</sup> are amended in accordance with regulations 3 and 4.

### **Amendment to regulation 3 (amendment to the Marine Licensing (Exempted Activities) (Wales) Order 2011)**

3. In regulation 3(2), in the new article 3A(6)(b) to be inserted in the Marine Licensing (Exempted Activities) (Wales) Order 2011<sup>(2)</sup> by that regulation, for “regulation 9(1) of the Hazardous Waste (England and Wales) Regulations 2005” substitute “regulation 9(1) of the Hazardous Waste (Wales) Regulations 2005<sup>(3)</sup>”.

### **Substitution of regulation 4 (amendment to the European Maritime and Fisheries Fund (Grants) (Wales) Regulations 2016)**

4. For regulation 4 substitute—

#### **“The European Maritime and Fisheries Fund (Grants) (Wales) Regulations 2016**

4. In regulation 2(2) of the European Maritime and Fisheries Fund (Grants) (Wales) Regulations 2016<sup>(4)</sup>, for “a reference to that instrument as amended from time to time” substitute “, so far as required for the purposes of relevant separation agreement law, a reference to that instrument as it has effect by virtue of section 7A of the European Union (Withdrawal) Act 2018 (including, so far as required, as it has effect from time to time) and “relevant separation agreement law” has the

- 
- (1) S.I. 2019/370 (W. 91).  
(2) S.I. 2011/559 (W. 81), to which there are amendments not relevant to these Regulations.  
(3) S.I. 2005/1806 (W. 138), amended by S.I. 2011/971 (W. 141) and S.I. 2015/1417 (W. 141); there are other amending instruments but none are relevant.  
(4) S.I. 2016/665 (W. 182), to which there are amendments not relevant to these Regulations.

meaning given in section 7C(3) of the European Union (Withdrawal) Act 2018”(1)”.

*Lesley Griffiths*

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

10 November 2020

---

(1) Under Article 138 of the withdrawal agreement (as defined in section 39(1) of the European Union (Withdrawal Agreement) Act 2020) and section 7A of the European Union (Withdrawal) Act 2018 certain Union programmes and activities committed under the multiannual financial framework 2014-20 and previous financial perspectives will continue to be governed by the relevant applicable EU law until the closure of those programmes and activities. Section 7A of the European Union (Withdrawal) Act 2018 was inserted by section 5 of the European Union (Withdrawal Agreement) Act 2020. Section 7C of the European Union (Withdrawal) Act 2018 was inserted by section 26(2) of the European Union (Withdrawal Agreement) Act 2020.

## **Explanatory Memorandum to the Fisheries and Marine Management (Amendment) (Wales) (EU Exit) Regulations 2020**

This Explanatory Memorandum has been prepared by the Rural Development & Legislation Division within the Department for Environment, Skills and Natural Resources of the Welsh Government and is laid before the 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 Fisheries and Marine Management (Amendment) (Wales) (EU Exit) Regulations 2020.

I have made the statements required by the European Union (Withdrawal) Act 2018. These statements can be found in Part 2 of the Annex to this Memorandum.

Lesley Griffiths MS

**Minister for Environment, Energy and Rural Affairs**

12 November 2020

# Part 1

## 1. Description

The Fisheries and Marine Management (Amendment) (Wales) (EU Exit) Regulations 2020 (the “instrument”) make amendments to subordinate legislation, which apply in relation to Wales and the Welsh zone, in the fields of fisheries and marine management.

In particular, the instrument makes a minor correction to the previous statutory instrument (the Fisheries and Marine Management (Amendment) (Wales) (EU Exit) Regulations 2019) (the “2019 Regulations”) made under the European Union (Withdrawal) Act 2018 (the “Withdrawal Act”) due to an error in references and also to recognise European Union (EU) law will continue to apply to the programmes and activities funded under the European Maritime and Fisheries Fund (EMFF) until the closure of those programmes and activities .

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

The instrument is being made by the Welsh Ministers in exercise of the powers conferred by paragraph 1(1) of Schedule 2 and paragraph 21 of Schedule 7 to the Withdrawal Act, in order to address failures of retained EU law to operate effectively and other deficiencies arising from the withdrawal of the United Kingdom (UK) from the EU.

As set out in the Ministerial statement in Part 2 of this Explanatory Memorandum, it is proposed this instrument is subject to the negative resolution procedure. The instrument makes minor amendments and should therefore be subject to annulment.

The Legislation, Justice and Constitution Committee (LJCC) considered a draft of these regulations on 9 November 2020, and agreed that the negative procedure is appropriate for these regulations. A copy of the published LJCC’s report can be accessed via the following link:

<https://senedd.wales/laid%20documents/cr-ld1392/cr-ld1392-e.pdf>.

## 3. Legislative background

There is a need to amend domestic legislation derived from EU law to ensure the efficient and effective operability of the statute book following the UK’s exit from the EU.

The Withdrawal Act converts the majority of directly applicable EU law as it stands immediately before Implementation Period (IP) completion day into domestic law and preserves laws made in the UK which implement EU

obligations. The Withdrawal Act also creates temporary powers to make secondary legislation to deal with deficiencies that would arise from the UK's exit. Section 11 of and paragraph 1 of Schedule 2 to the Withdrawal Act provides the Welsh Ministers with powers to address deficiencies.

Welsh Statutory Instruments (SIs) which correct deficiencies in Welsh domestic legislation due to the UK's withdrawal from the EU and are proposed to be made under the negative resolution procedure will be required to be considered by a sifting committee, in accordance with paragraph 1(1) of Schedule 2 to the Withdrawal Act. The purpose of the sifting committee is to determine whether the negative resolution procedure is the appropriate Senedd Cymru procedure for the relevant SI. For the purpose of Welsh SIs, the sifting committee functions are undertaken by the Legislation, Justice and Constitution Committee.

In accordance with the requirements of the Withdrawal Act the Minister for Environment, Energy and Rural Affairs, Lesley Griffiths has made the relevant statements as detailed in Part 2 of the Annex to this Explanatory Memorandum.

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

The purpose of the instrument is to ensure retained EU law operates effectively once the UK leaves the EU. This means maintaining the substantive elements of the EU legislative regime in the fields of fisheries and marine management (following the work of addressing identified deficiencies).

Regulation 3 amends the 2019 Regulations, which in turn amend the Marine Licensing (Exempted Activities) (Wales) Order 2011 in order to correct an error in references. The current reference to "the Hazardous Waste (England and Wales) Regulations 2005" is replaced with a reference to "the Hazardous Waste (Wales) Regulations 2005".

Regulation 4 amends the 2019 Regulations, which in turn amend the European Maritime and Fisheries Fund (Grants) (Wales) Regulations 2016. Previous amendments made by the 2019 Regulations were predicated on the fact that upon exiting the EU, the UK would no longer be a beneficiary of the EMFF scheme and funding could come from HM Treasury. Further that the EU EMFF Regulation 508/2014 would become Retained EU law. However, since the making of the 2019 Regulations, the Withdrawal Agreement has been agreed and the effect of article 138 of the Withdrawal Agreement is that EMFF (which is funded under the MFF 2014-2020) will continue to be governed by EU until the closure of those programmes and activities. As a result of section 7A and section 3(2)(bi) of the Withdrawal Act (as amended by the European Union (Withdrawal Agreement) Act 2020 the applicable Union law (including the EU EMFF Regulation 508/2014) will continue to directly apply in the UK and will not become part of Retained

EU law. As a consequence, all amendments made in the 2019 Regulations relating to the 2016 Regulations are now omitted and replaced with provision to reflect the position that the EU legislation referenced in the 2016 Regulations has effect by virtue of the Withdrawal Agreement/Withdrawal Act.

## **5. Consultation**

As there is no policy change, no public consultation was undertaken. The purpose of this instrument is solely to enable the current domestic legislative and policy framework to remain unchanged by the withdrawal of the UK from the EU.

As set out in paragraph 4 of Schedule 7 to the European Union (Withdrawal) Act 2018, Welsh Ministers consulted with the Secretary of State on proposals to implement this Instrument. No comments or objections were received.

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

No impact assessment has been produced in relation to these Regulations as no impact is foreseen on the private, voluntary or public sectors.

## Annex: Statements under the European Union (Withdrawal) Act 2018

### Part 1: Table of Statements under the 2018 Act

This table sets out the statements which may be required of the Welsh Ministers under the 2018 Act. The table also sets out those statements which may be required of Ministers of the Crown under the 2018 Act, which the Welsh Ministers have committed to also provide when required. The required statements can be found in Part 2 of this annex.

Statement	Where the requirement sits	To whom it applies	What it requires
Sifting	Paragraphs 3(7) and 4(3), Schedule 7  Paragraph 3(7) (anticipated to be a requirement on Welsh Ministers in Standing Orders)	The Welsh Ministers exercising powers in Part 1 of Schedule 2 to make a Negative SI  Paragraph 3(7) applies to Ministers of the Crown, but Welsh Ministers have committed to make the same statement	A statement to explain why the instrument should be subject to the negative procedure and, if applicable, why they disagree with the recommendation of the CLA Committee (as sifting committee)
Appropriate-ness	Sub-paragraph (2) of paragraph 28, Schedule 7	Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2	A statement that the SI does no more than is appropriate.
Good Reasons	Sub-paragraph (3) of paragraph 28, Schedule 7	Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have committed to make the same statement	A statement to explain the good reasons for making the instrument and that what is being done is a reasonable course of action.

		when exercising powers in Schedule 2	
Equalities	Sub-paragraphs (4) and (5) of paragraph 28, Schedule 7	Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2	<p>A statement to explain what, if any, amendment, repeals or revocations are being made to the Equalities Acts 2006 and 2010 and legislation made under them.</p> <p>A statement which the Minister has had due regard to the need to eliminate discrimination and other conduct prohibited under the Equality Act 2010.</p>
Explanations	Sub-paragraph (6) of paragraph 28, Schedule 7	Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2	A statement to explain the instrument, identify the relevant law before exit day, explain the instrument's effect on retained EU law and give information about the purpose of the instrument, e.g. whether minor or technical changes only are intended to the EU retained law.
Criminal offences	Sub-paragraphs (3) and (7) of paragraph 28, Schedule 7	Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2	A statement setting out the 'good reasons' for creating a criminal offence, and the penalty attached.
Sub-delegation	Paragraph 30, Schedule 7	Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and paragraph 1 of Schedule 4 to create a legislative power exercisable not by a Minister of the Crown or a Devolved Authority.	A statement to explain why it is appropriate to create such a sub-delegated power.



		Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2 or paragraph 1 of Schedule 4 to create a legislative power exercisable not by a Minister of the Crown or a Devolved Authority	
Urgency	Sub-paragraph (2) and (8) of paragraph 7, Schedule 7	Welsh Ministers exercising powers in Part 1 of Schedule 2 but using the urgent procedure in paragraph 7 of Schedule 7	A statement

## Part 2

### Statements required when using enabling powers under the European Union (Withdrawal) Act 2018

#### 1. Sifting statement(s)

The Minister for Environment, Energy and Rural Affairs has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view the Fisheries and Marine Management (Amendment) (Wales) (EU Exit) Regulations 2020 should be subject to annulment in pursuance of a resolution of the Senedd Cymru (i.e. the negative procedure). This is the case because the changes made are minor and technical in nature.”

#### 2. Appropriateness statement

The Minister for Environment, Energy and Rural Affairs has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view the Fisheries and Marine Management (Amendment) (Wales) (EU Exit) Regulations 2020 do no more than is appropriate. This is the case because all the changes being made are solely in order to address deficiencies arising from EU exit.”

#### 3. Good reasons

The Minister for Environment, Energy and Rural Affairs has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view there are good reasons for the provisions in this instrument, and I have concluded they are a reasonable course of action. There are benefits to the continuation of operable fisheries and marine management legislation following EU exit.”

#### 4. Equalities

The Minister for Environment, Energy and Rural Affairs has made the following statement:

“The instrument does not amend, repeal or revoke a provision or provisions in the Equality Act 2006 or the Equality Act 2010 or subordinate legislation made under those Acts.”

The Minister for Environment, Energy and Rural Affairs has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In relation to the instrument, I, Lesley Griffiths, have had due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct which is prohibited by or under the Equality Act 2010.”

#### **5. Explanations**

The explanations statement has been made in paragraph 4 (Purpose and intended effect of the legislation) of the main body of this explanatory memorandum.

#### **6. Criminal offences**

Not applicable/required.

#### **7. Legislative sub-delegation**

Not applicable/required.

#### **8. Urgency**

Not applicable/required.

## SL(5)655 – The Non-Domestic Rating (Demand Notices) (Wales) (Amendment) (EU Exit) Regulations 2020

### Background and Purpose

Under the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, billing authorities are required to serve non-domestic rates demand notices on people liable for non-domestic rates.

The contents of demand notices are currently prescribed by the Non Domestic Rating (Demand Notices) (Wales) Regulations 2017 (“the 2017 Regulations”). The Non Domestic Rating (Demand Notices) (Wales) (Amendment) (EU Exit) Regulations 2020 (“the Regulations”) amend the 2017 Regulations. The Regulations are made under sections 62 and paragraphs 1 and 2(2)(h) of Schedule 9 to, the Local Government Finance Act 1988 (the 1988 Act).

The only change made by the Regulations is to Schedule 2 to the 2017 Regulations, which prescribes the content of the explanatory notes that must accompany the demand notices issued to ratepayers to help them to understand their rates bills. The change ensures that information relating to State Aid is removed following the end of the transition period for the UK’s exit from the European Union (when the State Aid regime will cease to apply to the UK).

The Regulations will apply to demand notices issued with respect to financial years beginning on or after 1 April 2021.

### Procedure

Negative

### Technical Scrutiny

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

### Merits Scrutiny

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 issues of public policy likely to be of interest to the Senedd.**



Whilst it is noted that the paragraph entitled "State aid" is to be omitted from the Explanatory Notes set out in paragraph 1 of Schedule 2 to the 2017 Regulations, the Explanatory Memorandum to the Regulations does not explain what is proposed to replace this information concerning any domestic state aid regime that may be implemented following exit from the European Union and completion of any transition period. Such advance information may be of assistance to non-domestic rate payers.

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

None.

## **Welsh Government response**

A Welsh Government response is required.

### **Legal Advisers**

**Legislation, Justice and Constitution Committee**

**18 November 2020**



---

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

---

**2020 No. 1250 (W. 283)**

**EXITING THE EUROPEAN  
UNION, WALES**

**RATING AND VALUATION,  
WALES**

The Non-Domestic Rating  
(Demand Notices) (Wales)  
(Amendment) (EU Exit)  
Regulations 2020

**EXPLANATORY NOTE**

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

The Non-Domestic Rating (Demand Notices) (Wales) Regulations 2017 (“the 2017 Regulations”) (S.I. 2017/113 (W. 39)) provide for the contents of non-domestic rates demand notices which are served by or on behalf of billing authorities in Wales.

Schedule 2 to the 2017 Regulations sets out the information which must be included in the explanatory notes that must accompany a demand notice, including certain information relating to the State aid regime of the European Union (“the State Aid Information”).

Regulation 2 of these Regulations removes the State Aid Information from Schedule 2 to the 2017 Regulations.

The Welsh Minsters’ 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.

---

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

---

**2020 No. 1250 (W. 283)**

**EXITING THE EUROPEAN  
UNION, WALES**

**RATING AND VALUATION,  
WALES**

The Non-Domestic Rating  
(Demand Notices) (Wales)  
(Amendment) (EU Exit)  
Regulations 2020

*Made* 9 November 2020

*Laid before Senedd Cymru* 11 November 2020

*Coming into force* 31 December 2020

The Welsh Ministers make these Regulations in exercise of the powers conferred on the Secretary of State by section 62 of, and paragraphs 1 and 2(2)(h) of Schedule 9 to, the Local Government Finance Act 1988(1), and now vested in them(2).

**Title, commencement and application**

**1.**—(1) The title of these Regulations is the Non-Domestic Rating (Demand Notices) (Wales) (Amendment) (EU Exit) Regulations 2020.

- 
- (1) 1988 c. 41; see section 146(6) for the definition of “prescribed”. Paragraph 1 of Schedule 9 was amended by Schedule 13 to the Tribunals, Courts and Enforcement Act 2007 (c. 15). Paragraph 2(2)(h) was amended by sections 139 and 194(4) of, and paragraphs 1 and 44(3) of Schedule 5 and Part 2 of Schedule 12 to, the Local Government and Housing Act 1989 (c. 42) and section 8(1) and (3) of the Local Government Finance Act 2012 (c. 17).
- (2) The powers of the Secretary of State under these provisions were transferred, in relation to Wales, to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672). The functions of the National Assembly for Wales 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) These Regulations come into force on 31 December 2020.

(3) These Regulations apply in relation to each financial year beginning on or after 1 April 2021.

**Amendment of the Non-Domestic Rating (Demand Notices) (Wales) Regulations 2017**

**2.** In paragraph 1 of Schedule 2 to the Non-Domestic Rating (Demand Notices) (Wales) Regulations 2017<sup>(1)</sup> (Explanatory Notes), omit the paragraph entitled “State aid”.

*Rebecca Evans*

Minister for Finance and Trefnydd, one of the Welsh Ministers

9 November 2020

---

(1) S.I. 2017/113 (W. 39), amended by S.I. 2018/122 (W. 28).



## **Explanatory Memorandum to the Non-Domestic Rating (Demand Notices) (Wales) (Amendment) (EU Exit) Regulations 2020**

This Explanatory Memorandum has been prepared by Local Government Strategic Finance Division and is laid before the 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 Non-Domestic Rating (Demand Notices) (Wales) (Amendment) (EU Exit) Regulations 2020. I am satisfied that the benefits justify the likely costs.

**Rebecca Evans MS**  
**Minister for Finance and Trefnydd**  
11 November 2020

## **Description**

1. Under the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, billing authorities are required to serve non-domestic rates demand notices on people liable for non-domestic rates.
2. The contents of demand notices are currently prescribed by the Non-Domestic Rating (Demand Notices) (Wales) Regulations 2017 (the 2017 Regulations). The Non-Domestic Rating (Demand Notices) (Wales) (Amendment) (EU Exit) Regulations 2020 (the Regulations) amend the 2017 Regulations. The only change made by the Regulations is to Schedule 2 to the 2017 Regulations, which prescribes the content of the explanatory notes that must accompany the demand notices issued to ratepayers to help them to understand their rates bills. The change ensures that information relating to State Aid is removed following the end of the transition period for the UK's exit from the European Union (when the State Aid regime will cease to apply to the UK).

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

3. There are no matters of special interest to the Committee.

## **Powers**

4. The Regulations are made under sections 62 and paragraphs 1 and 2(2)(h) of Schedule 9 to, the Local Government Finance Act 1988 (the 1988 Act). These powers were transferred, in relation to Wales, from the Secretary of State to the National Assembly by the National Assembly for Wales (Transfer of Functions) Order 1999. The functions of the National Assembly for Wales 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.
5. The 2017 Regulations were made to coincide with the 2017 revaluation of non-domestic rates in Wales. Previous regulations – the Non-Domestic Rating (Demand Notices) (Wales) Regulations 1993 (the 1993 Regulations) – had been made by the Secretary of State and were amended frequently. The Welsh Government took the opportunity to consolidate all the amendments in the 2017 Regulations. The 2017 Regulations replaced the 1993 Regulations, with the only subsequent substantive changes being made to the explanatory notes prescribed in Schedule 2 to the 2017 Regulations. The explanatory notes must accompany the demand notices issued to ratepayers by billing authorities (county and county borough councils in Wales).
6. The Regulations are subject to the negative resolution procedure (section 143(3) of the 1988 Act).

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

7. Billing authorities are required to serve non-domestic rating demand notices (rates bills) under Part II of the Non-Domestic Rating (Collection and

Enforcement) (Local Lists) Regulations 1989. The only substantive change made by the Regulations is to remove all information relating to the State Aid regime in the prescribed explanatory notes which billing authorities must make available to ratepayers to help them in understanding their bills. The explanatory notes can be provided in either paper or electronic form. The Regulations will apply to demand notices issued with respect to financial years beginning on or after 1 April 2021.

8. The content of the explanatory notes that accompany demand notices are reviewed on a regular basis to ensure they accurately reflect the system for non-domestic rates in Wales. Currently, part of the prescribed information that billing authorities are required to provide in the explanatory notes is the State Aid rules that operate in Wales.
9. The paragraph in the explanatory notes which deals with State Aid will no longer be relevant following the end of the transition period for the UK's exit from the European Union in December 2020. For the tax year beginning April 2021, the State Aid regime will no longer apply. These Regulations amend the 2017 Regulations so as to delete the paragraph dealing with State Aid.
10. The Regulations will apply to demand notices issued by or on behalf of billing authorities in Wales with respect to financial years beginning on or after 1 April 2021.

### **Consultation**

11. No formal consultation has been undertaken. The Regulations make a technical amendment to the explanatory notes prescribed within Schedule 2 to the 2017 Regulations. The amendment is necessitated by the UK's exit from the EU and ensures that the information which billing authorities provide with demand notices is up-to-date. As a result, they are mainly of interest to billing authorities and have no effect on ratepayers other than to ensure they are provided with the correct information with their rates bills. Billing authorities have been informed of the intention to make these Regulations and their effect.

### **Regulatory Impact Assessment**

12. The Regulations make only a necessary change to the content of the explanatory notes that billing authorities are required to supply with demand notices. They are technical in nature, of interest mainly to billing authorities and have limited effect on ratepayers. As such, no regulatory impact assessment has been prepared.

## SL(5)659 – The Non-Domestic Rating (Multiplier) (Wales) Order 2020

### Background and Purpose

In relation to Wales, the non-domestic rating multiplier is calculated in accordance with paragraph 3B of Schedule 7 to the Local Government Finance Act 1988 ("the Act") for each financial year when new rating lists are not being compiled. New rating lists are not being compiled for the financial year beginning on 1 April 2021.

The formula in paragraph 3B of Schedule 7 to the Act includes an item B which is the retail prices index for September of the financial year preceding the year concerned, unless the Welsh Ministers exercise their power under paragraph 5(3) of Schedule 7 to the Act to specify, by Order, a different amount for item B. If the Welsh Ministers exercise that power in relation to a financial year, the different amount so specified must be less than the retail prices index for September of the preceding financial year. The retail prices index for September of the preceding financial year is 294.3.

This Order specifies that for the financial year beginning on 1 April 2021, the amount for item B is 292.6.

### Procedure

Made Affirmative

The Order was made by the Welsh Ministers before it was laid before the Senedd. The Senedd must approve the Order before the Senedd approves the local government finance report for the financial year beginning on 1 April 2021, or before 1 March 2021, whichever is earlier.

(The Explanatory Memorandum to these Regulations states that the Senedd debate on the local government settlement is expected to take place in early March 2021.)

### Technical Scrutiny

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

### Merits Scrutiny

One point is identified for reporting under Standing Orders 21.3(i) and 21.3(ii) in respect of this instrument.

**Standing order 21.3(i) – that it imposes a charge on the Welsh Consolidated Fund or contains provisions requiring payments to be made to that Fund or any part of the government or to any local or public authority in consideration of any licence or**



**consent or of any services to be rendered, or prescribes the amount of any such charge or payment**

**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 importance of this Order, and its effect on the annual local government revenue settlements. We note, in particular, the following helpful paragraphs in the Explanatory Memorandum:

*“This Order sets the increase in the non-domestic rating (NDR) multiplier for Wales for the financial year 2021-22. It reflects the use of the Consumer Prices Index (CPI) rather than the Retail Prices Index (RPI) to calculate the multiplier.*

*Under the Local Government Finance Act 1988 (the 1988 Act), the annual increase in the multiplier should be calculated using the RPI figure for the September preceding the financial year to which the multiplier applies. For 2021-22, the RPI figure would have been 294.3.*

*The multiplier is applied to the rateable value (RV) of each non-domestic property to calculate its non-domestic rates bill. The Order applies the CPI figure in place of the RPI figure. This results in a smaller increase in the 2021-22 rates bills to be paid by businesses and other non-domestic property owners than would be the case if the RPI figure were used.*

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

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

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

*Using CPI rather than RPI to increase the multiplier in Wales will reduce the income into the non-domestic rates pool in 2021-22. The reduction will be fully funded by the Welsh Government and will be reflected in the calculations for the local government settlements so that there is no financial impact on local authorities or police budgets.*



*CPI has been used to calculate the multiplier in Wales since 2018-19 and the Welsh Ministers have determined that CPI should be used to calculate the multiplier for future years. The use of CPI since 2018-19 has been achieved through annual orders. To make the change on a permanent basis requires primary legislation to amend the Local Government Finance Act 1988. Provisions are included in the Local Government and Elections (Wales) Bill to achieve this. It is expected that the amendment will have effect in time for the 2022-23 financial year."*

## Implications arising from exiting the European Union

None.

## Welsh Government response

A Welsh Government response is not required.

### Legal Advisers

**Legislation, Justice and Constitution Committee**

**16 November 2020**



*Order made by the Welsh Ministers, laid before Senedd Cymru under paragraph 5(15) of Schedule 7 to the Local Government Finance Act 1988, for approval by resolution of Senedd Cymru before the approval by the Senedd of the local government finance report for the financial year beginning on 1 April 2021, or before 1 March 2021 (whichever is earlier).*

---

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

---

**2020 No. 1254 (W. 285)**

**RATING AND VALUATION,  
WALES**

**The Non-Domestic Rating  
(Multiplier) (Wales) Order 2020**

**EXPLANATORY NOTE**

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

In relation to Wales, the non-domestic rating multiplier is calculated in accordance with paragraph 3B of Schedule 7 to the Local Government Finance Act 1988 (“the Act”) for each financial year when new rating lists are not being compiled. New rating lists are not being compiled for the financial year beginning on 1 April 2021.

The formula in paragraph 3B of Schedule 7 to the Act includes an item B which is the retail prices index for September of the financial year preceding the year concerned, unless the Welsh Ministers exercise their power under paragraph 5(3) of Schedule 7 to the Act to specify, by Order, a different amount for item B. If the Welsh Ministers exercise that power in relation to a financial year, the different amount so specified must be less than the retail prices index for September of the preceding financial year. The retail prices index for September of the preceding financial year is 294.3.

This Order specifies that for the financial year beginning on 1 April 2021, the amount for item B is 292.6.

In accordance with paragraph 5(15) of Schedule 7 to the Act, this Order will only come into force if it is approved by a resolution of Senedd Cymru before Senedd Cymru approves the local government finance

report for the financial year beginning on 1 April 2021, or before 1 March 2021 (whichever is earlier).

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



*Order made by the Welsh Ministers, laid before Senedd Cymru under paragraph 5(15) of Schedule 7 to the Local Government Finance Act 1988, for approval by resolution of Senedd Cymru before the approval by the Senedd of the local government finance report for the financial year beginning on 1 April 2021, or before 1 March 2021 (whichever is earlier).*

---

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

---

**2020 No. 1254 (W. 285)**

**RATING AND VALUATION,  
WALES**

**The Non-Domestic Rating  
(Multiplier) (Wales) Order 2020**

*Made* 11 November 2020

*Laid before Senedd Cymru* 12 November 2020

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

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

**Title, commencement and application**

**1.**—(1) The title of this Order is the Non-Domestic Rating (Multiplier) (Wales) Order 2020.

(2) This Order comes into force on the day after the day on which it is approved by a resolution of Senedd Cymru, provided that the approval of the Order is

---

(1) 1988 c. 41.

(2) The power under paragraph 5(3) of Schedule 7 to the Local Government Finance Act 1988, so far as exercisable in relation to Wales, was transferred to the National Assembly for Wales by virtue of article 2 of, and Schedule 1 to, the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672). By virtue of section 162 of, and paragraphs 30 and 32 of Schedule 11 to, the Government of Wales Act 2006 (c. 32), the power is now vested in the Welsh Ministers.

given before the approval by Senedd Cymru of the local government finance report for the financial year beginning on 1 April 2021, or before 1 March 2021 (whichever is earlier)(1).

(3) This Order applies in relation to Wales.

**Non-domestic rating multiplier**

2. For the purpose of paragraph 3B of Schedule 7 to the Local Government Finance Act 1988, for the financial year beginning on 1 April 2021, B is specified as 292.6.

*Rebecca Evans*

Minister for Finance and Trefnydd, one of the Welsh Ministers

11 November 2020

---

(1) References in the Local Government Finance Act 1988 to the National Assembly for Wales now have effect as references to Senedd Cymru, by virtue of section 150A(2) of the Government of Wales Act 2006.

## **Explanatory Memorandum to the Non-Domestic Rating (Multiplier) (Wales) Order 2020**

This Explanatory Memorandum has been prepared by Local Government Strategic Finance Division 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 Non-Domestic Rating (Multiplier) (Wales) Order 2020. I am satisfied that the benefits justify the likely costs.

**Rebecca Evans MS**  
**Minister for Finance and Trefnydd**  
**12 November 2020**

**Contents**

PART 1: EXPLANATORY MEMORANDUM	3
1. Description	3
2. Matters of Special Interest to the Legislation, Justice and Constitution Committee	3
3. Legislative background	4
4. Purpose and Intended Effect of the Legislation	4
PART 2: REGULATORY IMPACT ASSESSMENT .....	6
ANALYSIS OF OTHER EFFECTS AND IMPACTS.....	7

## **PART 1: EXPLANATORY MEMORANDUM**

### **1. Description**

This Order sets the increase in the non-domestic rating (NDR) multiplier for Wales for the financial year 2021-22. It reflects the use of the Consumer Prices Index (CPI) rather than the Retail Prices Index (RPI) to calculate the multiplier.

Under the Local Government Finance Act 1988 (the 1988 Act), the annual increase in the multiplier should be calculated using the RPI figure for the September preceding the financial year to which the multiplier applies. For 2021-22, the RPI figure would have been 294.3.

The multiplier is applied to the rateable value (RV) of each non-domestic property to calculate its non-domestic rates bill. The Order applies the CPI figure in place of the RPI figure. This results in a smaller increase in the 2021-22 rates bills to be paid by businesses and other non-domestic property owners than would be the case if the RPI figure were used.

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

$$(A \times B) / C.$$

A is the multiplier for the preceding financial year

B is the RPI for September of the preceding financial year

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

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

The substituted figure for B is calculated dividing CPI from September of the preceding financial year by CPI from September of the financial year two years before and multiplying by RPI for September of the financial year two years before. For 2021-22, B has been calculated as 292.6.

This results in the multiplier for 2021-22 being 0.538 instead of 0.541.

### **2. Matters of Special Interest to the Legislation, Justice and Constitution Committee**

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

The relevant provision specifically provides that the Order must be approved by the Senedd before the votes on the Local Government Finance Reports (the final local government settlement and final police settlement) take place, or before 1 March in the preceding financial year, whichever is earlier. The debate on the

local government settlement for 2021-22 is expected to take place in early March 2021.

### **3. Legislative background**

Under the 1988 Act, for financial years in which new rating lists do not apply (i.e. all years which are not revaluation years), the default position for determining the non-domestic rating multiplier for Wales is to apply the formula set out in paragraph 3B to Schedule 7 to the 1988 Act. An element in that formula is the RPI for September of the financial year preceding the year concerned. The financial year beginning 1 April 2021 is not a revaluation year and therefore there will not be a new rating list.

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

The Welsh Ministers have adopted the approach of increasing the multiplier using CPI rather than RPI for each financial year since 2018-19.

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

The Order is subject to a made/provisional affirmative procedure and must be approved by the Senedd for it to be effective. It is also a requirement of the 1988 Act that any such Order is approved before the local government finance reports (for unitary authorities and police and crime commissioners) are approved by the Senedd, or before 1 March in the preceding financial year, whichever is earlier. This requirement for prior agreement of the multiplier arises because it plays a vital part in calculating the total funding available in the annual settlements.

The debate on the Local Government Finance Report for unitary authorities for 2020-21 is expected to be scheduled for debate in early March 2021. The debate to approve the Order is scheduled to take place on 8 December 2020.

### **4. Purpose and Intended Effect of the Legislation**

The Order will have the effect of increasing the NDR multiplier by CPI rather than RPI for the financial year 2021-22. By applying CPI for 2021-22, the multiplier will be set at 0.538.

This will mean that non-domestic property owners and occupiers in Wales will receive lower rates bills for 2021-22 than they would have if RPI was used.

Primary legislation does not currently provide the Welsh Ministers with powers to permanently change the rate of inflation used to calculate the multiplier from RPI to CPI. Therefore, the Order will apply for 2021-22 only.

Similar orders were made to effect the equivalent change for 2018-19 to 2020-21.

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

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

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

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

Using CPI rather than RPI to increase the multiplier in Wales will reduce the income into the non-domestic rates pool in 2021-22. The reduction will be fully funded by the Welsh Government and will be reflected in the calculations for the local government settlements so that there is no financial impact on local authorities or police budgets.

CPI has been used to calculate the multiplier in Wales since 2018-19 and the Welsh Ministers have determined that CPI should be used to calculate the multiplier for future years. The use of CPI since 2018-19 has been achieved through annual orders. To make the change on a permanent basis requires primary legislation to amend the Local Government Finance Act 1988. Provisions are included in the Local Government and Elections (Wales) Bill to achieve this. It is expected that the amendment will have effect in time for the 2022-23 financial year.

## **5. Consultation**

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

## **PART 2: REGULATORY IMPACT ASSESSMENT**

### **Options**

#### ***Option 1 – Use RPI to increase the multiplier***

This option would increase the multiplier for 2021-22 by RPI at September 2020 (1.1%), resulting in a multiplier of 0.541.

#### ***Option 2 – Increase the multiplier by the equivalent of CPI***

This option would increase the multiplier for 2021-22 by CPI at September 2020 (0.5%), resulting in a multiplier of 0.538.

### **Costs and benefits**

#### ***Option 1 – Use RPI to increase the multiplier***

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

For example, if a property has a rateable value (RV) as assessed by the Valuation Office Agency of £15,000, the rates bill for 2020-21 (before any reliefs) would have been:

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

Applying RPI would result in an annual rates bill for 2021-22 of:

$$\text{RV } £15,000 \times 0.541 = £8,115$$

The increase in the annual charge would therefore be £90.

#### ***Option 2 – Increase the multiplier by the equivalent of CPI***

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

The rates bill for 2020-21 was:

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

An increase using CPI for 2021-22 would give a bill of:

$$\text{RV } £15,000 \times 0.538 = £8,070$$

The increase in rates for the property would therefore be £45, £45 less than if RPI were used.



The total saving to non-domestic ratepayers across Wales is estimated at around £7.3m, not accounting for the impact of relief schemes. This would be a recurrent saving as the multiplier cannot be increased at a level above RPI in future years. This saving is additional to the savings made from applying the same approach in each year since 2018-19.

### **Option selection**

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

Option 2 is therefore the preferred option.

### **Analysis of other effects and impacts**

#### **Promoting Economic Opportunity for All (Tackling Poverty)**

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

#### **UNCRC**

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

#### **Welsh language**

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

#### **Equalities**

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

#### **Well-being of Future Generations (Wales) Act 2015**

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

#### **Impact on voluntary sector**

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

#### **Competition Assessment**

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

#### **Post implementation review**

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



Ein cyf/Our ref: MA-RE-3187-20

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

11 November 2020

Dear Llywydd,

### **THE NON-DOMESTIC RATING (MULTIPLIER) (WALES) ORDER 2020**

I have today made the Non-Domestic Rating (Multiplier) (Wales) Order 2020, under paragraph 5(3) of Schedule 7 to the Local Government Finance Act 1988. It comes into force on 1 April 2021, subject to the Senedd's agreement. I attach a copy of the statutory instrument and the accompanying Explanatory Memorandum, which I intend to lay once the statutory instrument has been registered.

In accordance with the procedure set out in paragraph 5(15) of Schedule 7 to the Local Government Finance Act 1988, this instrument must be approved by the Senedd Cymru before the Senedd approves the Local Government Finance Reports for the financial year beginning 1 April 2021, or before 1 March in the preceding financial year, whichever is earlier, in order for it to be effective. In these circumstances I understand Standing Order 21.4A is relevant and the Business Committee may establish and publish a timetable for the responsible committee or committees to report. It may be helpful to know that I intend to hold the plenary debate for this item of subordinate legislation on 8 December.

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

Yours sincerely,

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

Bae Caerdydd • Cardiff Bay  
Caerdydd • Cardiff  
CF99 1SN

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

[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.

**Pack Page 53**

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 3.3

## **SL(5)660 – The Health Protection (Coronavirus, International Travel and Restrictions)(Amendment) (No. 2) (Wales) Regulations 2020**

### **Background and Purpose**

These Regulations amend the Health Protection (Coronavirus, International Travel) (Wales) Regulations 2020 (“the International Travel Regulations”) (SI 2020/574) in respect of the isolation requirement for passengers arriving from specified countries and territories, known as “exempt countries”.

Regulations 2 amends the International Travel Regulations to –

- (a) permit a person who is required to isolate as a result of having been in Denmark, or being in the same household as a person who has been in Denmark, or being in the same household as person who has been in Denmark to leave the place where they are isolating to in order to leave Wales;
- (b) prohibit any aircraft or ship coming directly from Denmark arriving in Wales except for safety reasons;
- (c) add Bahrain, Cambodia, Chile, Iceland, Laos, Qatar, Turks and Caicos Islands and the United Arab Emirates to the list of exempt countries and territories;
- (d) remove the Sovereign Base Areas of Akrotiri and Dhekelia in the Island of Cyprus and all of Greece, other than the islands of Corfu, Crete, Kos, Rhodes and Zakynthos from the list of exempt countries and territories;
- (e) make other minor and consequential amendments.

These Regulations also make minor and technical amendments to the International Travel Regulations and the Health Protection (Coronavirus Restrictions) (No. 4) (Wales) Regulations 2020 (“the No. 4 Regulations”) (SI 2020/219). These Regulations also make a consequential amendment to the Health Protection (Coronavirus, International Travel and Restrictions) (Amendment) (Wales) Regulations 2020 (SI 2020/1237) (“the 2020 Regulations”).

### **Procedure**

Made affirmative.

The Regulations were made by the Welsh Ministers before they were laid before the Senedd. The Senedd must approve the Regulations within 28 days (excluding any days when the Senedd is dissolved or in recess for more than four days) of the date they were made for them to continue to have effect.



## Technical Scrutiny

The following one point is identified for reporting under Standing Order 21.2 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**

New regulation 12B of the International Travel Regulations prohibits any aircraft or vessel coming directly from Denmark from arriving in Wales except for safety reasons. In relation to a vessel, the English text defines “arrive” in the context of “arrive in Wales” as meaning “to moor at any place” but the Welsh text defines it as meaning “to moor at any **other** place” (emphasis added).

## Merits Scrutiny

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

### **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 the Welsh Government’s justification for any potential interference with human rights. In particular, we note the following paragraph in the Explanatory Memorandum:

*“The amendments contained these Regulations do not change the engagement under the International Travel Regulations or the No. 4 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.”*

### **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**

We note there has been no formal consultation on these Regulations. In particular, we note the following paragraph in the Explanatory Memorandum:

*“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 Regulations.”*

### **4. 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**

The Committee notes and is pleased to read the Explanatory Memorandum concerning the Welsh Government’s consideration of the previous LJCC reports concerning the No.4



Regulations, the 2020 Regulations and subsequent technical amendments made to these Regulations to address the previous reporting points.

## Implications arising from exiting the European Union

None.

## Welsh Government response

A Welsh Government response is required for the one Technical reporting point only.

### Legal Advisers

**Legislation, Justice and Constitution Committee**

**18 November 2020**



*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.*

---

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

---

**2020 No. 1288 (W. 286)**

**PUBLIC HEALTH, WALES**

**The Health Protection  
(Coronavirus, International Travel  
and Restrictions) (Amendment)  
(No. 2) (Wales) Regulations 2020**

**EXPLANATORY NOTE**

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

These Regulations make amendments to the Health Protection (Coronavirus, International Travel) (Wales) Regulations 2020 (S.I. 2020/574 (W. 132)) (the “International Travel Regulations”) and the Health Protection (Coronavirus Restrictions) (No. 4) (Wales) Regulations 2020 (S.I. 2020/1219 (W. 276)) (the “No. 4 Regulations”). They also make a consequential amendment to the Health Protection (Coronavirus, International Travel and Restrictions) (Amendment) (Wales) Regulations 2020 (S.I. 2020/1237 (W. 279)).

The International Travel Regulations impose requirements on persons entering Wales after having been abroad. They include a requirement for persons arriving in Wales to isolate for a period determined in accordance with the Regulations. The requirements imposed by the International Travel Regulations are subject to exceptions, and certain categories of person are exempt from having to comply. Persons entering Wales after being in one or more of the countries and territories listed in Schedule 3 to the International Travel Regulations are not required to isolate. The countries and territories listed in Schedule 3 are referred to as “exempt countries and territories”.

Regulation 2 amends the International Travel Regulations to—

- (a) permit a person who is required to isolate under regulation 12A as a result of having been in Denmark, or being in the same household as a person who has been in Denmark, to leave the place where they are isolating in order to leave Wales;
- (b) insert a new regulation 12B into those Regulations prohibiting any aircraft or ship coming directly from Denmark from arriving in Wales except for safety reasons;
- (c) add Bahrain, Cambodia, Chile, Iceland, Laos, Qatar, Turks and Caicos Islands, and the United Arab Emirates to the list of exempt countries and territories;
- (d) remove the Sovereign Base Areas of Akrotiri and Dhekelia in the Island of Cyprus and all of Greece, other than the islands of Corfu, Crete, Kos, Rhodes and Zakynthos, from the list of exempt countries and territories;
- (e) make other minor and consequential amendments.

Regulation 3 provides that new Regulation 12B of the International Travel Regulations does not apply where an aircraft or ship's journey began before Regulation 12B came into force.

Regulations 4 and 5 of these Regulations make transitional provision relating to the countries and territories whose status has changed. The transitional provisions address a potential area of doubt in terms of the effect on the operation of the International Travel Regulations, of the amendments made by regulation 2(5) to (8) of these Regulations.

Regulation 6 amends the No. 4 Regulations to—

- (a) provide that a person required not to leave the place where they are living under regulation 18A of the No. 4 Regulations (provision relating to persons who have recently been in Denmark) may leave that place in order to leave Wales;
- (b) make other minor and consequential amendments.

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.*

---

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

---

**2020 No. 1288 (W. 286)**

**PUBLIC HEALTH, WALES**

**The Health Protection  
(Coronavirus, International Travel  
and Restrictions) (Amendment)  
(No. 2) (Wales) Regulations 2020**

*Made at 5.04 p.m. on 13 November 2020*

*Laid before Senedd Cymru at 7.00 p.m. on 13  
November 2020*

*Coming into force at 4.00 a.m. on 14  
November 2020*

The Welsh Ministers make the following Regulations in exercise of the powers conferred by sections 45B, 45C(1) and (3)(c), 45F(2) and 45P(2) 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 restrictions and requirements imposed by these Regulations are proportionate to what they seek to achieve, which is a public health response to that threat.

---

(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.



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

### **Title, coming into force and interpretation**

**1.**—(1) The title of these Regulations is the Health Protection (Coronavirus, International Travel and Restrictions) (Amendment) (No. 2) (Wales) Regulations 2020.

(2) These Regulations come into force at 4.00 a.m. on 14 November 2020.

(3) In these Regulations, the “International Travel Regulations” means the Health Protection (Coronavirus, International Travel) (Wales) Regulations 2020(1).

### **Amendment of the International Travel Regulations**

**2.**—(1) The International Travel Regulations are amended as follows.

(2) In regulation 12A—

(a) in paragraph (4), in the English language text, for “by”, the second time it occurs, substitute “of”;

(b) in paragraph (7), in the modified regulation 10(4)—

(i) in the Welsh language text, for sub-paragraph (a)(ii) substitute—

“(ii) i osgoi salwch difrifol, anaf difrifol neu risg arall o niwed difrifol;”

(ii) after sub-paragraph (a)(ii) insert—

“(iii) to travel for the purpose of leaving Wales;”.

(3) After regulation 12A insert—

---

(1) S.I. 2020/574 (W. 132) as amended by S.I. 2020/595 (W. 136), S.I. 2020/714 (W. 160), S.I. 2020/726 (W. 163), S.I. 2020/804 (W. 177), S.I. 2020/817 (W. 179), S.I. 2020/840 (W. 185), S.I. 2020/868 (W. 190), S.I. 2020/886 (W. 196), S.I. 2020/917 (W. 205), S.I. 2020/944 (W. 210), S.I. 2020/962 (W. 216), S.I. 2020/981 (W. 220), S.I. 2020/1015 (W. 226), S.I. 2020/1042 (W. 231), S.I. 2020/942, S.I. 2020/1080 (W. 243), S.I. 2020/1098 (W. 249), S.I. 2020/1133 (W. 258), S.I. 2020/1165 (W. 263), S.I. 2020/1191 (W. 269), S.I. 2020/1223 (W. 277), S.I. 2020/1232 (W. 278) and S.I. 2020/1237 (W. 279)

## “PART 3A

### Travel from Denmark

#### **Prohibition on the arrival of aircraft and vessels travelling directly from Denmark**

**12B.**—(1) The person with management or control of an aircraft or vessel whose last point of departure was in Denmark must not cause or permit it to arrive in Wales, unless it is reasonably necessary for it to do so to secure—

- (a) the safety of the aircraft or vessel, or
- (b) the health and safety of any person aboard it.

(2) Paragraph (1) does not apply to—

- (a) a commercially operated aircraft or vessel carrying no passengers;
- (b) an aircraft or vessel operated by or in support of Her Majesty’s Government in the United Kingdom.

(3) In this regulation—

- (a) “arrive” means—
  - (i) in relation to an aircraft, to land;
  - (ii) in relation to a vessel, to moor at any place;
- (b) “passenger” means a person carried in or on an aircraft or vessel other than a member of its crew.”

(4) In regulation 14(1)—

- (a) in sub-paragraph (e), omit “or”;
- (b) in sub-paragraph (f), at the end insert “or”;
- (c) after sub-paragraph (f) insert—

“(g) 12B(1),”.

(5) In Part 1 of Schedule 3 (exempt countries and territories outside the common travel area), at the appropriate place insert—

- “Bahrain”
- “Cambodia”
- “Chile”
- “Corfu”
- “Crete”
- “Iceland”
- “Kos”
- “Laos”
- “Rhodes”
- “Qatar”
- “United Arab Emirates”

“Zakynthos”.

(6) In Part 2 of Schedule 3 (United Kingdom Overseas Territories), at the appropriate place insert—

“Turks and Caicos Islands”.

(7) In Part 1 of Schedule 3 (exempt countries and territories outside the common travel area), omit—

“Greece”.

(8) In Part 2 of Schedule 3 (United Kingdom Overseas Territories), omit—

“The Sovereign Base Areas of Akrotiri and Dhekelia in the Island of Cyprus”.

### **Transitional provision relating to regulation 2(3)**

3. Regulation 12B of the Health Protection (Coronavirus, International Travel) (Wales) Regulations 2020, inserted by regulation 2(3) of these Regulations, does not apply in respect of any flight or voyage that commenced before these Regulations come into force.

### **Transitional provision in connection with regulation 2(5) and (6)**

4.—(1) Paragraph (2) applies where, immediately before 4.00 a.m. on 14 November 2020—

- (a) a person (“P”) was subject to an isolation requirement by virtue of having arrived in Wales from, or having been in a country or territory listed in regulation 2(5) or (6), and
- (b) P’s last day of isolation is 14 November 2020 or later.

(2) The addition of the countries and territories listed in regulation 2(5) and (6) to Parts 1 and 2 of Schedule 3 to the International Travel Regulations does not affect the isolation requirement as it applies to P, nor affect how P’s last day of isolation is determined under the International Travel Regulations.

(3) Paragraph (4) applies where a person (“P”)—

- (a) arrives in Wales at or after 4.00 a.m. on 14 November 2020, and
- (b) was in a country or territory listed in regulation 2(5) or (6) within the period of 14 days ending with the day of P’s arrival in Wales.

(4) For the purposes of regulations 7(1) and 8(1) of the International Travel Regulations, the question of whether P has arrived in Wales from, or having been in, a non-exempt country or territory is, in relation to a country or territory listed in regulation 2(5) or (6), to be determined by reference to whether the country or territory was a non-exempt country or territory when P

was last there (and not by reference to the country's or the territory's status upon P's arrival in Wales).

(5) In this regulation, "isolation requirement" has the meaning given by regulation 10(2) of the International Travel Regulations; and references to P's last day of isolation are to be interpreted in accordance with regulation 12 of those Regulations.

**Transitional provision in connection with regulation 2(7) and (8)**

**5.**—(1) Paragraph (2) applies where a person ("P")—

- (a) arrives in Wales at or after 4.00 a.m. on 14 November 2020, and
- (b) was last in a country or territory listed in regulation 2(7) or (8)—
  - (i) within the period of 14 days ending with the day of P's arrival in Wales, and
  - (ii) before 4.00 a.m. on 14 November 2020.

(2) P is, by virtue of having been in a country or territory listed in regulation 2(7) or (8), to be treated for the purposes of regulations 7(1) and 8(1) of the International Travel Regulations as having arrived in Wales from, or having been in, a non-exempt country or territory.

**Amendment of the Health Protection (Coronavirus Restrictions) (No. 4) (Wales) Regulations 2020**

**6.**—(1) The Health Protection (Coronavirus Restrictions) (No. 4) (Wales) Regulations 2020<sup>(1)</sup> are amended as follows.

- (2) In regulation 18A—
  - (a) in paragraph (2)—
    - (i) omit "4,";
    - (ii) after "with P" insert " , until the end of the restriction period";
  - (b) in paragraph (3), for "period of 14 days beginning with the day on which P arrived in Wales" substitute "restriction period";
  - (c) in paragraph (4), after sub-paragraph (c) insert—
    - "(d) to travel for the purpose of leaving Wales ."
  - (d) after paragraph (4) insert—
    - "(5) In this regulation, the "restriction period" in relation to P and any person living in the same household with P, means the period

---

(1) S.I. 2020/1219 (W. 276) as amended by S.I. 2020/1237 (W. 279).

ending with the day 14 days after P last arrived in Wales before 4.00 a.m. on 7 November 2020—

- (a) from Denmark, or
- (b) from any other place, having been in Denmark since P was previously in Wales.”

(3) In regulation 28—

- (a) in paragraph (1), omit “18A(3)”;
- (b) in paragraph (4), for “or 14(2)” substitute “, 14(2) or 18A(3)”.

(4) In regulation 31—

- (a) in paragraph (1), omit “18A(3)”;
- (b) in paragraph (4), for “or 14(2)” substitute “, 14(2) or 18A(3)”.

(5) In regulation 35(1)(a), after “16,” insert “18A(3),”.

**Amendment of the Health Protection (Coronavirus, International Travel and Restrictions) (Amendment) (Wales) Regulations 2020**

7. In regulation 4 of the Health Protection (Coronavirus, International Travel and Restrictions) (Amendment) (Wales) Regulations 2020(1), omit paragraph (5).

*Vaughan Gething*

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

At 5.04 p.m. on 13 November 2020

---

(1) S.I. 2020/1237 (W. 279).

## **Explanatory Memorandum to the Health Protection (Coronavirus, International Travel and Restrictions) (Amendment) (No. 2) (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's Declaration**

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Health Protection (Coronavirus, International Travel and Restrictions) (Amendment) (No. 2) (Wales) Regulations 2020.

**Vaughan Gething**  
**Minister for Health and Social Services**

13 November 2020

## **1. Description**

These Regulations amend the Health Protection (Coronavirus, International Travel) (Wales) Regulations 2020 (“the International Travel Regulations”) in respect of the isolation requirement for passengers arriving from specified countries and territories, known as “exempt countries”. These Regulations also make minor and technical amendments to the International Travel Regulations and the Health Protection (Coronavirus Restrictions) (No. 4) (Wales) Regulations 2020 (“the No. 4 Regulations”). These Regulations also make a consequential amendment to the Health Protection (Coronavirus, International Travel and Restrictions) (Amendment) (Wales) Regulations 2020.

## **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. The Welsh Ministers are of the opinion that the restrictions and requirements as set out in these Regulations are necessary and proportionate as a public health response to the current threat posed by coronavirus.

### *European Convention on Human Rights*

The amendments contained these Regulations do not change the engagement under the International Travel Regulations or the No. 4 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.

## **3. Legislative background**

The Public Health (Control of Disease) Act 1984 (“the 1984 Act”), and regulations made under it, provide a legislative framework for health protection in England and Wales. The Regulations are made in reliance on the powers in sections 45B, 45C(1) and (3)(c), 45F(2) and 45P(2) of the 1984 Act.

Regulations made under sections 45B and 45C of the 1984 Act are subject to different Senedd procedure. However, in accordance with section 40 of the Legislation (Wales) Act 2019, these regulations are subject to the made affirmative procedure as set out in sections 45Q and 45R of the 1984 Act.

The Explanatory Memoranda to the International Travel Regulations and the No. 4 Regulations provide further information on these powers.

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

These Regulations make amendments to the International Travel Regulations, the No. 4 Regulations and the Health Protection (Coronavirus, International Travel and Restrictions) (Amendment) (Wales) Regulations 2020 as set out below.

##### **International Travel Regulations**

The International Travel Regulations came into force on 8 June 2020 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). From 10 July 2020 there have been exemptions from the isolation requirements set out in those Regulations for passengers arriving from specified countries and territories, known as “exempt countries”.

As part of the ongoing review of the International Travel Regulations, changes have been made to the list of exempt countries and territories from which travellers would not be required to isolate upon arrival in Wales, – most recently in the Health Protection (Coronavirus, International Travel) (Wales) (Amendment) (No. 19) Regulations.

Advice has now been received from the Joint Biosecurity Centre which indicates that the risk to public health posed by the incidence and spread of coronavirus in Greece (excluding Corfu, Crete, Kos, Rhodes and Zakynthos) has increased. On the basis of this advice the Welsh Government consider that isolation requirements should now be introduced for travellers coming into Wales from Greece also (excluding Corfu, Crete, Kos, Rhodes and Zakynthos). The isolation requirements that were introduced on 1 November 2020 for travellers coming into Wales from Cyprus will also be introduced for travellers coming into Wales from the Sovereign Base Areas of Akrotiri and Dhekelia on the island of Cyprus.

The Joint Biosecurity Centre also advises that the risk to public health posed by the incidence and spread of coronavirus in Bahrain, Cambodia, Chile, Iceland, Laos, Qatar, Turks and Caicos Islands, and the United Arab Emirates has decreased. As such these countries and territories are now being added to the list of exempt countries and territories in the International Travel Regulations.

The revised requirements will come into effect for any travellers entering the Common Travel Area on or after 4.00 am on Saturday 14 November 2020.

In light of the reported outbreaks of Coronavirus in mink farms in Denmark, and subsequent spread to the local community, these Regulations also amend the International Travel Regulations to put in place an additional measure which prohibits aircraft and maritime vessels whose last departure point was in Denmark from landing or mooring anywhere in Wales, subject to limited exceptions.

The Regulations also make minor and technical amendments to the International Travel Regulations following the making of the Health Protection (Coronavirus, International Travel and Restrictions) (Amendment) (Wales) Regulations 2020 on Saturday morning. In particular, the amendments make clear that an individual who



is isolating after having returned from Denmark may leave their isolation premises for the purposes of traveling to leave Wales. They also correct errors in the International Travel Regulations resulting from the Health Protection (Coronavirus, International Travel and Restrictions) (Amendment) (Wales) Regulations 2020 and which were identified by the Legislation, Justice and Constitution Committee's draft report on those amending Regulations.

#### **No. 4 Regulations**

These Regulations make minor and technical amendments to the No. 4 Regulations, following the making of the Health Protection (Coronavirus, International Travel and Restrictions) (Amendment) (Wales) Regulations 2020 on Saturday morning. In particular the amendments provide that a person subject to the requirement not to leave the place where they are living due to having recently been in Denmark (or being a member of the same household as a person who was recently in Denmark) may do so in order to leave Wales. They also correct errors in the No. 4 Regulations resulting from the Health Protection (Coronavirus, International Travel and Restrictions) (Amendment) (Wales) Regulations 2020 and which were identified by the Legislation, Justice and Constitution Committee's draft report on those amending Regulations.

#### **The Health Protection (Coronavirus, International Travel and Restrictions) (Amendment) (Wales) Regulations 2020**

These Regulations make a consequential amendment to the Health Protection (Coronavirus, International Travel and Restrictions) (Amendment) (Wales) Regulations 2020 to omit paragraph (5) from regulation 4. This provision made an erroneous amendment to the No. 4 Regulations which was identified by the Legislation, Justice and Constitution Committee's draft report on those amending Regulations. This has been corrected as mentioned above.

#### **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 Regulations.

#### **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.



Eich cyf/Your ref  
Ein cyf/Our ref: MA/VG/3860/20

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

13 November 2020

Dear Elin

**The Health Protection (Coronavirus, International Travel and Restrictions)  
(Amendment) (No. 2) (Wales) Regulations 2020**

I have today made the Health Protection (Coronavirus, International Travel and Restrictions) (Amendment) (No. 2) (Wales) Regulations 2020 under sections 45B, 45C(1) and (3)(c), 45F(2) and 45P(2) of the Public Health (Control of Disease) Act 1984. 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 10 December 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. The Regulations will be scheduled for debate in Plenary on 24 November 2020.

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,

**Vaughan Gething AS/MS**  
Y Gweinidog Iechyd a Gwasanaethau Cymdeithasol  
Minister for Health and Social Services

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

Bae Caerdydd • Cardiff Bay  
Caerdydd • Cardiff  
CF99 1SN

[Gohebiaeth.Vaughan.Gething@llyw.cymru](mailto:Gohebiaeth.Vaughan.Gething@llyw.cymru)  
[Correspondence.Vaughan.Gething@gov.wales](mailto:Correspondence.Vaughan.Gething@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.



---

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

---

**TITLE**            **The Health Protection (Coronavirus, International Travel) (Wales) Amendments**

**DATE**            **12 November 2020**

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

Members will be aware that the Welsh Government made provision in the Health Protection (Coronavirus, International Travel) (Wales) Regulations 2020 to ensure that travellers entering Wales from overseas countries and territories must isolate for 14 days and provide passenger information, to prevent the further spread of coronavirus. These restrictions came into force on 8 June 2020.

On 10 July, the Welsh Government amended these Regulations to introduce exemptions from the isolation requirement for a list of countries and territories, and a limited range of people in specialised sectors or employment who may be exempted from the isolation requirement or excepted from certain provisions of the passenger information requirements.

Since then these Regulations have been kept under review and a number of changes to the list of exempt countries and territories have been made.

Today I reviewed the latest JBC assessments and I have decided that the Sovereign airbases of Akrotiri and Dhekelia in the island of Cyprus and Greece, except for the islands of Rhodes, Kos, Corfu, Crete and Zakynthos (Zante), will be removed from the list of exempt countries and territories, so travellers from those countries will need to isolate on arrival in Wales.

I have also decided that the following countries and territories should be added to the list of exempt countries and territories; Bahrain, Cambodia, Chile, Iceland, Laos, Qatar, Turks and Caicos, and the United Arab Emirates, so travellers from these countries will no longer need to isolate on arrival in Wales.

A further amendment will be made such that passenger planes and ships travelling directly from Denmark, and accompanied freight, will no longer be able to land or dock at Welsh ports.

Tomorrow I will lay the necessary regulations which will come into force at 04:00 on Saturday 14 November.

## **SL(5)654 – The Equine Identification (Wales) (Amendment) (EU Exit) Regulations 2020**

### **Background and Purpose**

The Protocol on Ireland/Northern Ireland in the withdrawal agreement requires that the EU legislation listed in Annex 2 to that Protocol is implemented in Northern Ireland. These Regulations therefore amend the Equine Identification (Wales) (Amendment) (EU Exit) Regulations 2019 in order to implement the Protocol on Ireland/Northern Ireland and for the purposes of dealing with matters arising out of, or related to, that Protocol.

These Regulations come into force immediately before implementation period completion day.

### **Procedure**

Negative

The Regulations were made by the Welsh Ministers before they were laid before the Senedd. The Senedd can annul the Regulations within 40 days (excluding any days when the Senedd is: (i) dissolved, or (ii) in recess for more than four days) of the date they were laid before the Senedd.

### **Technical Scrutiny**

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

### **Merits Scrutiny**

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

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

The changes made by the instrument are necessary to ensure that retained EU legislation and the domestic EU legislation enforcing it continues to operate effectively, in order to implement the Protocol on Ireland/Northern Ireland and for the purposes of dealing with matters arising out of, or related to, that Protocol.

### **Welsh Government response**

A Welsh Government response is not required.

### **Legal Advisers**

**Legislation, Justice and Constitution Committee**

**18 November 2020**



---

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

---

**2020 No. 1240 (W. 280)**

**EXITING THE EUROPEAN  
UNION, WALES**

**ANIMALS, WALES**

**The Equine Identification (Wales)  
(Amendment) (EU Exit)  
Regulations 2020**

**EXPLANATORY NOTE**

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

These Regulations are made in exercise of the power conferred by paragraph 11M(1) of Schedule 2 to the European Union (Withdrawal) Act 2018 (c. 16). The Protocol on Ireland/Northern Ireland in the withdrawal agreement requires that the EU legislation listed in Annex 2 to that Protocol is implemented in Northern Ireland. These Regulations therefore amend the Equine Identification (Wales) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/250 (W. 62)) in order to implement the Protocol on Ireland/Northern Ireland and for the purposes of dealing with matters arising out of, or related to, that Protocol.

These Regulations amend the Equine Identification (Wales) (Amendment) (EU Exit) Regulations 2019, which make amendments to the Equine Identification (Wales) Regulations 2019 (S.I. 2019/57 (W. 20)) to address failures of retained EU law to operate effectively and other deficiencies arising from the withdrawal of the United Kingdom from the European Union.

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.

---

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

---

**2020 No. 1240 (W. 280)**

**EXITING THE EUROPEAN  
UNION, WALES**

**ANIMALS, WALES**

**The Equine Identification (Wales)  
(Amendment) (EU Exit)  
Regulations 2020**

*Made* 6 November 2020

*Laid before Senedd Cymru* 10 November 2020

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

The Welsh Ministers, in exercise of the powers conferred by paragraph 11M(1) of Schedule 2 to the European Union (Withdrawal) Act 2018<sup>(1)</sup>, make the following Regulations.

**Title and commencement**

**1.**—(1) The title of these Regulations is the Equine Identification (Wales) (Amendment) (EU Exit) Regulations 2020.

(2) These Regulations come into force immediately before implementation period completion day.

**Amendment of the Equine Identification (Wales)  
(Amendment) (EU Exit) Regulations 2019**

**2.**—(1) Regulation 2 of the Equine Identification (Wales) (Amendment) (EU Exit) Regulations 2019<sup>(2)</sup> is amended as follows.

---

(1) 2018 c. 16; paragraph 11M of Schedule 2 to the 2018 Act was inserted by section 22 of the European Union (Withdrawal Agreement) Act 2020 (c. 1); there are other amendments not relevant to these Regulations. See section 20(1) of the 2018 Act for the definition of “devolved authority”.

(2) S.I. 2019/250 (W. 62).

(2) In paragraph (3), for the substituted text substitute “Great Britain from a country other than Northern Ireland or a member State”.

(3) For paragraph (4) substitute—

“(4) In regulation 13(3)(b), for “another member State” substitute “a member State or Northern Ireland”.”

*Lesley Griffiths*

Minister for Environment, Energy and Rural Affairs,  
one of the Welsh Ministers  
6 November 2020



**Explanatory Memorandum** to the Equine Identification (Wales) (Amendment) (EU Exit) Regulations 2020.

This Explanatory Memorandum has been prepared by the Agriculture, Sustainable Development Division 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 Equine Identification (Wales) (Amendment) (EU Exit) Regulations 2020.

I have made the statements required by the European Union (Withdrawal) Act 2018. These statements can be found in Part 2 of the annex to this memorandum.

Lesley Griffiths MS

**Minister for Environment, Energy and Rural Affairs**

10 November 2020

## **PART 1**

### **1. Description**

These Regulations amend the Equine Identification (Wales) (Amendment) (EU Exit) Regulations 2019 (2019//250 (W. 62)) in order to implement the Protocol on Ireland/Northern Ireland and for the purposes of dealing with matters arising out of, or related to, in that protocol.

The amendments effected by the Regulations will ensure the trade or movement of equines between Wales and Northern Ireland isn't impacted by UK's exit from the European Union.

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

There are no matters of special interest to the Legislation, Justice and Constitution Committee.

### **3. Legislative background**

This instrument relates to the withdrawal of the United Kingdom from the European Union and is being made under paragraph 11M(1) of Schedule 2 to the European Union (Withdrawal) Act 2018 ('the 2018 Act'). Paragraph 11M of Schedule 2 to the 2018 Act was inserted by section 22 of the European Union (Withdrawal Agreement) Act 2020. The 2020 Regulations are made under Part 1C of Schedule 2 to the 2018 Act and are not subject to the sifting requirement. Devolved authority' is defined in section 20(1) of the 2018 Act to mean the Welsh Ministers.

Pursuant to paragraph 8F(8) of Schedule 7 to the 2018 Act, as the 2020 Regulations do not contain provision falling within paragraph 8F(2) of Schedule 7, they are subject to annulment in pursuance of a resolution of the Senedd. These Regulations are therefore being made under the negative resolution procedure.

The Minister for Environment, Energy and Rural Affairs, Lesley Griffiths has made any relevant statements in Part 2 of the Annex to this Explanatory Memorandum.

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

#### ***What did any relevant EU law do before exit day?***

These Regulations amend the Equine Identification (Wales) (Amendment) (EU Exit) Regulations 2019 (2019//250 (W. 62)), which make amendments to the Equine Identification (Wales) Regulations 2019 (2019/57 (W. 20)) which

supplement and make provision for the enforcement of Commission Implementing Regulation (EU) 2015/262 laying down rules pursuant to Council Directives 90/427/EEC and 2009/156/EC as regards the methods for the identification of equidae in Wales. The Equine Identification (Wales) Regulations 2019 set out the responsibilities of equine keepers and provide for the identification of equines in Wales. The Equine Identification (Wales) (Amendment) (EU Exit) Regulations 2019 were made in order to address failures of retained EU law to operate effectively and other deficiencies arising from the withdrawal of the United Kingdom from the European Union. They ensure Welsh keepers will be able to move and trade equines with other Member States.

### ***Why is it being changed?***

The minor and technical changes made by the instrument are necessary to ensure that retained EU legislation and the domestic EU legislation enforcing it continues to operate effectively, in order to implement the Protocol on Ireland/Northern Ireland and for the purposes of dealing with matters arising out of, or related to, that protocol. The changes made to ensure that it operates effectively include the substitution of 'United Kingdom' with 'Great Britain' and references to 'a member State' to refer to 'Northern Ireland or a member State'.

### ***What will it now do?***

The instrument will ensure that the Protocol on Ireland/Northern Ireland is implemented and equine trade continues to operate effectively in Wales at the end of the implementation period.

## **5. Consultation**

As there is no policy change, no public consultation was undertaken. The purpose of the instrument is solely to enable the current legislative and policy framework to remain unchanged by the withdrawal of the United Kingdom from the European Union.

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

An RIA has not been produced in relation to these Regulations as it has no impact on Sections 72-75 or 77-79 of the Government of Wales Act 2006. In addition no impact is foreseen on the private, voluntary or public sectors.

# Annex

## Statements under the European Union (Withdrawal) Act 2018

### Part 1

#### Table of Statements under the 2018 Act

This table sets out the statements that may be required of the Welsh Ministers under the 2018 Act. The table also sets out those statements that may be required of Ministers of the Crown under the 2018 Act, which the Welsh Ministers have committed to also provide when required. The required statements can be found in Part 2 of this annex.

Statement	Where the requirement sits	To whom it applies	What it requires
Sifting	Paragraphs 3(7) and 4(3), Schedule 7  <i>Paragraph 3(7) (anticipated to be a requirement on Welsh Ministers in Standing Orders)</i>	The Welsh Ministers exercising powers in Part 1 of Schedule 2 to make a Negative SI  Paragraph 3(7) applies to Ministers of the Crown, but Welsh Ministers have committed to make the same statement	A statement to explain why the instrument should be subject to the negative procedure and, if applicable, why they disagree with the recommendation of the LJC Committee (as sifting committee)
Appropriate-ness	Sub-paragraph (2) of paragraph 28, Schedule 7	Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2	A statement that the SI does no more than is appropriate.
Good Reasons	Sub-paragraph (3) of paragraph 28, Schedule 7	Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have	A statement to explain the good reasons for making the instrument and that what is being done is a reasonable course of action.

		committed to make the same statement when exercising powers in Schedule 2	
Equalities	Sub-paragraphs (4) and (5) of paragraph 28, Schedule 7	Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2	<p>A statement to explain what, if any, amendment, repeals or revocations are being made to the Equalities Acts 2006 and 2010 and legislation made under them.</p> <p>A statement that the Minister has had due regard to the need to eliminate discrimination and other conduct prohibited under the Equality Act 2010.</p>
Explanations	Sub-paragraph (6) of paragraph 28, Schedule 7	Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2	A statement to explain the instrument, identify the relevant law before exit day, explain the instrument's effect on retained EU law and give information about the purpose of the instrument, e.g. whether minor or technical changes only are intended to the EU retained law.
Criminal offences	Sub-paragraphs (3) and (7) of paragraph 28, Schedule 7	Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2	A statement setting out the 'good reasons' for creating a criminal offence, and the penalty attached.
Sub-delegation	Paragraph 30, Schedule 7	Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and paragraph 1 of Schedule 4 to create a legislative power exercisable not by a Minister of the Crown or a Devolved Authority.	A statement to explain why it is appropriate to create such a sub-delegated power.

		Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2 or paragraph 1 of Schedule 4 to create a legislative power exercisable not by a Minister of the Crown or a Devolved Authority	
Urgency	Sub-paragraph (2) and (8) of paragraph 7, Schedule 7	Welsh Ministers exercising powers in Part 1 of Schedule 2 but using the urgent procedure in paragraph 7 of Schedule 7	A statement that the Welsh Ministers are of the opinion that it is necessary to make the SI using the urgent procedure and the reasons for that opinion.

## Part 2

### Statements required when using enabling powers under the European Union (Withdrawal) 2018 Act

#### 1. Sifting statement(s)

Not applicable.

#### 2. Appropriateness statement

The Minister for Environment, Energy and Rural Affairs, Lesley Griffiths, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view the Equine Identification (Wales) (Amendment) (EU Exit) Regulations 2020 does no more than is appropriate”. The provisions of the 2020 Regulations are limited to amendments necessary to implement the Protocol on Ireland/Northern Ireland, and for the purposes of dealing with matters arising out of, or related to, that protocol.

#### 3. Good reasons

The Minister for Environment, Energy and Rural Affairs, Lesley Griffiths, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view there are good reasons for the provisions in this instrument, and I have concluded they are a reasonable course of action”. These are the continued trade and movement of equines between Wales, Northern Ireland and other countries.

#### 4. Equalities

4.1 The Minister for Environment, Energy and Rural Affairs, Lesley Griffiths, has made the following statement(s) “The instrument does not amend, repeal or revoke a provision or provisions in the Equality Act 2006 or the Equality Act 2010 or subordinate legislation made under those Acts.

4.2 The Minister for Environment, Energy and Rural Affairs, Lesley Griffiths, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

4.3 “In relation to the instrument, I, Lesley Griffiths have had due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010.”

## **5. Explanations**

The explanations statement has been made in paragraph 4 (Purpose & intended effect of the legislation) of the main body of this explanatory memorandum.

## **6. Criminal offences**

Not applicable

## **7. Legislative sub-delegation**

Not applicable

## **8. Urgency**

Not applicable



# Agenda Item 5.1

## SL(5)648 – The National Health Service (Performers Lists) (Wales) (Amendment) Regulations 2020

### Background and Purpose

These Regulations amend the National Health Service (Performers Lists) (Wales) Regulations 2004 (“the principal Regulations”), specifically Part 4 of the principal Regulations relating to dental performers lists, to reflect the change to the employment position of foundation dentists.

The principal Regulations currently require that for the purposes of undertaking foundation training, a foundation dentist must be employed under a contract for services with an approved trainer, which for the purposes of the principal Regulations is a dentist.

From 1 September 2020, foundation dentists (“FDs”) no longer hold a contract of employment with an approved trainer. Their contract of employment will instead be with Velindre University NHS Trust under the direction of the NHS Wales Shared Services Partnership (“NWSSP”) committee who will act as a single lead employer for all foundation dentists in Wales.

These Regulations amend the principal Regulations to align the applicable legislative provisions with the change to policy.

### Procedure

Negative.

The Regulations were made by the Welsh Ministers before they were laid before the Senedd. The Senedd can annul the Regulations within 40 days (excluding any days when the Senedd is: (i) dissolved, or (ii) in recess for more than four days) of the date they were laid before the Senedd.

### Technical Scrutiny

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

### Merits Scrutiny

The following two 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**



We note there has been no formal consultation on these Regulations. In particular, we note the following paragraphs in the Explanatory Memorandum:

*“The 2020 Regulations will not be subject to public consultation. The Statutory Instrument concerns the principle of amending operational procedures which affect a small number of key stakeholders who have participated in the development of the proposal with HEIW from its inception.*

*Key stakeholder representatives were invited by HEIW to discuss and develop the draft proposal with the finally agreed proposal published inviting colleagues with an interest across Wales to provide their comments.*

*The British Dental Association (Wales) have noted the introduction of the amending 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**

We note there has been no regulatory impact assessment prepared in relation to these Regulations. The Explanatory Memorandum explains that:

*“On this occasion, a Regulatory Impact Assessment has not been carried out. The 2020 Regulations support an administrative change and not a change in policy. There are no additional costs associated with the 2020 Regulations with no impact on the private, local government or third sector foreseen.”*

However, on its face, the Regulations would appear to support a change in policy by ensuring that the contract of employment for FDs is with a single lead employer, rather than with any other approved trainer. It is also noted that the *“Purpose & intended effect of the legislation”* section of the Explanatory Memorandum states that:

*“The Principal Regulations allow NWSSP to accept FDs onto the Performer Lists subject to a 3 months ‘grace period’ but currently require the FD to have a contract of employment with an approved training practice. The Regulations will make the required amendments to the Principal Regulations to facilitate FDs full inclusion to the Dental Performers List from 1 December 2020 and to align the applicable legislative provisions with the **change to policy**.”* [emphasis added]

The Explanatory Note to the Regulations also states that:

*“These Regulations amend the principal Regulations to align the applicable legislative provisions with the **change to policy**.”* [emphasis added]

Further clarification is therefore sought as to the justification for the absence of a regulatory impact assessment.

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

None.



## Welsh Government response

Given the current circumstances regarding coronavirus, a Welsh Government response is required as soon as is reasonably practicable in relation to the second merits point.

## Committee Consideration

The Committee considered the instrument at its meeting on 16 November 2020 and reports to the Senedd in line with the reporting points above.



## **Government Response: The National Health Service (Performers Lists) (Wales) (Amendment) Regulations 2020**

### Merit Scrutiny point 2:

As is set out in the “Background and Purpose” section of the draft LJCC report, from 1 September 2020, foundation dentists no longer hold a contract of employment with an approved trainer. Their contract of employment will instead be with Velindre University NHS Trust under the direction of the NHS Wales Shared Services Partnership committee who will act as a single lead employer for all foundation dentists in Wales.

This is the only change to policy and it is of a technical and administrative nature. The change must however be reflected in the principal Regulations and that is why the Explanatory Note to the Regulations stipulates that “These Regulations amend the principal Regulations to align the applicable legislative provisions with the change to policy.”

The statement in the Explanatory Memorandum that “The 2020 Regulations support an administrative change and not a change in policy” could have been clearer in that the amendments made by the Regulations do not reflect a change to the substantive policy, whilst the Explanatory Note to the Regulations could also have been clearer to include wording to clarify the change to policy as being technical and administrative in nature. Neither statement is however incorrect.

# Agenda Item 5.2

## **SL(5)649 – The Health Protection (Coronavirus Restrictions) (No. 4) (Wales) Regulations 2020**

### **Background and Purpose**

These Regulations impose a number of restrictions and requirements in response to the risks to public health arising from Coronavirus, following the expiry of the Health Protection (Coronavirus Restrictions) (No 3) (Wales) (Regulations) 2020 which expired on 8 November.

These Regulations come into force on 9 November 2020 and will expire on 19 February 2021 unless they are revoked before then. The Regulations must be reviewed by 19 November, at least once between 20 November and 3 December, at least once between 4 December and 17 December and at least once every 21 days after that.

There are 9 Parts to the Regulations. These Regulations make provision in the following key areas:

- a) prohibiting gatherings in a private dwelling, other than with members of the same household or extended household, without reasonable excuse;
- b) allowing up to two households to agree to form an extended household (this will not be limited to circumstances where one household has only one adult member);
- c) prohibiting gatherings in public places without reasonable excuse, but
  - a. allowing up to four people from any household, or any number of members of the same household, to gather outdoors or in regulated premises;
  - b. allowing for an extended household to gather outdoors;
  - c. allowing gatherings of up to 15 indoors or 30 outdoors to take part in an activity organised by a responsible body;
- d) permitting travel within and across Wales but prohibiting travel out of and into Wales without reasonable excuse;
- e) introducing requirements for people to self-isolate in the event of having tested positive for coronavirus or being notified to do so by a contact tracer;
- f) placing obligations on persons responsible for premises open to the public, or for work being carried out at any premises, to take all reasonable measures to minimise the risk of exposure to, or spread of, coronavirus – including requiring employers to enable or allow employees to self-isolate when the employee is required to do so by a contact tracer;
- g) requiring face coverings to be worn on public transport and in public areas of indoor premises, subject to certain exemptions and exceptions.



In summary:

Part 2 imposes limits on gathering with other people. However, a person may be in a gathering if they have a reasonable excuse, either when it is reasonably necessary and there is no reasonably practicable alternative or in specified circumstances as outlined in the regulations. Within private dwellings (including gardens), people may only gather with members of their household and extended household. An extended household may be formed by all of the adults in a maximum of two households agreeing. Outside of private dwellings, people may gather outdoors in groups of up to four (children under 11 are not counted), or with members of their own household and extended household (regardless of the number). In accommodation in a hotel or other holiday accommodation, people can only gather with members of their own household. In other indoor places, people can gather with either the members of their own household or in groups of up to four (children under 11 are not counted). Part 2 also prohibits organising events mainly held indoors for more than 15 people or outdoors for more than 30 people, subject to exceptions. Certain unlicensed music events are also prohibited.

Part 3 prohibits people from entering or leaving Wales, subject to exceptions. The Regulations provide examples of purposes for which it may be reasonably necessary for a person to enter or leave Wales, and provide specific circumstances in which travelling is permitted. Travel within Wales is allowed.

Part 4 imposes new requirements on people who have tested positive for coronavirus and their close contacts. Adults and children who have tested positive, and people who have had "close contact" with someone who has tested positive, and who have been notified by a contact tracer are required not to leave the place they are living until the end of the last day of their isolation. The period of isolation is generally 10 days for those who have tested positive and 14 days for those who have had close contact but the start of those periods varies depending on the circumstances (for example; whether the person has reported symptoms or not). Adults with responsibility for a child required to isolate, are required to take all reasonable measures to ensure the child self-isolates. The regulations enable contact tracers to share information insofar as necessary for the operation and enforcement of the self-isolation system.

Part 5 and Schedule 1 relate to business and services whose premises must be closed to the public. Those required to close to members of the public include concert halls, adult entertainment venues, theatres and night clubs. Part 5 also contains provision prohibiting alcohol from being sold, on premises which are licenced to sell it, after 10.00 p.m. and require the premises to be closed by no later than 10.20 p.m.

Part 6 and Schedule 2 include provision imposing requirements on "regulated premises" (premises which is open to the public or where work is carried out) to take reasonable measures for the purpose of minimising risk of exposure to coronavirus, and the spread of



the virus. The Regulations also set out requirements to wear face coverings on public transport, including taxis, and in certain indoor places, subject to listed exemptions and exceptions.

Part 7 and Schedule 3 relates to the enforcement of the restrictions and requirements, including who can take enforcement action, the issue of compliance notices, powers of removal and dispersal of gatherings, powers to stop events, powers to direct people who breach self-isolation to return home and enforcement of the requirement to wear face coverings. It provides for a power to enter premises, for police to undertake road checks and for the use of reasonable force in certain circumstances.

Part 8 makes provision about offences and penalties. This includes offences in respect of which a fixed penalty notice may be issued as an alternative to bringing court proceedings.

Part 9 makes a consequential amendment and contains defined terms, including the definition of an "organised" activity for the purposes of these Regulations.

## Procedure

Made Affirmative.

The Regulations were made by the Welsh Ministers before they were laid before the Senedd. The Senedd must approve the Regulations within 28 days (excluding any days when the Senedd is dissolved or in recess for more than four days) of the date they were made for them to continue to have effect.

## Technical Scrutiny

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

## Merits Scrutiny

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 Senedd**

We note the Welsh Government's justification for any potential interference with human rights. In particular, we note the following paragraphs in the Explanatory Memorandum:

*"Whilst the Regulations engage 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 5 (right to liberty), Article 8 (right to respect for private and family life), Article 9 (freedom of thought, conscience and religion), Article 11 (freedom of assembly and association) and Article 1 of the First Protocol (protection of property) are engaged by these 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. Any interference with these rights also needs to be balanced with the State's positive obligations under Article 2 (right to life). The implementation of new national restrictions and requirements under these Regulations is a proportionate response to the increasing spread of the coronavirus. It balances 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 reduce the rate of transmission of the coronavirus, taking into account the scientific evidence."*

## **2. 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 Senedd**

We note that there has been no formal consultation on these Regulations. In particular, we note the following paragraphs in the Explanatory Memorandum:

*"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 Regulations.*

*In determining the need for, and details of the restrictions and requirements set out in these Regulations, I together with other Ministers and the Welsh Government officials have held and continue to hold discussions with key sectors and stakeholders, including local government and business leaders and trade unions in Wales. I announced in my statement to Members on 3 November the Welsh Government's intention to introduce the changes achieved in these Regulations, which have subsequently been widely reported."*

## **3. 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 Senedd**

The Explanatory Memorandum provides that a regulatory impact assessment has not been carried out 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. The Explanatory Memorandum does provide that a summary integrated impact assessment has been prepared and will be published on the GOV.wales website: <https://gov.wales/impact-assessments-coronavirus>.

## **4. 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 Senedd**





We note the following extract of the Explanatory Memorandum which refers to scientific evidence drawn on to assess public health risk. The Explanatory Memorandum provides that:

*"While the impact of the firebreak on the reproduction rate of COVID-19 will not be fully known for some weeks, the purpose of making the [No. 3] Regulations was to provide conditions which would see a reduction in the reproduction rate. The scientific evidence drawn on to assess the public health risks is provided by the Welsh Government's [Technical Advisory Cell](#) and available on the gov.wales website."*

With regard to these Regulations, we would be grateful if the Welsh Government could set out evidence which showed that restrictions and requirements should be imposed on a pan-Wales basis.

In particular, evidence which showed that areas of Wales with the highest prevalence of Covid-19 should be subject to easing of restrictions and requirements upon the expiry of the No.3 Regulations. The number of cases per 100,000 population for Merthyr Tydfil and Rhondda Cynon Taf were the highest in Wales on 9 November, as published by [Public Health Wales](#).

## Implications arising from exiting the European Union

None.

## Welsh Government response

Given the current circumstances regarding coronavirus, a Welsh Government response is required in relation to the fourth merits point only as soon as is reasonably practicable.

## Committee Consideration

The Committee considered the instrument at its meeting on 16 November 2020 and reports to the Senedd in line with the reporting points above.



## Government Response: The Health Protection (Coronavirus Restrictions) (No. 4) (Wales) Regulations 2020

Merit Scrutiny point 4:

The evidence for adopting a national approach included data, coupled with advice from the Chief Medical Officer, showing that COVID-19 infections in Wales are geographically widespread, with the majority of local authority (LA) areas experiencing increasing trends in confirmed case incidence and percentage of positive testing episodes for SARS-CoV2. Before the firebreak local restrictions were in place in 17 areas and the PHW data (seven day rolling figure 2-8 November) showed rising numbers of cases across the whole of Wales, not just confined to a limited number of Local Authorities.

The scientific evidence published by the Technical Advisory Cell (TAC), which was used to inform the firebreak, recommended:

*“...a two-phase approach is used. The first phase is a “fire-break” – a swift and short-term period of simple, extreme restrictions across the whole of Wales that would significantly reduce the prevalence of the virus in Wales.....The firebreak will have to reduce the national R (latest between 1.1 – 1.4) to below 0.9. This implies that R will need to be reduced in all areas of Wales, which requires a national approach rather than the current locally driven approach through Local Health Protection Areas (LPHAs)*

*The second phase is a new, simpler, national approach to behaviours and restrictions. Simpler messaging and regulations are expected to be easier to understand and comply with. Some existing restrictions may be removed if they are shown to be less effective or more harmful than originally expected, such as the Local Authority travel boundary restrictions. However, there would need to be sustainable changes in behaviour in many areas of life in order for Rt to remain as near to 1 as possible.”*

This report is available on the Welsh Government website:

[https://gov.wales/sites/default/files/publications/2020-10/technical-advisory-group-fire-breaks\\_2.pdf](https://gov.wales/sites/default/files/publications/2020-10/technical-advisory-group-fire-breaks_2.pdf)

The decision to take a national approach was also informed by consultation with stakeholders and on evidence from focus groups. The message was that local restrictions were confusing and complicated and didn't correspond to people's lives as many do not live their life within a local authority boundary.

While we are unlikely to see the full impact of the firebreak until some weeks after it has ended, we are already seeing encouraging signs that the firebreak has broken chains of transmission leading to falling numbers of positive cases being reported. This is particularly clear in areas of high incidence such as Rhondda Cynon Taf and Merthyr Tydfil which are currently seeing significant falls the number of positive cases reported. Merthyr Tydfil also has the smallest population of any local authorities in Wales, so the rate per 100,000 can be skewed by smaller numbers of

cases. All areas will be closely monitored over the coming weeks. If there is a need to introduce targeted local action, there are a range of powers for local authorities and Incident Management Teams to respond to specific issues, as set out in the Coronavirus Control Plan.

## SL(5)653 – The Health Protection (Coronavirus, International Travel and Restrictions) (Amendment) (Wales) Regulations 2020

### Background and Purpose

The Health Protection (Coronavirus, International Travel) (Wales) (Amendment) (No. 18) Regulations removed Denmark from the list of exempt countries and territories with effect from 4.00 a.m. on 6 November 2020. From that time, persons entering Wales who have been in Denmark in the 14 days previously have been required to isolate.

These Regulations extend the isolation requirement to all members of the household of any person entering Wales who has been in Denmark in the 14 days before, the result being that both the returning traveller and any members of their household will now be required to isolate for 14 days.

These Regulations make further provision that:

- No person arriving into Wales who has been in Denmark in the previous 14 days can be exempted from the requirements to provide passenger information or isolate.
- A more limited list of permitted reasons to temporarily leave isolation will apply in relation to travellers returning from Denmark and any members of their household.

### Procedure

Made Affirmative.

The Regulations were made by the Welsh Ministers before they were laid before the Senedd. The Senedd must approve the Regulations within 28 days (excluding any days when the Senedd is dissolved or in recess for more than four days) of the date they were made for them to continue to have effect.

### Technical Scrutiny

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

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

In regulations 3(3), 3(4), 4(3) and 4(4) the quotation marks that denote the wording to be inserted are not in the correct place – in each instance the opening quotation marks should precede “or”. Although the reader may be able to infer what is to be substituted, the provision as drafted does not express this clearly.



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

Regulation 4(3) amends regulation 28(1) of the Health Protection (Coronavirus Restrictions) (No. 4) (Wales) Regulations 2020 (“the No.4 Regulations”). However, regulation 28(1) relates to gatherings in private dwellings, and subparagraphs (a) to (c) provide enforcement officers with specific powers to disperse such gatherings.

As regulation 28(1) does not provide enforcement officers with the power to direct a person to return to the place where they are living, it seems illogical that the amendment is inserted into that paragraph – the effect would be that an enforcement officer who has reasonable grounds to suspect that a person is contravening regulation 18A(3) would be unable to direct that person to return to the place where they are required (by virtue of regulation 18A(3)) to be.

It appears that regulation 4(3) should in fact amend regulation 28(4) of the No.4 Regulations, as that paragraph relates to persons subject to self-isolation requirements. The powers conveyed on enforcement officers by virtue of paragraph (4) correspond with what we assume is the intended effect of regulation 4(3) in that they allow enforcement officers to direct a person to return to the place where they are living (or remove a person to that place).

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

Regulation 4(5) amends regulation 29(1)(b) of the No.4 Regulations. However, “16” does not occur anywhere in subparagraph (b), so it is impossible to insert the amendment ‘after “16”’ as provided by the provision. Furthermore, it does not appear that the insertion has any relevance to regulation 29 (which deals with powers relating to prohibited events).

Considering what we assume to be the intended effect of the amendment, it appears that regulation 4(5) should amend regulation 35(1)(a) of the No.4 Regulations. If the amendment were inserted there it would make it an offence to contravene the requirement in regulation 18A(3). This would mirror the amendment made to regulation 29(1)(b) of the Health Protection (Coronavirus Restrictions) (No. 3) (Wales) Regulations 2020 by regulation 3(5) of these Regulations.

## **4. Standing Order 21.2(vii) - that there appear to be inconsistencies between the meaning of its English and Welsh texts**

- (a) Section 45P(2) of the Public Health (Control of Disease) Act 1984 is cited as one of the enabling powers in the English, but the Welsh only refers to section 45P;
- (b) There is a footnote referring to the Public Health (Control of Disease) Act 1984 at page 3 in the Welsh but there is no corresponding footnote in the English;



- (c) In paragraph (4)(a)(ii) of the text inserted by regulation 2(7), the English reads: 'to avoid serious illness, serious injury or other risk of serious harm;' and is translated as 'i osgoi salwch neu anaf neu i ddianc rhag risg o niwed difrifol;'. We believe the translation should read 'i osgoi salwch difrifol, anaf difrifol neu risg arall o niwed difrifol;';
- (d) The misplaced quotation marks at regulations 3(3) and 3(4) respectively (raised in the first technical reporting point) have resulted in the Welsh not including the word 'neu' in both instances.

## Merits Scrutiny

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 of public policy likely to be of interest to the Senedd**

The Explanatory Memorandum to these Regulations provides that:

*"The amendments contained these [sic] Regulations do not change the engagement under the International Travel Regulations or the No. 3 and No. 4 Regulations of individual rights under the Human Rights Act 1998 and the European Charter of Fundamental Rights"*

We agree that the engagement of individual rights under the legislation listed above is not varied by these Regulations. However, these Regulations prescribe a more limited set of circumstances in which persons may temporarily leave isolation than are applicable to persons required to isolate other than by reason of having arrived in Wales from Denmark.

Can the Welsh Government provide an explanation as to the reasoning for this increased interference with individual rights under the Human Rights Act 1998 and the European Charter of Fundamental Rights?

### **2. 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 Senedd**

We note there has been no formal consultation on these Regulations. In particular, we note the following paragraph in the Explanatory Memorandum:

*"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 Regulations."*

## Implications arising from exiting the European Union

None.



## Welsh Government response

A Welsh Government response is required in relation to the technical reporting points and the first merits reporting point.

## Committee Consideration

The Committee considered the instrument at its meeting on 16 November 2020 and reports to the Senedd in line with the reporting points above.



## **Government Response: The Health Protection (Coronavirus, International Travel and Restrictions) (Amendment) (Wales) Regulations 2020**

This is a Government response to the draft report of the Legislation, Justice and Constitution Committee dated 10 November 2020 on the Health Protection (Coronavirus, International Travel and Restrictions) (Amendment) (Wales) Regulations 2020, which were drafted at extraordinary speed and made at 3.33 a.m. on 7 November 2020.

### **Technical Scrutiny point 1, 2, 3 and 4: Drafting errors**

The draft report notes drafting errors in the amendments made by these Regulations to the Health Protection (Coronavirus, International Travel) (Wales) Regulations 2020 (the “international Travel Regulations”), the Health Protection (Coronavirus Restrictions) (No. 3) (Wales) Regulations 2020 (the “No. 3 Regulations”) and the Health Protection (Coronavirus Restrictions) (No. 4) (Wales) Regulations 2020 (the “No. 4 Regulations”). The Welsh Government is grateful for the notice of these issues.

The International Travel Regulations and the No. 4 Regulations have been amended to rectify these errors by the Health Protection (Coronavirus, International Travel and Restrictions) (Amendment) (No. 2) (Wales) Regulations 2020 which were made and laid before the Senedd on 13 November 2020.

In so far as point number 4 is concerned (inconsistencies between the Welsh and English texts), the Committee will of course appreciate that both texts have equal status and the Welsh language text is not a “translation” of the English language text.

The No. 3 Regulations expired at the end of the day on 8 November 2020. The issues identified in the draft report with the citation of powers and one of the footnotes in these Regulations did not require correction as they had no substantive effect.

The Welsh Government wishes to reassure the Committee that Public Health Wales has been in contact with all persons affected by the more stringent isolation requirements imposed by the amendments made by these Regulations. There has therefore been no need for recourse to the enforcement powers nor the criminal offence provisions in the International Travel Regulations and the No. 4 Regulations prior to the corrections being made to those provisions.

### **Merit Scrutiny Point 1: Interference with individual rights**

The draft report notes the increased interference with the individual rights of those arriving in Wales having been in Denmark within the previous 14 days which arises from the amendments made by these Regulations. The Explanatory Memorandum outlines the extraordinary circumstances which gave rise to these Regulations being made. The health risks presented by the possibility of importing a new strain of coronavirus into Wales are, in the Welsh Government’s opinion, so severe that the increased interference in the rights of a



very small cohort of individuals is proportionate in pursuit of the legitimate aim of protecting public health in Wales.



---

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

---

**TITLE**            **The Official Controls (Animals, Feed and Food, Plant Health etc) (Amendment) (EU Exit) Regulations 2020**

**DATE**            **06 November 2020**

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

**SO30C –SI laid in Parliament which amends legislation in a devolved area**

**The Official Controls (Animals, Feed and Food, Plant Health etc) (Amendment) (EU Exit) Regulations 2020**

The 2020 Regulations amend the following legislation:

EU legislation

- Operability amendments to Regulation (EU) 2017/625 of the European Parliament and of the Council on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products.
- Operability amendments to Commission Implementing Regulation (EU) 2019/1013 on prior notification of consignments of certain categories of animals and goods entering the Union;
- Operability amendments to Commission Delegated Regulation (EU) 2019/1602 supplementing Regulation (EU) 2017/625 of the European Parliament and of the Council concerning the Common Health Entry Document accompanying consignments of animals and goods to their destination;
- Operability amendments to Commission Delegated Regulation (EU) 2019/1666 (supplementing Regulation (EU) 2017/625 of the European Parliament and of the Council as regards conditions for monitoring the transport and arrival of consignments of certain goods from the border control post of arrival to the establishment at the place of destination in the Union);

- Operability amendments to Commission Implementing Regulation (EU) 2019/1873 (on the procedures at border control posts for a coordinate performance by competent authorities of intensified official controls on products of animal origin, germinal products, animal by-products and composite products);
- Operability amendments to Commission Implementing Regulation (EU) 2019/2007 laying down rules for the application of Regulation (EU) 2017/625 of the European Parliament and of the Council;
- Operability amendments to Regulation 2019/2122 regarding certain categories of animals and goods exempted from official controls at border control posts, specific controls on passengers' luggage and on small consignments of goods sent to natural persons which are not intended to be placed on the market and amending Regulation (EU) No 142/2011;
- Operability amendments to Commission Implementing Regulation (EU) 2019/2129 establishing rules for the uniform application of frequency rates for identity checks and physical checks on certain consignments of animals and goods entering the Union; and
- Operability amendments to Commission Implementing Regulation (EU) 2019/2130 establishing detailed rules on the operations to be carried out during and after documentary checks, identity checks and physical checks on animals and goods subject to official controls at border control posts.
- Operability Commission Implementing Regulation (EU) 2020/466 on temporary measures to contain risks to human, animal and plant health and animal welfare during certain serious disruptions of Member States' control systems due to coronavirus disease (COVID-19)
- Decision 210/2019 of the EEA Joint Committee amending Annex 1 (Veterinary and phytosanitary matters) and Annex 2 (Technical regulations, standards, testing and certification) to the EEA Agreement

#### Domestic legislation

- The Market Measures (Marketing Standards) (Amendments) (EU Exit) Regulations 2019;
- The Animal Welfare (Amendment) (EU Exit) Regulations 2019;

- The Veterinary Medicines and Animals and Animal Products (Examination of Residues and Maximum Residue Limits) (Amendment etc) (EU Exit) Regulations 2019;
- The Animals (Legislative Functions) (EU Exit) Regulations 2019.

The 2020 Regulations revoke the following legislation:

- Commission Implementing Regulation (EU) 2018/329 designating a European Union Reference Centre for Animal Welfare;
- Commission Delegated Regulation (EU) 2018/631 supplementing Regulation (EU) 2017/625 of the European Parliament and of the Council by establishing European Union reference laboratories for pests of plants;
- Commission Implementing Regulation (EU) 2018/1587 revoking the designation of the Istituto Superiore di Sanita, Rome, Italy as a European Reference Laboratory for the residues listed in Annex 1, Group B(3)(c) to Council Directive 96/23/EC;
- Commission Implementing Regulation (EU) 2019/530 designating European Reference laboratories for pests of plants on insects and mites, nematodes, bacteria, fungi and oomycetes, viruses, viroids and phytoplasmas; and
- Commission Implementing Regulation (EU) 2019/1685 of 4 October 2019 designating a European Union Reference Centre for Animal Welfare for poultry and other small farmed animals.

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

The 2020 Regulations transfer non-legislative functions to the Welsh Ministers as the Competent Authority for Wales, without encumbrance. They also transfer non-legislative and legislative functions to the Welsh Ministers, the Scottish Ministers and the Secretary of State concurrently, the Secretary of State being able to exercise certain functions in relation to, and make regulations for, Great Britain with the consent of both the Scottish and the Welsh Ministers. Only functions exercisable in devolved areas (as determined by reference to the legislative competence of the Senedd) are conferred on the Welsh Ministers.

Functions transferred so that they are exercisable by the Secretary of State with the consent of the Welsh Ministers have the potential to engage the requirement to consult the UK Government under Schedule 7B to the Government of Wales Act 2006 should a future Senedd Bill seek to remove or modify those functions.

The concurrent functions contained in the Regulations have the potential to engage the consent requirements in Schedule 7B to the Government of Wales Act 2006 and, as such, represent a potential restriction on the future competence of the Senedd. However, we are in negotiations with the Secretary of State for Wales in relation to a section 109 Order under the Act to amend Schedule 7B to negate the potential restriction on the future competence of the Senedd.

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

The Regulations make amendments to existing EU-retained regulations governing official controls on imports to Great Britain of animals and animal products, plants and plant products, including food and other imports relevant to the agri-food chain – collectively known as ‘sanitary and phyto-sanitary’ (“SPS”) goods.

Official controls are performed at appropriately designated border ports and points of entry, to verify the compliance of imported SPS goods with Official Controls Regulations (“OCR”). These controls are integral to the protection of human health and biosecurity in the UK, as they deliver a risk-based and closely defined regime for checking the provenance, health and lack of contamination of SPS goods before they are allowed to pass beyond the control points at the UK border.

Official controls are also performed at relevant establishments within the UK, at all stages of production, processing and distribution of products, articles and substances etc. covered by the OCR. These controls are necessary to ensure the integrity of the UK agri-food chain and to maintain a high level of human, animal and plant health as well as animal welfare along the agri-food chain.

This instrument rectifies legal deficiencies arising from the withdrawal of the United Kingdom from the European Union which, if not amended, would prevent our existing, established and harmonised system of official controls from being able to operate after the end of the Transition Period. For example, references in currently retained EU Official Controls Regulations to legislative functions of the European Commission, are amended to be exercisable instead by the UK Secretary of State or the appropriate authority of the UK Devolved Administrations. These are termed operability amendments.

The 2020 Regulations and accompanying Explanatory Memorandum, setting out the detail of the provenance, purpose and effect of the amendments is available here: insert link: <https://www.legislation.gov.uk/ukdsi/2020/9780348214413>

### **Why consent was given**

Consent has been given for the UK Government to make these corrections in relation to, and on behalf of, Wales for reasons of efficiency and expediency and to ensure consistency and coherence of the statute book. The amendments have been considered fully and there is no divergence in policy. These amendments are to ensure that the statute book remains functional at the end of the implementation period.

## UK MINISTERS ACTING IN DEVOLVED AREAS

### **204- The Official Controls (Animals, Feed and Food, Plant Health etc) (Amendment) (EU Exit) Regulations 2020**

*Laid in the UK Parliament: 2 November 2020*

#### **Sifting**

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

#### **Scrutiny procedure**

Outcome of sifting	N/A
Procedure	Draft Affirmative
Date of consideration by the Joint Committee on Statutory Instruments	11/11/2020
Date of consideration by the House of Commons Statutory Instruments Committee	Not known
Date of consideration by the House of Lords Secondary Legislation Scrutiny Committee	Not known

#### **Background**

These Regulations are proposed to be made by the UK Government pursuant to section 8(1) of, paragraph 7 of Schedule 4 and paragraph 21 of Schedule 7 to of the European Union (Withdrawal) Act 2018.

#### **Summary**

These Regulations make amendments to existing EU-retained regulations (as set out in the Written Statement) governing official controls on imports to Great Britain of animals and animal products, plants and plant products, including food and other imports relevant to the agri-food chain – collectively known as ‘sanitary and phyto-sanitary’ (“SPS”) goods.

These Regulations also amend the following domestic legislation:

- The Market Measures (Marketing Standards) (Amendments) (EU Exit) Regulations 2019;
- The Animal Welfare (Amendment) (EU Exit) Regulations 2019;

- The Veterinary Medicines and Animals and Animal Products (Examination of Residues and Maximum Residue Limits) (Amendment etc) (EU Exit) Regulations 2019;
- The Animals (Legislative Functions) (EU Exit) Regulations 2019.

Further, these Regulations rectify legal deficiencies arising from the withdrawal of the United Kingdom from the European Union which, if not amended, would prevent the existing, established and harmonised system of official controls from being able to operate after the end of the Transition Period. These are termed operability amendments.

### **Statement by Welsh Government**

Legal Advisers make the following comments in relation to the Welsh Government's statement dated 6 November 2020 regarding the effect of these Regulations:

These Regulations transfer non-legislative and legislative functions to the Welsh Ministers, the Scottish Ministers and the Secretary of state concurrently, the Secretary of State being able to exercise certain functions in relation to, and make regulations for, Great Britain with the consent of both the Scottish and Welsh Ministers.

Functions transferred so that they are exercisable by the Secretary of State with the consent of the Welsh Ministers have the potential to engage the requirement to consult the UK Government under Schedule 7B to the Government of Wales Act 2006 should a future Senedd Bill seek to remove or modify those functions.

On this point, Legal Advisers wish to draw attention to the following commentary in the Welsh Government's Written Statement:

"The concurrent functions contained in the Regulations have the potential to engage the consent requirements in Schedule 7B to the Government of Wales Act 2006 and, as such, represent a potential restriction on the future competence of the Senedd. However, we are in negotiations with the Secretary of State for Wales in relation to a section 109 Order under the Act to amend Schedule 7B to negate the potential restriction on the future competence of the Senedd."

### **Intergovernmental Agreement on the European Union (Withdrawal) Bill**

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

---

**WRITTEN STATEMENT  
BY  
THE WELSH GOVERNMENT**

---

**TITLE**        **The Animals, Aquatic Animal Health, Invasive Alien Species, Plant Propagating Material and Seeds (Amendment) (EU Exit) Regulations 2020**

**DATE**        **11 November 2020**

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

**SO30C** – Notification in Relation to Statutory Instruments made by UK Ministers in devolved areas under the European Union (Withdrawal) Act 2018 not laid before the Senedd.

**The Animals, Aquatic Animal Health, Invasive Alien Species, Plant Propagating Material and Seeds (Amendment) (EU Exit) Regulations 2020**

The 2020 Regulations amend the following legislation:

The EEA agreement

**Plant varieties and marketing of seed and other propagating material**

Domestic legislation

- The Animal Health, Invasive Alien Species, Plant Breeders' Rights and Seeds (Amendment etc) (EU Exit) Regulations 2019 (S.I. 2019/1220);
- The Marketing of Seeds and Plant Propagating Material (Amendment) (England and Wales) (EU Exit) Regulations 2019 (S.I. 2019/131);
- The Marketing of Seeds and Plant Propagating Material (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/162);
- The Animal Health, Plant Health, Seeds and Seed Potatoes (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/809);



### EU legislation

- Council Decision 2005/834/EEC on the equivalence of checks on practices for the maintenance of varieties carried out in certain third countries;
- Commission Implementing Decision (EU) 2020/1106 on the organisation of a temporary experiment under Council Directives 66/401/EEC, 66/402/EEC, 2002/54/EC and 2002/57/EC as regards the official checking rate for field inspection under official supervision for basic seed, bred seed of generations prior to basic seed and certified seed.

### **Equine identification**

- The Equine (Records, Identification and Movement) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/591);
- The Horses (Free Access to Competitions) Regulations 1992 (S.I. 1992/3044).

### **TSEs and Animal By-Products**

#### Domestic legislation

- The Transmissible Spongiform Encephalopathies and Animal By-Products (Amendment) (EU Exit) Regulations 2018 (S.I. 2019/170);
- The Animal Health, Invasive Alien Species, Plant Breeders' Rights and Seeds (Amendment etc) (EU Exit) Regulations 2019 (S.I. 2019/1220);
- The Animal Health and Genetically Modified Organisms (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1229);

### EU legislation

- Regulation (EC) No. 1069/2009 of the European Parliament and the Council lays down health rules as regards ABPs and derived products not intended for human consumption;
- Commission Regulation (EU) No. 142/2011 implements Regulation (EC) No. 1069/2009 of the European Parliament and the Council, which lays down health rules as regards ABPs and derived products not intended for human consumption.

## **Pet Travel**

### Domestic legislation

- The Rabies (Importation of Dogs, Cats and Other Mammals) Order 1974 (S.I. 1974/2211);
- The Non Commercial Movement of Pet Animals Order 2011 (S.I. 2011/2883);

### EU legislation

- Commission Delegated Regulation (EU) 2018/772 of 21 November 2017 supplementing Regulation (EU) No 576/2013 of the European Parliament and of the Council with regard to preventive health measures for the control of Echinococcus multilocularis infection in dogs, and repealing Delegated Regulation (EU) No 1152/2011;
- Commission Implementing Regulation (EU) 2018/878 of 18 June 2018 adopting the list of Member States, or parts of the territory of Member States, that comply with the rules for categorisation laid down in Article 2(2) and (3) of Delegated Regulation (EU) 2018/772 concerning the application of preventive health measures for the control of Echinococcus multilocularis infection in dogs;

## **Seal Products**

- The Seal Products (Amendments) (EU Exit) Regulations 2018 (S.I. 2018/1034);

## **Aquatic Animal Health**

### Domestic legislation

- The Aquatic Animal Health and Alien Species in Aquaculture (Amendment etc) (EU Exit) Regulations 2019 (S.I. 2019/451);
- Aquatic Animal Health and Alien Species in Aquaculture (Amendment) (England and Wales) (EU Exit) Regulations 2019 (S.I.2019/452);
- The Aquatic Animal Health (England and Wales) Regulations 2009 (S.I. 2009/463).

### EU legislation

- Commission Regulation (EC) No 1251/2008 implementing Council Directive 2006/88/EC as regards conditions and certification requirements for the placing on

the market and the import into the Community of aquaculture animals and products thereof and laying down a list of vector species;

- Commission Decision 2008/392/EC implementing Council Directive 2006/88/EC as regards an Internet-based information page to make information on aquaculture production businesses and authorised processing establishments available by electronic means;
- Commission Decision 2008/896/EC on guidelines for the purpose of the risk-based animal health surveillance schemes provided for in Council Directive 2006/88/EC;
- Commission Decision 2008/946 implementing Council Directive 2006/88/EC as regards requirements for quarantine of aquaculture animals;
- Commission Decision 2009/177/EC implementing Council Directive 2006/88/EC as regards surveillance and eradication programmes and disease-free status of Member States, zones and compartment;
- Commission Decision 2010/221/EU approving national measures for limiting the impact of certain diseases in aquaculture animals and wild aquatic animals in accordance with Article 43 of Council Directive 2006/88/EC;
- Commission Decision (EU) 2015/1554 laying down rules for the application of Directive 2006/88/EC as regards surveillance and diagnostic methods.

### **Animal Breeding**

- The Animal Breeding (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/117).

### **Exotic animal diseases**

- The Exotic Disease (Amendment etc) (EU Exit) Regulations 2018 (S.I. 2018/1410);

### EU legislation

- Commission Implementing Decision 2014/709/EU concerning animal health control measures relating to swine fever.

### **Livestock Identification**

#### Domestic legislation

- The Livestock (Records, Identification and Movement) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/814).

### EU legislation

- Commission Regulation (EC) No 1760/2000 establishing a system for the identification and registration of bovine animals and regarding the labelling of beef and beef products
- Commission Regulation (EC) No 1850/2006 laying down detailed rules for the certification of hops and hop products
- Regulation (EU) No 1308/2013 of the European Parliament and of the Council establishing a common organisation of the markets in agricultural products

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

The 2020 Regulations contain restatement provisions relating to functions transferred and consented to in the previous EU Exit legislation outlined above.

The existing EU Exit SIs enable the Welsh Ministers to exercise functions in relation to Wales without encumbrance and for the Welsh Ministers to provide consent to the Secretary of State to exercise those functions in relation to Wales. Functions transferred so that they are exercisable by the Secretary of State subject to the consent of the Welsh Ministers have the potential to engage the requirement to consult the UK Government under Schedule 7B to the Government of Wales Act 2006 should a future Senedd Bill seek to remove or modify those functions.

The concurrent functions contained in the Regulations have the potential to engage the consent requirements in Schedule 7B to the Government of Wales Act 2006 and, as such, represent a potential restriction on the future competence of the Senedd. However, we are in negotiations with the Secretary of State for Wales in relation to a section 109 Order under the Act to amend Schedule 7B to negate the potential restriction on the future competence of the Senedd.

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

The European Union (Withdrawal) Act 2018 (“the Withdrawal Act”) preserves EU-derived domestic law and incorporates directly applicable EU law into domestic law at the end of the Transition Period (“retained EU law”). If retained EU law was not amended, it would not operate correctly. This instrument is made under the powers in, inter alia, Section 8 of the Withdrawal Act to correct these deficiencies in legislation relating to animal and aquatic

health and plant varieties and seeds and to make amendments that implement the Protocol on Ireland / Northern Ireland (“the Protocol”), and the latest amendments which have been made to EU Regulations since the earlier EU Exit SIs were made.

In relation to equine identification two EU Exit SIs and two pieces of domestic legislation in the EU and European Economic Area (“EEA”) Member States, to maintain high standards of equine biosecurity, effective enforcement, food safety, fraud prevention and equine welfare;

In relation to livestock health, two pieces of retained EU legislation and three EU Exit SIs for the prevention, control and eradication of Transmissible Spongiform Encephalopathies (“TSEs”) in cattle, sheep and goats, and for the use and disposal of Animal By-Products (“ABPs”) and their derived products. In addition, this instrument makes reference to the special transitional import arrangements and will make operability changes to five recent amendments to EU law on ABPs and TSEs that were settled in the EU too late to be covered by the earlier EU Exit SIs listed above;

In relation to identification and tractability of cattle, sheep and goats one EU Exit SI which amends two pieces of retained EU legislation setting out rules for the identification and traceability, including the records their keepers must maintain, how they must report their animal’s movements, and how central competent authorities must record this information on central databases;

In respect of aquatic health, seven pieces of retained EU legislation are amended which implement the overall framework set out in Council Directive 2006/88/EC, which establishes a biosecurity framework for fish and shellfish diseases by setting out requirements for bringing to the market aquaculture animals and their products; disease control measures; importation; and health certification;

The Aquatic Animal Health (England and Wales) Regulations 2009 (“the 2009 Regulations”) which implements in England and Wales the requirements of Directive 2006/88/EC as regards conditions and certification requirements for the placing on the market and the import into the Community of aquaculture animals and products thereof and laying down a list of vector species. The 2009 Regulations provide a framework for the authorisation and registration of aquaculture businesses. They also list health, certification and transport requirements for aquaculture animals and products to allow trade and prevent disease; obligations regarding notification and control of disease outbreaks; requirements for a register of declarations of disease-freedom; and reportable diseases subject to national measures;

In relation to the marketing requirements of seed, other propagating material and planting material including forest reproductive material, the 2020 Regulations amend two pieces of EU legislation and four pieces of previously made EU Exit domestic legislation. The 2020 Regulations apply the normal rules for international trade in seed, other propagating

material, planting material and forest reproductive material to other countries if their certification processes have been recognised as equivalent;

In relation to veterinary controls two pieces of retained EU legislation and two pieces of existing legislation ensuring EU and third country movements of pet animals safeguard animal and public health and that they continue to meet the specific conditions laid down in the relevant EU legislation;

In respect of animal disease control, one piece of directly applicable EU legislation and one piece of previously made EU Exit domestic legislation concerned with responding to an outbreak of an exotic notifiable disease of animals to control and eradicate disease, demonstrate disease freedom, restore normal trade and work to assist the recovery of local communities.

In relation to animal breeding, one EU Exit SI ensuring that EU breed societies are subject to the same recognition and listing process as third country breeding bodies by the UK; this is the same as the EU is applying to UK breed societies post Transition Period and therefore ensures a reciprocal arrangement. These changes will take effect from 1st July 2021; and

Finally, one EU Exit SI banning the import of and trade in seal products, with limited exceptions for indigenous peoples and for the personal use of travellers to the UK, with requirements for documentation to accompany consignments of seal products that attest to compliance with the conditions of the exception.

The 2020 Regulations and accompanying Explanatory Memorandum, setting out the detail of the provenance, purpose and effect of the amendments is available here: insert link: <https://www.legislation.gov.uk/ukdsi/2020/9780348214475/contents>

### **Why consent was given**

Consent has been given for the UK Government to make these corrections in relation to, and on behalf of, Wales for reasons of efficiency and expediency and to ensure consistency and coherence of the statute book. The amendments have been considered fully and there is no divergence in policy. These amendments are to ensure that the statute book remains functional at the end of the implementation period.

## UK MINISTERS ACTING IN DEVOLVED AREAS

### **205 - The Animals, Aquatic Animal Health, Invasive Alien Species, Plant Propagating Material and Seeds (Amendment) (EU Exit) Regulations 2020**

*Laid in the UK Parliament: 2 November 2020*

#### **Sifting**

Subject to sifting in UK Parliament?	Yes
Procedure:	Proposed negative
Date of consideration by the House of Commons European Statutory Instruments Committee	Not known
Date of consideration by the House of Lords Secondary Legislation Scrutiny Committee	w/c 16 November 2020
Date sifting period ends in UK Parliament	19 November 2020
SICM under SO 30A (because amends primary legislation)	Not required

#### **Scrutiny procedure**

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

#### **Background**

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

#### **Summary**

The Withdrawal Act preserves EU-derived domestic law and incorporates directly applicable EU law into domestic law at the end of the Transition Period ("retained EU law"). If retained EU law was not amended, it would not operate correctly. The purpose of this instrument is to ensure that legislation relating to animal and aquatic health, invasive alien species, plant propagating material and seeds remains operable following the Withdrawal Agreement, the Protocol on Ireland / Northern Ireland ("the Protocol"), and recent updates to EU law.

The regulations and directly applicable EU law amended by this instrument concern the following policy areas: Equine identification; TSE

and animal by-products; Livestock identification; Aquatic Animal Health; Exotic animal diseases; Plant varieties and marketing of seed and other plant material; Pet travel; Animal breeding; and Seal Products. The law amended includes earlier EU Exit SIs, which were made in 2018 and 2019 in preparation for leaving the EU.

The full list of the legislation amended by these Regulations is set out in the Welsh Government's Statement (subject to comments made below), and is contained in Annex 2 of the UK Government's Explanatory Memorandum.

### **Statement by Welsh Government**

Legal Advisers make the following comments in relation to the Welsh Government's statement dated 11 November regarding the effect of these Regulations:

1. Legal Advisers note that the last but one paragraph of the Welsh Government's written statement provides a link to the incorrect regulations. The link provided in the written statement is for the Aquatic Animal Health and Alien Species in Aquaculture, Animals, and Marketing of Seed, Plant and Propagating Material (Legislative Functions and Miscellaneous Provisions) (Amendment) (EU Exit) Regulations 2020, and not these Regulations.
2. Legal Advisers note that two references made in the UK Government's Explanatory Memorandum to legislation which are amended by these Regulations, are not referred to in the Welsh Government's written statement. It is unclear why the following legislation is not referenced:
  - Commission Implementing Regulation (EU) No 577/2013 on the model identification documents for the non-commercial movement of dogs, cats and ferrets, the establishment of lists of territories and third countries and the format, layout and language requirements of the declarations attesting compliance with certain conditions provided for in Regulation (EU) No 576/2013 of the European Parliament and the Council; and
  - The Invasive Alien Species (Enforcement and Permitting) Order 2019 (S.I. 2019/527).
3. The Welsh Government's statement does not identify which legislative powers of the Senedd or executive powers of the Welsh Ministers are affected by this instrument. It is noted that the statement provides that:

*"Functions transferred so that they are exercisable by the Secretary of State subject to the consent of the Welsh Ministers have the*



*potential to engage the requirement to consult the UK Government under Schedule 7B to the Government of Wales Act 2006 should a future Senedd Bill seek to remove or modify those functions. The concurrent functions contained in the Regulations have the potential to engage the consent requirements in Schedule 7B to the Government of Wales Act 2006 and, as such, represent a potential restriction on the future competence of the Senedd.”*

Legal Advisers recommend that clarification is sought on which devolved powers are affected; and that further information and updates be requested as to the progress of the negotiations with the Secretary of State for Wales in relation to the section 109 Order referred to above.

**Intergovernmental Agreement on the European Union (Withdrawal) Bill**

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

As it is unclear from the Welsh Government’s statement dated 11 November 2020 the impact the Regulations may have on the Senedd’s legislative competence and/or the Welsh Ministers’ executive competence, Legal Advisers have been unable to assess whether any significant issues arise under paragraph 8 of the Memorandum on the European Union (Withdrawal) Bill and the Establishment of Common Frameworks in relation to these Regulations.

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



Llywodraeth Cymru  
Welsh Government

Our ref: LG/3711/20

Mick Antoniw MS  
Chair of Legislation, Justice and Constitution Committee  
Senedd Cymru

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

17 November 2020

Dear Mick

Following the completion of Report Stage and Third Reading, both held on 13 October in the House of Commons, I wish to provide an update on the outcome and to confirm the amendments made to the UK Fisheries Bill.

On 6 October, the Senedd agreed provisions in the Fisheries Bill, in so far as they fall within the legislative competence of the Senedd, should be considered by the UK Parliament.

In advance of the debate I wrote to you setting out the amendments Welsh Government initiated which were to be dealt with at Report stage. I also covered some of these in my opening remarks during the debate. The following Government amendments were made at Commons Report stage and make provision in relation to Wales for a purpose within the legislative competence of the Senedd. The clause numbers and amendment numbers used below correlate to the numbering used in the "Consideration of Bill (Report stage)" document – the House of Commons daily report, dated 13 October. Link attached here: [https://publications.parliament.uk/pa/bills/cbill/5801/0181/amend/fisheries\\_daily\\_rep\\_1012.pdf](https://publications.parliament.uk/pa/bills/cbill/5801/0181/amend/fisheries_daily_rep_1012.pdf)

New Clause 8 - this new clause confers powers on the sea fish licensing authorities to arrange for another such authority to exercise any of their fisheries functions or product movement functions. Consequential amendments were also made to clause 37 (amendment 6), clause 47 (amendment 8), clause 49 (amendments 9, 10 and 11), clause 51 (amendment 12), schedule 3 (amendment 25 and 26), schedule 8 (amendment 32).

Under section 83 of the Government of Wales Act 2006, the Welsh Ministers may enter into an arrangement with a relevant authority for the functions for one of them to be exercised by the other. A relevant authority includes a Minister of the Crown and any public authority in England or Wales.

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.

Section 83 does not, therefore, allow the Welsh Ministers to enter into an arrangement with the Scottish Ministers or the Northern Ireland department. It is hoped this sort of arrangement could be efficient and cost saving. The amendments made at Report Stage enable the Welsh Ministers to enter into administrative arrangements with the Scottish Ministers, Northern Ireland department and the Marine Management Organisation (MMO) for the exercise of fisheries functions and fishery product movement functions.

We can envisage situations in future where we could want other Devolved Administrations to carry out functions on our behalf, for example, for control and enforcement purposes, for science trips or where geography makes such an arrangement more sensible .

New clause 10 - This new clause amends legislation which deals with the interpretation of Welsh legislation, in consequence of the enlargement of legislative competence in clause 43. Consequential amendments are also made to clause 51 (amendment 13).

The Legislation (Wales) Act 2019 is (broadly speaking) intended to apply to all legislation made by the devolved institutions in Wales. Without amendment, the Act would not apply to Welsh Ministers' SIs made under the Bill. These amendments amend the Legislation (Wales) Act 2019 to provide that it will apply to Welsh Ministers' SIs made under the Fisheries Bill. The extension of the Senedd's legislative competence to cover fisheries matters in the whole of the Welsh zone will automatically extend the application of Parts 1 and 2 of the 2019 Act to cover Acts of the Senedd made under that wider competence (because they apply to all Welsh primary legislation).

Schedule 8 - The purpose of paragraph 9(5) of this Schedule is to prevent the regulation-making powers in paragraphs 6 and 8 from being used to modify the licensing functions conferred by the Bill. This amendment ensures paragraph 9(5) protects the functions of all the sea fish licensing authorities (amendment 33).

Schedule 10 – An amendment (amendment 46) has been made which makes contravention of an order under new section 134B of the Marine and Coastal Access Act 2009 (MCAA) (exploitation of sea fisheries resources: Welsh offshore region) an offence. As I noted in my letter of 1 October, the amendment was necessary to remedy an earlier unintentional drafting omission.

Schedule 10 – An amendment has been made to section 189 of the MCAA to remove an unnecessary restriction upon the Welsh Ministers use of that Order making power (amendment 49). As I noted in my letter of 1 October, under section 189 the Welsh Ministers may by order make provision in relation to Wales, to manage exploitation of sea fisheries. Subsection (2) currently limits the availability of that power, such that it may only be used by the Welsh Ministers if no other alternative legal power can be identified. This restriction is unnecessary and as such I sought its removal.

Schedule 11 - This amendment (amendment 54) clarifies that Schedule 11 includes consequential provisions.

Schedule 11 – An amendment has been made which repeals provisions of retained EU law concerned with the catching of cod in the North Sea. This will allow the United Kingdom to adopt its own measures in relation to cod in the North Sea (amendment 55).

Welsh Government supports all of these amendments because we take the view they improve the Bill. As such, our recommendation to the Senedd to consent to the Bill remains.

The amendments made relating to Agency Arrangements (new clause 8), section 189 (2) of the MCAA (Schedule 10) and to Schedule 11 (amendment 55) would ordinarily require a further Supplementary Legislative Consent Memorandum because they make relevant provision under Standing Order 29 for the first time. The other amendments made at Report stage relate to provisions previously set out in the existing memoranda and do not make relevant provision for the first time. I wrote to Committees and Members to explain we were seeking these amendments prior to the Legislative Consent Memorandum debate, and outlined them verbally to the Chambers in the debate, to ensure Members were all as well informed as possible.

The amendments made to the Bill by House of Commons (across all stages) were considered by the House of Lords on 12 November, and no further amendments were made. The Bill will now progress to Royal Assent.

For reference, UK Parliament has published a document containing all amendments made to the Bill during all stages in the House of Commons and I have provided a link to the document here: <https://publications.parliament.uk/pa/bills/lbill/58-01/143/5801143.pdf>

Given the stage of the Bill there is not sufficient time to prepare and lay a Memorandum and enable scrutiny, and I advised Committees and Members I would write to confirm the outcome of this stage. Therefore, I am copying this letter to all Members of the Senedd.

Regards

A handwritten signature in black ink that reads "Lesley Griffiths". The signature is written in a cursive, flowing style.

**Lesley Griffiths AS/MS**

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

Cc All Members of Senedd



Llywodraeth Cymru  
Welsh Government

Mick Antoniw MS  
Chair  
Legislation, Justice and Constitution Committee  
Senedd Cymru

17 November 2020

Dear Chair

I am writing in response to your letter of 12 November about the 2021 Senedd election and the report of the Elections Planning Group.

I am pleased that you welcome the intent behind establishing the Group. And I share your view that it is not appropriate that media outlets were made aware of aspects of the Group's work. This happened without the agreement of the Welsh Government.

I do not agree that there has been a lack of transparency. I made the Senedd aware that the Group had been established, I published their Report to me and I arranged a Plenary debate on the report. This approach is entirely in line with long established practices of drawing the Welsh Government's work to the attention of the Senedd at the appropriate milestones whilst protecting private discussion and consideration in between.

The Terms of Reference for the Group are enclosed. They outline that the basis on which the Group was to operate was that materials were not intended to be made public. On this basis I think the report which has been published provides an appropriate summary of the Group's work.

In relation to elections legislation, the Senedd has already passed the Disqualification Order which is a part of the enabling legislation for the election. We plan to lay amendments to the Conduct Order later this month. We are also preparing a draft Bill that would allow postponement of the Senedd election if it becomes necessary due to Coronavirus. The Scottish Government has introduced a Bill of a similar kind. We are planning on the basis that a Welsh Government Bill could be ready to submit to the Llywydd by early January if required.

You mention two specific points in your letter. In relation to the first point on safe polling stations and counts, at the moment we consider that the existing powers would be sufficient but we are keeping this under review with stakeholders and are prepared to make further changes to the legislation if it becomes necessary.

Bae Caerdydd • Cardiff Bay  
Caerdydd • Cardiff  
CF99 1SN

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.

On the second point, should we decide to proceed with seeking to introduce a new power for the Llywydd to be able to vary the date of the election by more than currently provided for in the Government of Wales Act 2006, we would look to consider whether any safeguards – such as vote in the Senedd - would be appropriate in respect of its use. I will say more in respect of this power in the debate.

The debate will provide the opportunity for Members to put forward their views which Ministers will then consider further in advancing work in this area. I look forward to Members' contributions and to further engagement with the Committee as this work progresses.

Best wishes

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

**MARK DRAKEFORD**

# Welsh Government Elections Planning Group

## Terms of Reference

### Context

The next Senedd elections are due to be held on 6 May 2021.

Due to the restrictions imposed as a result of the Coronavirus outbreak, Local Government elections for England and those for Police and Crime Commissioners (PCC) in England and Wales have been delayed from 7 May 2020 and are now also scheduled to take place on 6 May 2021.

The First Minister has asked for advice on the practical arrangements that may be necessary in the event that pandemic restrictions such as physical distancing are still required in 2021. In doing so, the Welsh Government wants to hear the views of those who would be participating in election campaigns and those involved in the administration of the elections in order that decisions are taken with the knowledge of the implications for the people most directly affected. The Elections Planning Group has been convened to facilitate this, complementing the work of existing groups.

The overall aim is to maximise democratic participation whilst also protecting public health. This includes ensuring that, in safety and with confidence:

- candidates and campaigners can make their case;
- voters can participate;
- administrators can run the poll; and
- the public can trust the result.

The conduct of elections is prescribed in detail in primary and secondary legislation. If any adaptations or different arrangements are required, they may need to be effected via Senedd legislation, which would need to be brought forward in a timely fashion. The practical arrangements would also need significant planning time.

Primary legislation may be needed to ensure the election can meet public health requirements even if it takes place on 6 May.

Therefore we are hoping, through the Group, to gather views over the Summer so that by September, any changes the Group feels would be beneficial can be considered and taken forward. Meanwhile, the Welsh Government is proceeding with the enabling legislation on the conduct of the election and the disqualification rules to ensure that these are in place well ahead of May, and will consult on these over the Summer.

### Frequency of meetings

Meetings will take place on a monthly basis. Where members are unable to attend they are welcome to nominate a deputy.

### Communications

It is not intended that these meetings will be held publicly or that materials from them will be made public. A summary of the key points from the meeting will be shared with Group members but are not for sharing beyond the Group.

Rt Hon Mark Drakeford MS  
First Minister of Wales

12 November 2020

Dear Mark

### **2021 Senedd election and the Report of the Elections Planning Group**

We have recently been giving consideration to the impact of the Covid-19 pandemic on the Senedd election scheduled for 6 May 2021, given our responsibilities for the scrutiny of subordinate legislation and our wider legislative remit in relation to Bills.

We acknowledge that it is the Welsh Government's view that the Senedd election should go ahead on that date. However, like the Welsh Government, we also accept that it is not possible to predict the precise public health situation that we all may face next May.

At our meeting on 9 November 2020 we discussed the **Report of the Elections Planning Group**, the publication of which was announced to Senedd Members in your **written statement** dated Friday 6 November.

While we recognise and welcome the intent behind the establishment of the Group – “to consider the potential impact of Coronavirus measures on the administration of the election and in particular any implications in relation to the underpinning legislative provision” – we are concerned at the lack of transparency surrounding this work.

You **announced** that the Group had been established on 15 June 2020 and yet the terms of reference have not been made publicly available. Further, we do not consider it appropriate that media outlets in Wales have become aware of key aspects of the Group's composition, work programme and conclusions before the Senedd.

While we accept that the Group's report has now been published, we believe full terms of reference and detailed minutes of each of the five meetings that were held should be made publicly available as soon as possible.



**Senedd Cymru**

Bae Caerdydd, Caerdydd, CF99 1SN

 [SeneddDCC@senedd.cymru](mailto:SeneddDCC@senedd.cymru)

 0300 200 6565

**Welsh Parliament**

Cardiff Bay, Cardiff, CF99 1SN

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

 0300 200 6565



With regards to future subordinate legislation that may be needed that relates to arrangements for the next Senedd election, we have a vested interest in having as much notice as possible of when such legislation may be laid before the Senedd. We will also wish to pay close attention to any primary legislation that may need to be brought forward.

We are aware of your intention to provide a statement in Plenary next week (Tuesday 17 November) that will outline the Welsh Government's next steps following the publication of the Group's report. In that statement, we would be grateful if you would provide as much detail as possible regarding the need for, and timings of, future relevant primary and secondary legislation that is being considered, in addition to addressing two other matters which I outline below.

In relation to the safe operation of polling stations and count venues, we note that consensus was reached and that the Group agreed in broad terms that "the existing powers **should** be sufficient to put arrangements in place on a local basis and would not require legislative change" (*emphasis added*). We would be grateful if you would confirm whether the existing powers are sufficient and that legislative change is not required to ensure the safe operation of polling stations and count venues.

On the matter of a possible extension to the Llywydd's power to vary the date of the next Senedd election by one month (under section 4(1) of the *Government of Wales Act 2006*), we acknowledge that consensus was not reached on this issue and that a majority of political parties would only consider this option as "a contingency measure in extremis". We note that the Llywydd has full discretion in determining the circumstances that would make the use of the power in the 2006 Act appropriate. In our view, any alternative to the exercise of this existing power that would change the date of the next Senedd election as a result of the pandemic should be made by the Senedd.

In addition to you addressing these points during the Plenary debate on 17 November, we would greatly appreciate a full response to this letter at your earliest opportunity.

I am copying this letter to the Llywydd, Elin Jones MS.

Yours sincerely,



**Mick Antoniw MS**

Chair of the Legislation, Justice and Constitution Committee

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



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

Agenda Item 7.3  


Llywodraeth Cymru  
Welsh Government

Ein cyf/Our ref: LG/399/20

Mick Antoniw MS  
Chair of Legislation, Justice and Constitution Committee  
Senedd Cymru

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

18 November 2020

Dear Mick

Thank you for your letter of 23<sup>rd</sup> October about the consultation on the Basic Payment Scheme and Rural Support Legislative Framework from 2021.

You highlight concerns expressed by NFU Cymru in August about the need for clarification and confirmation of the rules that will apply for farmers in 2021. We have engaged closely with stakeholders considering it was important to take into consideration as many views as possible before making any changes to the Basic Payment Scheme and Rural Development Programme. As the end of the implementation period is imminent, we aim to make announcements to confirm any changes in due course.

The UK Agriculture Bill received Royal Assent on 11 November, providing some certainty to the sector. I would like to reassure the Committee that it remains my intention to publish a White Paper by the end of the year paving the way for a Wales Agriculture Bill in the next Senedd.

Regards



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

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.

# Agenda Item 9

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

Document is Restricted

Document is Restricted

# Agenda Item 11

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

Document is Restricted

## LEGISLATIVE CONSENT MEMORANDUM

### Financial Services Bill

1. This legislative consent memorandum is laid under Standing Order (“SO”) 29.2. SO29 prescribes that a legislative consent memorandum must be laid, and a legislative consent motion may be tabled, before Senedd Cymru if a UK Parliamentary Bill makes provision in relation to Wales for any purpose within, or which modifies the legislative competence of the Senedd.
2. The Financial Services Bill (“the Bill”) was introduced in the House of Commons on 21 October 2020. The Bill and accompanying documents can be found at: <https://services.parliament.uk/Bills/2019-21/financialservices.html>

### Policy Objectives

3. The UK Government’s stated policy objective is to ensure the UK’s regulatory framework continues to function effectively for the United Kingdom (UK) after leaving the European Union (EU). The UK Government consider the Bill is an important first step in taking responsibility for financial services regulation, ensuring that the UK maintains the highest regulatory standards and remains an open and dynamic global financial centre.

### Summary of the Bill

4. The Bill is sponsored by Her Majesty's Treasury (HM Treasury) and the key provisions in the Bill seek to:
  - ensure the UK's regulatory framework continues to function effectively for the UK after leaving the EU.
  - enhance the UK’s world-leading prudential standards and promote financial stability by enabling the implementation of the full set of Basel III standards, a new prudential regime for investment firms, and giving the Financial Conduct Authority the powers it needs to oversee an orderly transition away from the LIBOR benchmark.
  - promote openness between the UK and international markets by introducing a new mechanism to simplify the process whereby overseas investment funds can be marketed in the UK and delivers a Ministerial commitment to provide long-term access between the UK and Gibraltar for financial services firms.
  - introduce a number of measures to maintain an effective financial services regulatory framework and sound capital markets.
  - to make provision about debt respite schemes.

## **Provisions in the Bill for which consent is required**

5. The Financial Guidance and Claims Act 2018 made provision for the creation of a debt respite scheme. The scheme consists of two parts: Breathing Space<sup>1</sup> and the Statutory Debt Repayment Plan (SDRP).
6. Clause 32 of the Bill will amend sections 6 and 7<sup>2</sup> of the Financial Guidance and Claims Act 2018 to give the UK Government the full range of powers it needs to draft the regulations that are needed to implement SDRP effectively.
7. In summary, these amendments will allow regulations to be made relating to the SDRP which can:
  - a) compel creditors to accept amended repayment terms;
  - b) provide for a charging mechanism through which creditors will contribute to the cost of running the scheme and repayment plans; and
  - c) include debts owed to central government departments.
8. The UK Government has not set a specific date to implement the SDRP, nor when they intend to make the regulations. However, any regulations, to the extent that they will provide for the SDRP scheme to apply in relation to Wales, will need to be laid before and approved by a resolution of the Senedd in order for them to apply in Wales.
9. Clause 32 relates to personal debt management and assists individuals with the management of their debts, helping them to resolve difficulties in repayment and to repay what they owe to creditors in a managed way. Consent is required because the provision falls within the legislative competence of the Senedd and makes provision with regard to devolved matters. All the other provisions in the Bill relate to the financial services reservation and are therefore outside the competence of the Senedd.

## **Reasons for making these provisions for Wales in the Financial Services Bill**

10. The SDRP will enable an individual to repay their debts to a manageable timetable, with legal protections from creditor action for the duration of their plan. This will offer people in Wales, who are experiencing problem debt, an opportunity to take better control of their finances. The

---

<sup>1</sup> The first part of the scheme, Breathing Space is being introduced through the Debt Respite Scheme (Breathing Space Moratorium and Mental Health Crisis Moratorium) (England and Wales) Regulations 2020.

<sup>2</sup> Sections 6 and 7 of the Financial Guidance and Claims Act 2018 require the Secretary of State to seek advice on the establishment of a debt respite scheme and, as soon as reasonably practicable after receiving such advice, to consider making regulations to establish a debt respite scheme.

development of the SDRP will require input from the Welsh Government and a wide range of stakeholders in designing any scheme.

11. It is the view of the Welsh Government that it is appropriate to deal with this provision in this UK Bill as it represents the most appropriate and proportionate legislative vehicle to enable the development of the regulations that will allow the second part of the debt respite scheme, i.e., the SDRP, to apply in Wales subject to full consideration of the details of any proposed scheme by the Senedd and the approval of the regulations implementing it.

### **Financial implications**

12. There are no financial implications relating to the provision within the Bill that is in competence.

### **Conclusion**

13. It is the view of the Welsh Government that it is appropriate to deal with this provision in this UK Bill to enable the development of the regulations that will allow the second part of the debt respite scheme, i.e., the SDRP to be implemented. When implemented, the SDRP will offer people in Wales, who are experiencing problem debt, an opportunity to take better control of their finances and find a sustainable pathway out of debt.
14. Any regulations, to the extent that they will provide for the SDRP scheme to apply in relation to Wales, will need to be laid before, and approved by, the Senedd. This will enable the Senedd to fully consider the implications of the SDRP in Wales and to consider and approve the regulations together with any amendments (that may be included within the regulations) to an existing Measure or Act of the Senedd.

**Jane Hutt MS**  
**Deputy Minister and Chief Whip**  
**3 November 2020**



Document is Restricted