

## **STATUTORY INSTRUMENT CONSENT MEMORANDUM**

### **The Electronic Commerce Directive (Education, Adoption and Children) (Amendment etc.) Regulations 2021**

1. This Statutory Instrument Consent Memorandum is laid under Standing Order (“SO”) 30A.2. SO 30A.2 prescribes that a Statutory Instrument Consent Memorandum must be laid in relation to any relevant statutory instrument laid before the UK Parliament by UK Ministers. A “relevant statutory instrument” means a statutory instrument or draft statutory instrument laid before the UK Parliament by UK Ministers which makes provision in relation to Wales amending primary legislation within the legislative competence of Senedd Cymru (the Senedd).
2. Under S.O 30A.10, any member may table a Statutory Instrument Consent Motion before the Senedd seeking the Senedd’s agreement to the inclusion of a relevant provision in a relevant statutory instrument.
3. The Electronic Commerce Directive (Education, Adoption and Children) (Amendment etc.) Regulations 2021 were laid before Parliament on 18<sup>th</sup> January 2021 [and is now being laid before the Senedd]. A copy of the Regulations has been laid with this memorandum and can also be found at:

<http://www.legislation.gov.uk/id/ukdsi/2021/9780348219210>

#### **Summary of the Statutory Instrument and its objective**

4. The objective of the SI is to correct deficiencies in legislation arising from the UK leaving the European Union. This SI amends Schedule 11B to the Education Act 2002 and provisions in the Electronic Commerce Directive (Adoption and Children Act 2002) Regulations 2005 to disapply the “country of origin” principle, and makes other consequential amendments to reflect the fact that the UK is no longer a member of the EU.
5. These corrections are required to ensure that the statute book will continue to operate effectively after exit.

#### **Relevant provision to be made by the SI**

6. The primary legislation being amended by these Regulations is the Education Act 2002 (c. 32) (“the 2002 Act”). The amendments provide for the disapplication of the “country of origin” principle in respect of certain provision in Schedule 11B to the 2002 Act.
7. Schedule 11B deals with offences for a breach of reporting restrictions under section 141G of the 2002 Act, namely reporting alleged offences by teachers. The effect of the amendments is to disapply the country of origin principle in respect of information society services which have potentially breached the reporting restrictions under section 141F.

8. It is Welsh Government's view that the provisions described in paragraphs 5 to 6 above fall within the legislative competence of the Senedd in so far as they relate to education.

**Why it is appropriate for the SI to make this provision**

9. In these exceptional circumstances, we consider it appropriate that the UK Government legislates on our behalf in this instance, for reasons of efficiency and expediency. There is no divergence between the Welsh Government and the UK Government on the policy for the correction. Consenting to an England and Wales wide SI ensures that there is a single legislative framework across England and Wales, which promotes clarity and accessibility during this unprecedented period of change.

**Julie Morgan MS**  
**Deputy Minister for Health and Social Services**  
**19 January 2021**