

Lesley Griffiths AC/AM
Ysgrifennydd y Cabinet dros Ynni, Cynllunio a Materion Gwledig
Cabinet Secretary for Energy, Planning and Rural Affairs



Llywodraeth Cymru
Welsh Government

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

17

October 2018

Dear Mick

Thank you for your letter of 9 October regarding the Town and Village Greens (Landowner Statements) (Wales) Regulations 2018 ("the original Regulations"), in which you requested clarification in relation to my intention to amend those Regulations.

I will lay a fresh set of Regulations ("the new Regulations") on 19 October. They will come into force on 22 October. While I recognise this timetable involves breaching the 21 day rule, I agree with the Committee there is justification for doing so in the circumstances

The new Regulations will revoke the original Regulations, and will recast their content, albeit with changes to address the concerns expressed in the 'Technical Scrutiny' section of the Committee's draft report of 28 September. The distinction between the original Regulations and the new Regulations is described below.

The original Regulations require a statement under section 15A(1) of the Commons Act 2006 ("the 2006 Act") to be deposited in a form entirely equivalent to the one set out in Schedule 1 to the original Regulations, essentially to ensure the full range of information relevant for the purposes of its functions is available to the authority.

While this requirement will be preserved in the new Regulations, the additional requirement in regulation 7(2)(b) of the original Regulations, which provides the register must be kept by the authority under section 15B of the 2006 Act and must contain a copy of the statement so deposited, will not.

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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.

Instead, the new Regulation's will require only *Part B* of a statement deposited in the form to be set out in the register.

The result is neither the telephone number or email address of a landowner depositing a statement will be required to be placed on the register; nor the name, postal address, telephone number or email of any person depositing the a statement on the landowner's behalf.

However a requirement equivalent to regulation 7(2)(c) of the original Regulations, which requires the name and postal address of the landowner to be placed on the register, will be included in the new Regulations.

The justification for the inclusion of such provision ("the relevant provision") in the new Regulations, set out by reference to the four questions arising from the case of, among others, *R (on the application of Tigere) v Secretary of State for Business, Innovation and Skills* is as follows.

The deposit of a statement by a landowner under section 15A(1) the 2006 Act brings to an end any period during which persons have indulged as of right in lawful sports or pastimes on the land to which the statement relates.

The exercise of a landowner's discretion under section 15A(1) therefore itself removes a right previously enjoyed by the local community and by members of the public generally. As such, it is in the public interest for those whose rights may be curtailed to know who has deposited the statement, and to enable the making of informal representations and enquiries should they so wish.

Accordingly, the relevant provision has a legitimate aim sufficient to justify the limitation of the landowner's rights under article 8 of the European Convention on Human Rights.

The relevant provision naturally facilitates, and by extension, is rationally connected to the public interest objective, and therefore the legitimate aim.

The relevant provision represents the least intrusive means of facilitating the public interest objective.

For the reasons stated above, the relevant provision strikes a fair balance between the rights of the landowner and the interests of the community.

A handwritten signature in black ink that reads "Regards" on the top line and "Lesley" on the bottom line. The signature is written in a cursive, flowing style.

Lesley Griffiths AC/AM

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