

Rebecca Evans AM

Minister for Finance and Trefnydd

11 December 2019

Dear Rebecca

**The Council Tax Reduction Schemes (Prescribed Requirements and Default Scheme) (Wales) (Amendment) Regulations 2020**

The Constitutional and Legislative Affairs Committee (the Committee) considered the Council Tax Reduction Schemes (Prescribed Requirements and Default Scheme) (Wales) (Amendment) Regulations 2020 at its meeting on 9 December 2019.

In its report on these Regulations, which was laid before the National Assembly on 10 December, the Committee identified one reporting point under Standing Order 21.3, as follows. The Regulations refer to “article 3...of the Immigration (European Economic Area Nationals) (EU Exit) Order 2019 made under section 3A of [*the Immigration Act 1971*]” (emphasis added). We asked why it is necessary to refer to the fact that the 2019 Order was made under section 3A of the Immigration Act 1971, and what would have been different if the Regulations had simply referred to article 3 of the 2019 Order, without citing the power under which the 2019 Order was made. The same point arises in respect of the immigration rules made under section 3(2) of the Immigration Act 1971.

The Government response we received, and considered, during our meeting on 9 December, stated:

“Regulation 6 amends regulation 28 of the Council Tax Reduction Schemes and Prescribed Requirements (Wales) Regulations 2013 (Persons treated as not being in Great Britain). The amendment inserts a number of new rights to reside established for nationals of European Economic Area states in connection with the United Kingdom’s withdrawal from the EU. Identical provision is made in Regulation 15



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amending paragraph 19 of the Schedule in the Council Tax Reduction Schemes (Default Scheme) (Wales) Regulations 2013.

There is precedent for the drafting approach taken in referencing the relevant section of the Immigration Act 1971. See for example Regulation 28(5)(e) of the Prescribed Requirements Regulations 2013 and Paragraph 19(5)(e) of the Default Scheme Regulations 2013. It is also consistent with EU Exit provision made in other recent Regulations made by the Welsh Ministers and approved by the Assembly. See, for example, Regulation 2(3) of the **Allocation of Housing and Homelessness (Eligibility) (Wales) (Amendment) Regulations 2019** and Regulation 2(3) of the **Allocation of Housing and Homelessness (Eligibility) (Wales) (Amendment) (No 2) Regulations 2019**. Both sets of Regulations reference Appendix EU to the immigration rules made under section 3 of the 1971 Act."

While we acknowledge that the Welsh Government's response stated there is a precedent for the drafting approach taken in referencing the relevant section of the Immigration Act 1971, we would welcome further clarity from you on the specific point as to why (taking the first example in the report) it is necessary to cite the enabling power in the Immigration Act when referring to article 3 of the 2019 Order.

I would be grateful to receive your response by Thursday 2 January 2020, so that it may be considered by the Committee ahead of the scheduled Plenary debate in respect of these Regulations on 7 January 2020.

Yours sincerely



**Mick Antoniw AM**

Chair

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

