



Ein cyf/Our ref: LG/0218/22

Paul Davies MS
Chair
Economy, Trade and Rural Affairs Committee

Paul.davies@senedd.wales

2 March 2022

Dear Paul,

I am writing to inform you of my approval being granted for a Statutory Instrument being made by the UK Government which contains elements within the competence of Welsh Ministers.

The Agriculture and Horticulture Development Board (Amendment Order 2022) will make changes to the Agriculture and Horticulture Development Board Order 2008, a UK wide SI, following a UK wide consultation with industry and stakeholders.

I am agreeing, in this case, to give approval to Victoria Prentis, the Minister for Farming, Fisheries and Food to make changes to The Agriculture and Horticulture Development Board Order 2008. The Agriculture and Horticulture Development Board was established by the 2008 Order under powers provided in the Natural Environment and Rural Communities Act 2006 (the NERC Act).

This instrument amends the 2008 Order and is made by the Secretary of State under powers conferred by sections 87(1)(a), 88 and 97(1) of, and paragraphs 5 and 6 of Schedule 10 to, the Natural Environment and Rural Communities Act 2006 with the approval of Welsh Ministers.

Section 87 of the NERC Act provides the “appropriate authority” with the power to make an Order which establishes a body for a purpose or purposes falling within section 88 (Permissible purposes of boards) and to assign to it a function or functions falling within section 89 (Permissible functions of boards).

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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.

The “appropriate authority” is defined in section 96(1) of the NERC Act, in relation to the matters mentioned in subsection 96(2), the SoS acting with the approval of the National Assembly for Wales, the Scottish Ministers or (as the case may be) the relevant Northern Ireland department. For current purposes, the matters are “exercising other powers in relation to a cross-border function of a board”.

The period for which I am giving approval is limited to the passage of the Regulations.

Under Section 96(1) of the NERC Act, the Welsh Ministers are the “appropriate authority” and have the power to legislate in relation to matters concerning Wales. However, as the proposed amendments will affect the cross-border functions of AHDB, the SoS (with the approval of the Devolved Governments) is the appropriate authority. The Welsh Ministers are not, under the powers contained in the NERC Act, able to make an SI of this nature.

Wales’ interests remain protected with the passage of the Order which requires the approval of Welsh Ministers.

Welsh Government officials discussed and refined the 2022 Amendment Order with counterparts in DEFRA, the Scottish Government and DAERA, including the development of the consultation document and the responses which have shaped the content of the Order. The UK Government continue to recognise the areas in which the Order applies to Wales as within the competence of Welsh Ministers. DEFRA officials have been aware of the need to seek the approval of Welsh Ministers for the 2022 Amendment Order and have fully engaged with officials as the Order has been drafted and reflected comments within the Order.

I am copying this letter to the Chair of Legislation, Justice and Constitution Committee for information.

Regards,

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

Lesley Griffiths AS/MS
Y Gweinidog Materion Gwledig a Gogledd Cymru, a'r Trefnydd
Minister for Rural Affairs and North Wales, and Trefnydd