

Julie James MS
Minister for Climate Change

15 September 2023

Dear Julie,

The Fluorinated Greenhouse Gases (Amendment) Regulations 2023

Thank you for your letter of 1 September 2023 in respect of your intention to consent to the UK Government laying The Fluorinated Greenhouse Gases (Amendment) Regulations 2023, which were laid before the UK Parliament on 4 September.

At our meeting of 11 September 2023, we considered your letter and detail contained therein. There are a number of matters which we would like to pursue with you further.

I would be grateful if you could provide a response to our questions, which are included in the annex to this letter, by 28 September 2023.

Yours sincerely,



Huw Irranca-Davies
Chair



Annex

1. You state that you received a letter from the Rt Hon. Lord Benyon, Minister of State for Biosecurity, Marine and Rural Affairs, asking for your consent to the Regulations. The Regulations are being made using powers in the *Retained EU Law (Revocation and Reform) Act 2023* (the REUL Act). You will be aware that the REUL Act does not contain a provision requiring the consent of the Welsh Ministers to be sought before a UK Minister exercises a delegated power in a devolved area under that Act.
 - i. Please would you confirm and provide details of the consent process which has been followed in respect of the Regulations.
 - ii. Please would you confirm that the Welsh Ministers were consulted on the terms of the Regulations as part of the relevant common framework structures, as is suggested in the draft Explanatory Memorandum to the Regulations.
2. While your letter states that the Regulations are being made under paragraph 5(5) of Schedule 5 to the REUL Act, our understanding is that that paragraph sets out the parliamentary procedure for regulations made under various powers in the REUL Act. We believe the Regulations are being made using the section 14(2) 'revoke and replace' power in the REUL Act. The Regulations do not appear to result in the revocation or replacement of REUL or its assimilation into the domestic statute book. In your letter you state that the Regulations correct a technical error made in a previous amending instrument.
 - i. Please would you confirm our understanding that the Regulations do not result in the revocation or replacement of REUL or its assimilation into the domestic statute book.
 - ii. Before making a decision to consent to the Regulations, did the Welsh Government undertake any assessment of the specific power in the REUL Act being used to make the Regulations?
 - iii. Our understanding is that paragraph 5(5) of Schedule 5 to the REUL Act gives a UK Minister the option of using the draft affirmative or made negative procedure. Before making a decision to consent to the Regulations, did the Welsh Government undertake any assessment of the choice of scrutiny procedure being followed by the UK Government?
 - iv. You will be aware that the powers in section 14 of the REUL Act are constrained to revocation or replacement of the law that a relevant national authority considers does not increase the regulatory burden in a particular subject area. Before making a decision to consent to the Regulations, did the Welsh Government's consideration of the Regulations

include an assessment of how they comply with this constraint and if there is any potential increase to the regulatory burden? If so, would you share it with the Committee?