

Carl Sargeant AC / AM
Y Gweinidog Cyfoeth Naturiol
Minister for Natural Resources



Llywodraeth Cymru
Welsh Government

Eich cyf/Your ref
Ein cyf/Our ref

David Melding AM
Chair
Constitutional and Legislative Affairs Committee
National Assembly for Wales
Cardiff Bay
Cardiff. CF99 1NA.

10th June 2015

Dear David

I am writing to inform you that I have laid a Statutory Instrument Consent Memorandum (Memorandum) in relation to The Hazardous Waste (Miscellaneous Amendments) Regulations 2015 (“the Regulations”) which were made by the Secretary of State for Environment, Food and Rural Affairs on 5 June. The regulations include amendments to the Environmental Protection Act 1990 which include provisions for Wales. I wish to make you aware that, while I have laid the Memorandum, I do not intend to table a Statutory Instrument Consent Motion.

The Regulations relate to the transposition of new EU legislation that updates the list of hazardous waste properties and the list of waste, to change the way hazardous waste is assessed and classified. The Regulations contain amendments to section 62A of the Environmental Protection Act (EPA) 1990 for England and Wales, which are consequential on the updating of the list of hazardous waste properties and the list of waste. The Memorandum (a copy of which is enclosed) explains in more detail the background to the amendments to the EPA which are technical in nature.

I have laid the Memorandum in accordance with the requirement under Standing Order (SO) 30A for “a member of the government ..[to].. lay a memorandum (“a statutory instrument consent memorandum”) in relation to any relevant statutory instrument laid before the UK Parliament by UK Ministers”. I consider the Regulations to be a relevant statutory instrument because they make provision in relation to Wales amending primary legislation within the legislative competence of the Assembly, and are not incidental or consequential provisions relating to matters that are not within the Assembly’s legislative competence.

The Regulations are subject to negative procedure in Parliament, and therefore they were made before they were laid, and provided no Member of Parliament prays against, they will come into force on 1 July. It is for you to decide whether you wish, as the responsible committee referred to under Standing Order 30A, to consider and report on the Memorandum.

Bae Caerdydd • Cardiff Bay
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I have considered carefully whether I should proceed to table a Statutory Instrument Consent Motion under SO 30A.10, to be debated after the 35 days allowed for scrutiny by the responsible committee has elapsed. There is no requirement for the Welsh Government to do so, of course, but normally we would table a motion so that the Assembly can give its consent, or not, before the relevant statutory instrument is made.

In this case, as the Regulations have already been made, I have decided that I will not proceed to lay a motion, as that would result in the Assembly debating and deciding whether to give its consent after the relevant statutory instrument has been made. Each case would have to be considered on its merits, but in these Regulations the amendments in question are technical in nature and do not of themselves make substantive changes to policy. I do not think there is merit in holding an Assembly debate on whether consent should be given to provision in Regulations which have already been made, and where the provision in question is consequential in nature and not a substantive policy change. It is of course still open to any Assembly Member, if they feel strongly that the Memorandum should be debated, to lay a motion to debate this in Plenary.

The Committee will, of course, have the full opportunity to scrutinise the changes that we make to our legislation to implement the EU changes when we lay the Hazardous Waste (Miscellaneous Amendments) (Wales) Regulations 2015 around 20 June 2015.

I trust that the information will be helpful.

Yours sincerely

A handwritten signature in cursive script, appearing to read 'Carl Sargeant', written in black ink.

Carl Sargeant AC / AM
Y Gweinidog Cyfoeth Naturiol
Minister for Natural Resources