

# National Assembly for Wales

## Constitutional and Legislative Affairs Committee

### Statutory Instruments with Clear Reports

22 February 2016

#### CLA656 - The Local Authorities (Model Code of Conduct) (Wales) (Amendment) Order 2016

##### Procedure: Negative

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This Order amends Schedule 1 to the Local Authorities (Model Code of Conduct) (Wales) Order 2008. This sets out a model code in respect of the conduct which is expected of members and co-opted members of relevant authorities in Wales under section 50(2) of the Local Government Act 2000.

The Order provides:

- for the removal of the requirement for members to report potential breaches of their code of conduct to the Public Services Ombudsman for Wales;
- for the transferral of some functions from monitoring officers to the proper officers of community councils;
- for amendments to reflect the new provisions in Part 8 of the Local Government (Wales) Measure 2011 in relation to allowances and payments;
- for members to be permitted to submit written submissions to a meeting which is dealing with a matter in respect of which a member has a prejudicial interest;
- clarification that any interest disclosed should be registered in the authority's register of members' interests by giving notification to the monitoring officer/proper officer (as applicable); and
- that a member of a relevant authority is not to be regarded as having a personal interest in a matter when making, or participating in, decisions on behalf of the authority simply for the reason that the business being considered at the meeting affects that member's ward.

#### CLA657 - The Local Government (Standards Committees, Investigations, Dispensations and Referral) (Wales) (Amendment) Regulations 2016

##### Procedure: Negative

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These Regulations amend three previous sets of Regulations.

Regulation 2 amends existing provisions to facilitate the operation of joint standards committees and relating to the length of the term of office of members of standards committees. It also clarifies that a



relevant authority is exempt from making the report or recommendations of an investigation available for public inspection until misconduct proceedings are concluded.

Regulation 3 includes provision enabling a monitoring officer and a standards committee of one authority to refer a report or recommendations of the monitoring officer to the standards committee of another authority for determination. It also details the procedure for appealing against the decision of a standards committee.

Regulation 4 provides a procedure for a member's application for a dispensation to be referred to the standards committee of another authority for determination.

## CLA659 - The Town and Country Planning (Validation Appeals Procedure) (Wales) Regulations 2016

### Procedure: Negative

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These Regulations set out the procedure for the determination of validation appeals made to the Welsh Ministers under section 62ZB of the Town and Country Planning Act 1990. In accordance with section 62ZB(6) validation appeals are considered on the basis of written representations. The procedure includes the following steps:

- the Welsh Ministers must give notice that they have received the appeal (regulation 3);
- the appellant and local planning authority are not given an opportunity to comment on each other's representations (regulation 4); and
- the Welsh Ministers must notify the appellant and the local planning authority of their decision and their reasons for reaching that decision (regulation 6).

## CLA660 - The Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2016

### Procedure: Negative

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These Regulations correct an error in the Welsh text of the Planning (Listed Buildings and Conservation Areas) (Wales) Regulations 2012 (S.I. 2012/793 (W. 108)).



## CLA665 - The Developments of National Significance (Procedure) (Wales) Order 2016

### Procedure: Negative

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Development in Wales is of national significance if it meets criteria specified in regulations() or is specified as such in the National Development Framework.

This Order makes provision for the manner in which applications for planning permission in respect of such development are to be dealt with by the Welsh Ministers.

## CLA666 - The National Health Service (Performers Lists) (Wales) (Amendment) Regulations 2016

### Procedure: Negative

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The Regulations amend the National Health Service (Performers Lists) (Wales) Regulations 2004 ('the 2004 Regulations').

Specifically, these Regulations amend the 2004 Regulations to:

- allow a GP/Dentist to be provisionally included immediately on a Local Health Board's performers list on receipt of application, whilst NHS Service Partnership ('NWSSP'), on behalf of the Local Health Boards, undertakes further checks;
- extend the timescale for the requirement to produce a copy of their enhanced criminal record certificate dated within 6 months of making the application for inclusion on the performers list, to be dated within 3 years;
- remove the requirement for a GP/Dentist to provided details of their medical qualifications but instead consent to NWSSP requesting this information from the holder of their performers list in the other home nations.

## CLA668 - The Agricultural Advisory Panel for Wales (Establishment) Order 2016

### Procedure: Affirmative

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This Order establishes the Agricultural Advisory Panel for Wales. The Panel is an independent advisory body to the Welsh Ministers. The Panel's functions are to promote careers in agriculture, to prepare agricultural wages orders in draft, consult on such orders and submit them to the Welsh Ministers and advise them on such matters relating to the agricultural sector in Wales as the Welsh Ministers may require.



The Deputy Minister for Farming and Food has decided to utilise the anticipatory exercise of powers clause (s.13) of the Interpretation Act 1978 to appoint the Chair and members of the Agricultural Advisory panel for Wales prior to the coming into force date of this Order.

## CLA669 - The Developments of National Significance (Specified Criteria and Prescribed Secondary Consents) (Wales) (Amendment) Regulations 2016

### Procedure: Affirmative

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These Regulations amend the Developments of National Significance (Specified Criteria and Prescribed Secondary Consents) Wales Regulations 2016 (“the Principal Regulations”) which are due to come into force on 1st March 2016.

Amongst other categories of development, the Principal Regulations specify that energy generating projects which have an installed generating capacity of between 10MW and 50MW are to be categorised as developments of national significance.

Since the laying of the Principal Regulations, the UK Government have laid two Orders which will also come into force on the 1st March 2016 which have the effect of moving the consenting process for onshore wind energy generating stations with a capacity of over 50MW from a regime established under the Planning Act 2008 into the planning system under the Town and Country Planning Act 1990.

These Regulations amend the principal regulations to provide that all applications for planning permission for (a) the construction of onshore wind farms with a generating capacity of 10 megawatts or above, and (b) the extension or alteration of an onshore wind farm with an expected increased generating capacity of 10 megawatts or above, in Wales must be made to the Welsh Ministers.

## CLA670 - The Environmental Permitting (England Wales) (Amendment) (No.2) Regulations 2016 TECHNICAL

### Procedure: Composite Affirmative

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These composite Regulations provide for the regulation of “flood risk activities”. They establish a new scheme under the existing Environmental Permitting framework to regulate activities on or near watercourses in England and Wales.

This new scheme means that flood risk activities will be integrated into the existing Environmental Permitting framework. This is intended to be simpler than the current scheme where flood risk activity consents operate under various regimes.



## CLA671 - The Local Authorities (Capital Finance and Accounting) (Wales) (Amendment) Regulations 2016

### Procedure: Negative

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Part 1 of the Local Government Act 2003 introduced a legal framework within which local government may undertake capital expenditure. The Welsh Ministers may regulate that activity by regulations. Such provision was made by the Local Authorities (Capital Finance and Accounting) (Wales) Regulations 2003 (S.I. 2003/3239) (“the 2003 Regulations”) which have since been amended.

The Regulations further amend the 2003 Regulations by removing the requirement for local authorities to recognise in a revenue account the difference between fair value and the agreed value of loans acquired from the Public Works Loan Board (PWLB) and drawn down on 2 April 2015 for the purpose of buyout of the Housing Revenue Account Subsidy System. The regulations do not apply to liabilities falling outside this description.

Interest payable on the PWLB loans must be recognised in a revenue account on the day an authority becomes liable for that interest, or as soon as **practicable**.

## CLA672 - The Agricultural Wages (Wales) Order 2016

### Procedure: Composite Affirmative

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This Order replaces, subject to some changes and a transitional and saving provision, the Agricultural Wages Order 2012 which, pursuant to section 12(1) of the Agricultural Sector (Wales) Act 2014, continues to have effect in relation to agricultural workers until such time as the Welsh Ministers made a new agricultural wages order.

## CLA673 - The Seed Potatoes (Wales) Regulations 2016

### Procedure: Negative

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These Regulations revoke and replace the Seed Potatoes (Wales) Regulations 2006 (S.I. 2006/2929 (W. 264)), which have been amended on several occasions.

The Regulations control the production with a view to marketing, the certification and the marketing of seed potatoes in Wales, other than those intended for export outside the European Union. They implement various European instruments, in particular Council Directive 2002/56/EC on the marketing of seed potatoes (OJ No L 193, 20.7.2002, p. 60).



## CLA674 - The Wildlife and Countryside Act 1981 (England and Wales) (Amendment) Regulations 2016 TECHNICAL

### Procedure: Composite Negative

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These composite regulations amend section 1 of the Wildlife and Countryside Act 1981, and in particular, the provision that establishes the offence of being in possession or control of an egg of a wild bird (or any part of such an egg). More specifically, they amend the statutory exemption to that offence, so that a person will not be guilty if they can show the egg (or any part) was in the possession or control of any person before Part I of the 1981 Act came into force. This reinstates the legal position before amendments made in 2004, when the exemption was inadvertently narrowed.

The regulations are subject to the negative resolution procedure in the National Assembly for Wales and in the UK Parliament.

Paragraph 2(2) of Schedule 2 to the European Communities Act 1972 provides for a choice between the affirmative and negative procedure when exercising the power under section 2(2) of that Act.

The Explanatory Memorandum states that the negative procedure “is deemed the appropriate procedure because the subject-matter of the instrument is of relatively minor detail in the overall legislative scheme and is technical in nature. This instrument does not impose duties, burdens or create any criminal offences. Rather, it provides for a benefit by expanding the statutory exemptions under section 1(3) of the 1981 Act, and as such, is considered appropriate for the negative procedure.”

## CLA675 - The Government of Maintained Schools (Training Requirements for Governors) (Wales) (Amendment) Regulations 2016

### Procedure: Negative

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The Government of Maintained Schools (Training Requirements for Governors) (Wales) Regulations 2013 (“the 2013 Regulations”) set out the training requirements for governors at maintained schools in Wales. The training requirements in relation to school performance data are set out in a document entitled “Training for school governors in Wales on understanding school data” and is referred to in the definition of “the school performance data training” (“the 2014 document”) in regulation 2 of the 2013 Regulations.

Regulation 2 of these Regulations amends that definition so as to substitute the reference to the 2014 document for a reference to the new school performance data training requirements set out in a document entitled “Training for school governors in Wales on understanding school data”.



## CLA682 - The Public Health Wales National Health Service Trust (Membership and Procedure) (Amendment) Regulations 2016

### Procedure: Negative

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These regulations amend the Public Health Wales National Health Service Trust (Membership and Procedure) Regulations 2009 by removing the requirement for the local authority non-executive director and the university non-executive director to be nominated. These Regulations also remove the requirement for the voluntary sector non-executive director to hold a post in Wales. It will no longer be a requirement that the university non-executive director must be nominated by a university in Wales, or have teaching or research specialism in public health; instead all that will be required is for the person to hold a health-related post in a university.

## CLA684 - The National Health Service (Welfare Reform Consequential Amendments) (Wales) Regulations 2016

### Procedure: Negative

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These Regulations amend:-

- the National Health Service (General Ophthalmic Services) Regulations 1986;
- the National Health Service (Optical Charges and Payments) Regulations 1997;and
- the National Health Service (Travelling Expenses and Remission of Charges) (Wales) Regulations 2007.

The effect of these amendments is to allow for Universal Credit (UC) to be accepted as a qualifying benefit for the purposes of full or part remission from NHS charges and passport all UC claimants for the period from 1April 2016.

This allows for those in receipt of Universal Credit to qualify for free NHS dental treatment, a free NHS sight test and help towards the cost of glasses and help with travel costs and to submit a claim under the NHS Low Income Scheme for help with health costs.

## CLA676 - The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016

### Procedure: Affirmative

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The 2014 Act brings together local authorities' functions in relation to improving the well-being of person needing care and support, and carers who need support, into a single Act.

These Regulations amend primary legislation that currently underpins the provisions of care and support and support for carers in Wales.



The Regulations also contain transitional and saving provisions applicable to those persons currently receiving care and support within the existing system as they transition to the new framework established under the 2014 Act.



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