

National Assembly for Wales

Constitutional and Legislative Affairs Committee

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

Background and Purpose

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.*”

Procedure

Composite Negative

Technical Scrutiny

The following points are identified for reporting under Standing Order 21.2 (ix) that it is not made or to be made in both English and Welsh.

The Explanatory Memorandum states “As this instrument will be subject to both the National Assembly for Wales and UK Parliamentary scrutiny, it is not considered reasonable practicable for this instrument to be made or laid bilingually. The instrument is not amending earlier bi-lingual legislation”.

Merits Scrutiny

No points are identified for reporting under Standing Order 21.3 in respect of this instrument.



Government Response

These composite Regulations will apply to England and Wales and are subject to negative resolution procedure in the National Assembly for Wales and in both Houses of the UK Parliament. Because the Regulations will be subject to UK Parliamentary scrutiny, it is not considered reasonably practicable for this instrument to be made or laid bilingually.

Legal Advisers

Constitutional and Legislative Affairs Committee

26 January 2016

