



Ein cyf/Our ref MA-L/LG/0497/18

Mick Antoniw AM
Chair
Constitutional and Legislative Affairs Committee
National Assembly for Wales

SeneddCLA@assembly.wales

29 August 2018

Dear Mick,

I am writing to inform you that I have laid a statutory instrument consent memorandum ("the memorandum") in relation to the Environment, Food and Rural Affairs (Miscellaneous Amendments and Revocations) Regulations 2018 ("the Regulations") which were made by Dr Therese Coffey MP, the Parliamentary Under Secretary of State for the Environment, on 23 August. The Regulations contain amendments to the Pollution Prevention and Control Act 1999, the Marine and Coastal Access Act 2009 and the Water Resources Act 1991 which all include provision 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The purpose of the Regulations, in the main, is to make technical amendments to correct out-of-date references relating to European law in domestic primary and secondary legislation. For instance, where European Directives and Regulations have been amended or replaced, but updated references to them have not been carried through into domestic legislation. The amendments are being made to ensure the accuracy of the statute book ahead of the UK's exit from the European Union. This is because out-of-date references to legislation are not necessarily interpreted as references to the correct (updated) legislation; and there is therefore a risk that the statute book would not work properly as a result.

The Regulations have the territorial extent of the UK, but the extent to which each provision applies varies. The amendments contained within the Regulations cover a wide range of legislation in the fields of agriculture, animal health, environmental information and protection, food, forestry, marine management, pesticides, plant breeders' rights, sea fisheries, spirit drinks, waste and water.

I have laid the memorandum in accordance with the requirement under Standing Order (SO) 30A. I consider the Regulations to be a relevant statutory instrument because they make a provision in relation to Wales amending primary legislation within the legislative competence of the Assembly, which is not an incidental, consequential, transitional, transitory, supplementary or savings provision relating to matters that are not within the legislative competence of the Assembly.

The Regulations are subject to negative procedure in Parliament, and were therefore made before they were laid; and provided no Member of Parliament prays against them, parts of them, including the provisions amending the primary legislation referenced above, will come into force on 17 September. It is, of course, for you to decide whether you, as the responsible committee referred to under SO 30A, wish to consider and report on the memorandum.

I have considered carefully whether I should proceed to table a statutory instrument consent motion under SO 30A, to be debated after the 35 days allowed for scrutiny by the responsible committee has elapsed. There is, of course, no requirement for the Welsh Government to do so. However, 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 such a motion. I do not believe there is merit in holding an Assembly debate on whether consent should be given to provisions in Regulations that have already been made, where those provisions are technical, uncontroversial and there is no substantive change to existing policy. Furthermore, the part of the Regulations that amends primary legislation will already have come into force before the 35 days allowed for scrutiny under SO 30A. 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.

A handwritten signature in black ink, reading 'Lesley Griffiths'. The signature is written in a cursive, flowing style with a large loop at the end.

Lesley Griffiths AC/AM

Ysgrifennydd y Cabinet dros Ynni, Cynllunio a Materion Gwledig
Cabinet Secretary for Energy, Planning and Rural Affairs