

## **STATUTORY INSTRUMENT CONSENT MEMORANDUM**

The Fertilisers and Ammonium Nitrate Material (Amendment) (EU Exit) Regulations 2019

1. This Statutory Instrument Consent Memorandum is laid under Standing Order (“SO”) 30A.2. SO 30A prescribes that a Statutory Instrument Consent Memorandum must be laid and a Statutory Instrument Consent Motion may be tabled before the National Assembly for Wales (“Assembly”) if a UK Statutory Instrument (SI) makes provision in relation to Wales amending primary legislation within the legislative competence of the Assembly.
2. The National Assembly for Wales was initially notified that the Fertilisers and Ammonium Nitrate Material (Amendment) (EU Exit) Regulations 2018 was published on 2 November 2018, as a negative procedure. A copy of the written statement can be found at:

<http://www.assembly.wales/laid%20documents/ws-ld11808/ws-ld11808-e.pdf>

3. The Fertilisers and Ammonium Nitrate Material (Amendment) (EU Exit) Regulations 2019 (“2019 Regulations”) were laid before the Houses of Parliament on 16 January 2019. The Regulations can be found at:

<https://beta.parliament.uk/work-packages/ID8bF9CU>

### **Summary of the Statutory Instrument and its objective**

4. The objective of the SI is to address failures of retained EU law to operate effectively and other deficiencies arising from the UK leaving the European Union under powers in the European Union (Withdrawal) Act 2019.
5. As part of addressing the failures and other deficiencies, the SI makes amendments to the following primary legislation:
  - The Agriculture Act 1970

### **Relevant provision to be made by the SI**

6. The amendment made by the 2019 Regulations makes a technical change to section 74A(4) of the Agriculture Act 1970, to ensure the provision is accurate and effective post EU Exit.
7. The change identified in paragraph 5 relates to a subject matter that is within the legislative competence of the National Assembly for Wales, and which could be the subject of a National Assembly Bill.

8. Section 108A of the Government of Wales Act 2006 enables the Assembly to legislate on any subject except those specifically reserved to the UK Parliament in Schedule 7A to the Act. The Assembly has legislative competence in relation to agriculture (which includes fertilisers and animal feed).

**Why it is appropriate for the SI to make this provision**

9. There is no divergence between the Welsh Government and the UK Government on the policy of the correction. Therefore, making separate SIs in Wales and England to correct the references in question would lead to duplication, and unnecessary complication of the statute book. Consenting to this SI ensures that there is a single legislative framework across England and Wales, which promotes clarity and accessibility during this period of change. In these exceptional circumstances, the Welsh Government considers it appropriate that the UK Government legislates on our behalf in this instance.

**Lesley Griffiths AM**

Gweinidog yr Amgylchedd, Ynni a Materion Gwledig  
Minister for Environment, Energy and Rural Affairs

18 January 2019