

Jeremy Miles AM
Counsel General

14 March 2019

Dear Jeremy

The Environmental Damage (Prevention and Remediation) (Wales) (Amendment) (EU Exit) Regulations 2019

The Constitutional and Legislative Affairs Committee considered The Environmental Damage (Prevention and Remediation) (Wales) (Amendment) (EU Exit) Regulations 2019 (the Regulations) at its meeting on 4 March 2019.

The Committee identified one technical report for reporting to the Assembly under Standing Order 21.2(v).

Regulation 2(4) amends paragraph 1(1)(e) of Schedule 1 to the Environmental Damage (Prevention and Remediation) (Wales) Regulations 2009 to substitute a reference to “or European Union-wide” with “national or in their natural range”. It is unclear whether “national” is a reference to Wales or to the UK.

The Welsh Government response, which we also considered at the 4 March meeting, states that the Welsh Government considers “national” to refer to the UK, while the term “regional”, which precedes that term, means Wales.

This issue highlights that there is a difference of approach regarding the use of such terms, which has the potential to be confusing and unhelpful. For example, section 2 of the Public Health (Wales) Act 2017 refers to “national strategy”, where “national” refers to Wales. While the context may often suggest what “national” means, that will not always be the case (and, in any event, clarity on the face of legislation is always better than having to rely on context).



We also respectfully suggest that this interpretation of "national" and "regional" does not adequately nor thoughtfully reflect devolution within the United Kingdom. We believe that this is a matter that should be easily resolvable through communication between the Welsh and UK Governments. For that reason, we wish to draw this matter to your attention for future consideration.

This letter is copied to the Minister for Environment, Energy and Rural Affairs.

Yours sincerely

A handwritten signature in black ink that reads "Mick Antoniw". The signature is written in a cursive style with a horizontal line underneath the name.

Mick Antoniw AM

Chair

Croesewir gohebiaeth yn Gymraeg neu Saesneg.
We welcome correspondence in Welsh or English.

