



Llywodraeth Cymru
Welsh Government

WRITTEN STATEMENT BY THE WELSH GOVERNMENT

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| TITLE | Statutory Instrument (SI) for the Creative Europe Programme and Europe for Citizens Programme (Revocation) (EU Exit) 2019 and associated Agency Agreement |
| DATE | 29 October 2019 |
| BY | Lord Elis-Thomas AM, Deputy Minister for Culture, Sport and Tourism |

Written Statement – Statutory Instrument (SI) for the Creative Europe Programme and Europe for Citizens Programme (Revocation) (EU Exit) 2019 and associated Agency Agreement

The Regulations which are being revoked

The SI revokes Regulation 1295/2013 (establishing the Creative Europe Programme for the period 2014 to 2020) (“the CE Regulation”), Regulation (EU) 2018/596 (amending the CE Regulation) and Council Regulation (EU) No 390/2014 (establishing the Europe for Citizens Programme) (“the EfC Regulation”), as retained in domestic law under the European Union (Withdrawal) Act 2018 (“the Act”).

Any impact the SI may have on the Assembly’s legislative competence and/or the Welsh Ministers’ executive competence

This SI makes no new provisions in respect of the UK Parliament or the UK Government relating to matters that fall within either the legislative competence of the National Assembly for Wales or the executive competence of the Welsh Ministers. It does contain provisions that revoke EU regulations retained in UK law relevant to these Programmes which require the prior consent of the Welsh Ministers.

The purpose of the revocation

This instrument addresses deficiencies that would arise in EU Regulations, and puts in place contingency arrangements that may be needed, following the UK’s departure from the EU without a withdrawal agreement being in place.

The Creative Europe Programme is the European Union’s financial support programme for the audiovisual and cultural industries. It supports training, project development and the

distribution and promotion of European audiovisual and cultural works. The Europe for Citizens Programme funds projects that promote understanding between the European Union and its citizens, deepening awareness of what it means to be European and developing a sense of European identity. The Programmes commenced on 1 January 2014 and will run to the end of 2020.

In that event that the UK leaves the EU without a withdrawal agreement in place, the European Commission would no longer be able to provide funding to UK participants in either Programme. Therefore, in line with the terms of the UK Government guarantee in relation to EU-funded programmes given in 2016 and extended in July 2018 (the “HMG Guarantee”, notified to Parliament in written statement HCWS926), the instrument will give powers to the Secretary of State for Digital, Culture, Media and Sport to provide financial assistance, in relation to England and Northern Ireland only, to participants in the Creative Europe Programme and the Europe for Citizens Programme - if the European Commission ceases to provide funding to UK participants on or after exit day because of the UK’s withdrawal from the EU.

The SI and accompanying Explanatory Memorandum, setting out the effect of each amendment is available here: <https://www.gov.uk/eu-withdrawal-act-2018-statutory-instruments/the-creative-europe-programme-and-europe-for-citizens-programme-revocation-eu-exit-regulations-2019>

Why consent was given

There is no divergence between the Welsh Government and the UK Government on the policy for the correction. Therefore, making separate arrangements would lead to duplication and unnecessary complication. The SI has no impact on the devolution settlement and causes no diminishment of the Welsh Ministers’ powers, as it grants no new powers to the Secretary of State in relation to Wales.

To enable the Secretary of State to provide financial assistance to participants of these Programmes in Wales, I have today also agreed that the Welsh Ministers will enter into an Agency Agreement with the Secretary of State pursuant to section 83(1) of the Government of Wales Act 2006. This will allow the Secretary of State to use the existing powers of the Welsh Ministers, on a temporary basis, to pay Creative Europe and Europe for Citizens recipients in Wales who may be entitled to funding under the Guarantee. The Agency Agreement will ensure that the Welsh Ministers retain competence. DCMS has agreed to carry out the functions under the powers of the Welsh Ministers only when interacting with organisations based in Wales. The Welsh Ministers’ powers are derived from section 60 of the Government of Wales Act 2006.

Timing

As stated above, this SI contains provisions that properly require the prior consent of the Welsh Ministers. Unfortunately, despite the fact that Welsh Government and DCMS officials have worked collaboratively since October 2018 to ensure the HMG Guarantee can be delivered in a way that respects the devolution settlement that did not happen in this case. The SI was Made and Laid before Parliament without our knowledge in March this year. We

only became aware of this sometime later, as discussions about the Agency Agreement continued. On 16 July, once it became clear that a breach of the intergovernmental agreement between our Governments had occurred, the then Secretary of State, Jeremy Wright QC MP, wrote to me seeking retrospective consent. He acknowledged and apologised for an unintended breach of the intergovernmental agreement.

I replied on 12 August to the new Secretary of State, the Rt Hon Nicky Morgan MP, saying that whilst I was reassured by her predecessor's statements that this failure was unintentional, and that the UK Government remains committed to the intergovernmental agreement, I view these events extremely seriously - especially as the National Assembly had not been informed about the SI in good time. I said I would take further advice and consult the Counsel General and Brexit Minister before responding to the request for retrospective consent.

We are now content that the SI has passed through required Parliamentary processes and would legally come into effect in the event of the UK leaving the EU without an agreement. We are also content that it has no impact on the devolution settlement and causes no diminishment of the Welsh Ministers' powers. Further, the Agency Agreement will ensure that the Welsh Ministers retain competence.

In these circumstances, to ensure the continuation of funding to Programme participants in Wales, I am prepared to grant retrospective consent. I have today written to the Secretary of State informing her of my decision and have instructed officials to finalise the Agency Agreement with DCMS. In my letter have reiterated that the Welsh Ministers expect the intergovernmental agreement to be properly respected and that there must be no reoccurrence of these events.