Constitutional and Legislative Affairs Committee

Meeting Venue:
Committee Room 2 - Senedd

Meeting date:
24 March 2014

Meeting time:
14.30

Cynulliad Cenedlaethol Cymru
National Assembly for Wales

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Agenda

1 **Introduction, apologies, substitutions and declarations of interest**

2 **Instruments that raise no reporting issues under Standing Order 21.2 or 21.3** (Pages 1 - 6)
CLA(4)-10-14 - Paper 1 - Statutory Instruments with clear reports

Negative Resolution Instruments

CLA374 - The Seeds and Vegetable Plant Material (Nomenclature Changes) (Wales) Regulations 2014
Negative procedure: Date made: 5 March 2014; Date laid: 7 March 2014; Coming into Force date: 31 March 2014

CLA375 - The Animal By-Products (Enforcement) (Wales) Regulations 2014

Negative procedure: Date made: 5 March 2014; Date laid: 7 March 2014; Coming into Force date: 28 March 2014

CLA376 - The Plant Health (Wales) (Amendment) Order 2014

Negative procedure: Date made: 5 March 2014; Date laid: 7 March 2014; Coming into Force date: 28 March 2014

CLA377 - The National Health Service (Dental Charges) (Wales) (Amendment) Regulations 2014

Negative procedure: Date made: 1 March 2014; Date laid: 7 March 2014; Coming into Force date: 1 April 2014

CLA378 - The Firefighters' Pension (Wales) Scheme (Contributions) (Amendment) Order 2014

Negative procedure: Date made: 4 March 2014; Date laid: 7 March 2014; Coming into Force date: 1 April 2014

CLA379 - The Firefighters' Pension Scheme (Wales) (Contributions) (Amendment) Order 2014

Negative procedure: Date made: 4 March 2014; Date laid: 7 March 2014; Coming into Force date: 1 April 2014

CLA381 - The Valuation Tribunal for Wales (Wales) (Amendment) Regulations 2014

Negative procedure: Date made: 7 March 2014; Date laid: 10 March 2014; Coming into Force date: 31 March 2014

CLA383 - The Adoption Agencies (Wales) (Amendment) Regulations 2014

Negative procedure: Date made: 10 March 2014; Date laid: 11 March 2014; Coming into Force date: 1 April 2014

CLA384 - The Town and Country Planning (General Permitted Development) (Amendment) (Wales) Order 2014

Negative procedure: Date made: 11 March 2014; Date laid: 13 March 2014; Coming

into Force date: 28 April 2014

CLA385 - The Public Transport Users' Committee for Wales (Abolition) Order 2014
Negative procedure: Date made: 12 March 2014; Date laid: 13 March 2014; Coming into Force date: 15 April 2014

CLA386 - The Town and Country Planning (Compensation) (Wales) Regulations 2014
Negative procedure: Date made: 11 March 2014; Date laid:13 March 2014; Coming into Force date: 28 April 2014

3 Instruments that raise issues to be reported to the Assembly under Standing Order 21.2 or 21.3

Composite Negative Resolution Instrument

CLA380 - The CRC Energy Efficiency Scheme (Amendment) Order 2014 (Pages 7 - 36)
Negative procedure: Date made: 5 March 2014; Date laid: 10 March 2014; Coming into Force date: 1 April 2014

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CLA(4)-10-14 - Paper 3 - Explanatory Memorandum
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Negative Resolution Instruments

CLA382 - The Emergency Ambulance Services Committee (Wales) Regulations 2014 (Pages 37 - 57)
Negative procedure: Date made: 10 March 2014; Date laid: 11March 2014; Coming into Force date: 1 April 2014

CLA(4)-10-14 - Paper 5 - Regulations
CLA(4)-10-14 - Paper 6 - Explanatory Memorandum
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4 Other Legislation

SICM 2 – The Public Bodies (Abolition of the Advisory committee on Valuation of Improvements and Tenant-Right Matters) Order 2014 (Pages 58 – 71)
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CLA(4) – 10-14 – Paper 9 – Order
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5 Paper to Note (Pages 72 – 79)

CLA(4)-10-14 – Paper 12 and Annex – Letter from Lord Boswell, Commission Work Programme 2014

6 Motion under Standing Order 17.42 to resolve to exclude the public from the meeting for the following business:

(vi) the committee is deliberating on the content, conclusions or recommendations of a report it proposes to publish; or is preparing itself to take evidence from any person;

Statutory Instruments with Clear Reports
24 March 2014

CLA374 - The Seeds and Vegetable Plant Material (Nonmenclature Changes) (Wales) Regulations 2014

Procedure: **Negative**

These Regulations amend the Seed Marketing (Wales) Regulations 2012 and the Marketing of Vegetable Plant Material Regulations 1995 in relation to Wales in respect of the botanical name for the species tomato.

CLA375 - The Animal By-Products (Enforcement) (Wales) Regulations 2014

Procedure: Negative

These Regulations consolidate the law relating to the use of animal by-products not intended for human consumption. The Regulations revoke and remake previous regulations in this area, while continuing to implement the relevant EU law.

The meaning of 'animal by-products' includes any product of animal origin, including entire bodies and parts of animals, not intended for human consumption.

The Regulations set out specific obligations in relation to the disposal, use and selling of animal by-products. Also, persons who have control over animal by-products (known as 'operators') are required to be registered and approved.

CLA376 - The Plant Health (Wales) (Amendment) Order 2014

Procedure: **Negative**

This Order amends the Plant Health (Wales) Order 2006 (S.I. 2006/1643 (W. 158)) ("the principal Order").

Articles 5, 8 to 12, 14 to 17 of this Order amend the principal Order by revising the existing control measures to prevent the introduction and spread of Ceratocystis fimbriata f. spp. platani Walter and Cryphonectria parasitica (Murrill) Barr. The amendments also implement the specific control measures in the Commission Implementing Decisions referred to in article 3(1)(b) and Commission Implementing Decision 2013/67/EU.

Article 3(1)(a) implements Commission Implementing Decision 2013/253/EU.

Articles 3(1)(e), 4 and 6 of this Order amend the definition of "protected zone" in article 2(1) of the principal Order, and make minor amendments to articles 6(2) and 12(2), of the principal Order to take account of Commission Regulation (EC) No 690/2008.

Article 7 makes provision prohibiting a person from landing in Wales plants of Pinus L. intended for planting unless prior written notification has been given to an authorised inspector.

Article 13 amends Schedule 3 to the principal Order to implement Commission Implementing Decision 2012/219/EU.

Article 3(1)(a), (b) and (f) provides for the references to Commission Decision 2006/473/EC, Commission Implementing Decision 2012/756/EU, Commission Implementing Decision 2012/697/EU, Commission Implementing Decision 2012/270/EU, Commission Implementing Decision 2012/138/EU and Commission Regulation (EC) No 690/2008 in the principal Order to be read as references to those instruments as amended from time

CLA377 - The National Health Service (Dental Charges) (Wales) (Amendment) Regulations 2014

Procedure: Negative

These Regulations amend, with effect from 1 April 2014, the charges applicable to dental treatment administered under Bands 1,2 and 3.

CLA378 - The Firefighters' Pension (Wales) Scheme (Contributions) (Amendment) Order 2014

Procedure: Negative

This Order amends the Firefighters' Pension (Wales) Scheme (set out in Schedule 2 to the Firemen's Pension Scheme Order 1992 (S.I. 1992/129)) ("the Scheme") as it has effect in Wales.

The amendment provides different rates for pension contributions payable by members of the Scheme which increase according to the amount of pensionable pay which the member receives. The contribution rates are specified in the Table in paragraph 3 of Part A1 of Schedule 8 to the Scheme.

CLA379 - The Firefighters' Pension Scheme (Wales) (Contributions) (Amendment) Order 2014

Procedure: Negative

These Regulations amend the Adoption Agencies (Wales) Regulations 2005 ("the Principal Regulations"), which make provision about the exercise by adoption agencies (that is, local authorities and registered adoption societies) of their functions in relation to adoption under the Adoption and Children Act 2002. They come into force on 1 April 2014.

The Principal Regulations require that, when an adoption agency is considering adoption for a child, the agency must refer the case to an

adoption panel, which must then make a recommendation to the agency as to whether the child should be placed for adoption.

These Regulations amend the Principal Regulations to provide greater flexibility for adoption agencies when constituting an adoption panel, whether on their own or jointly with other adoption agencies.

CLA381- The Valuation Tribunal for Wales (Wales) (Amendment) Regulations 2014

Procedure: **Negative**

These Regulations amend the Valuation Tribunal for Wales (Wales) Regulations 2010 to reflect the introduction of the Council Tax Reduction Schemes (Default Scheme) (Wales) Regulations 2013 and the Council Tax Reduction Schemes and Prescribed Requirements (Wales) Regulations 2013.

CLA383 - The Adoption Agencies (Wales) (Amendment) Regulations 2014

Procedure: **Negative**

These Regulations amend the Adoption Agencies (Wales) Regulations 2005 ("the Principal Regulations"), which make provision about the exercise by adoption agencies (that is, local authorities and registered adoption societies) of their functions in relation to adoption under the Adoption and Children Act 2002. They come into force on 1 April 2014.

The Principal Regulations require that, when an adoption agency is considering adoption for a child, the agency must refer the case to an adoption panel, which must then make a recommendation to the agency as to whether the child should be placed for adoption.

These Regulations amend the Principal Regulations to provide greater flexibility for adoption agencies when constituting an adoption panel, whether on their own or jointly with other adoption agencies.

CLA384 - The Town and Country Planning (General Permitted Development) (Amendment) (Wales) Order 2014

Procedure: **Negative**

This Order amends the Town and Country Planning (General Permitted Development) Order 1995 in relation to Wales. The changes relate to the following –

- change of use relating to storage or distribution;
- industrial and warehouse development;
- schools, colleges, universities and hospitals;
- office buildings; and
- shops, financial or professional services establishments.

CLA385 - The Public Transport Users' Committee for Wales (Abolition) Order 2014

Procedure: **Negative**

This Order abolishes the Public Transport Users' Committee for Wales, established under article 3 of the Public Transport Users' Committee for Wales (Establishment) Order 2009 by virtue of sections 8 and 9 of the Transport (Wales) Act 2006.

CLA386 - The Town and Country Planning (Compensation) (Wales) Regulations 2014

Procedure: **Negative**

These Regulations prescribe various matters for the purposes of section 108 of the Town and Country Planning Act 1990.

Section 108 provides for the payment of compensation in certain cases where planning permission for development granted by a development order or a local development order is withdrawn and where on an application for planning permission for that development, the application is refused or permission is granted subject to conditions.

STATUTORY INSTRUMENTS

2014 No. 502

CLIMATE CHANGE

The CRC Energy Efficiency Scheme (Amendment) Order 2014

Made - - - -	*5th March 2014*
Laid before Parliament	*10th March 2014*
Laid before the Scottish Parliament	*10th March 2014*
Laid before the National Assembly for Wales	*10th March 2014*
Laid before the Northern Ireland Assembly	*10th March 2014*
Coming into force - -	*1st April 2014*

At the Court at Buckingham Palace, the 5th day of March 2014

Present,

The Queen's Most Excellent Majesty in Council

Whereas the Secretary of State, the Scottish Ministers, the Welsh Ministers and the Department of the Environment of Northern Ireland, have in accordance with section 48 of and paragraph 10 of Schedule 3 to the Climate Change Act 2008(**a**)—

(a) obtained and taken into account, the advice of the Committee on Climate Change in respect of this Order; and

(b) consulted such persons likely to be affected by this Order as they considered appropriate,

Her Majesty, in exercise of the powers conferred by sections 44(1), 46(3), and 90(3)(a) of and Schedule 2 and paragraph 9 of Schedule 3 to the Climate Change Act 2008, is pleased, by and with the advice of Her Privy Council, to order as follows:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the CRC Energy Efficiency Scheme (Amendment) Order 2014 and comes into force on 1st April 2014.

(2) In this Order, "the principal Order" means the CRC Energy Efficiency Scheme Order 2013(**b**).

(**a**) 2008 c.27.
(**b**) S.I. 2013/1119.

Amendment to article 3 of the principal Order

2. In article 3 of the principal Order, after the definition of "maintained school" insert—

""metallurgical process" and "mineralogical process" have the meanings given by paragraph 29A of Schedule 1;".

Time for applications

3.—(1) In article 12 of the principal Order, for "article 27(2)" substitute "articles 26(2)(b) and 27(2)".

(2) Article 26(2) of the principal Order is amended as follows—

(a) at the end of sub-paragraph (a), delete "and";

(b) in sub-paragraph (b), for "the following year." substitute "any year of a phase; and"; and

(c) after sub-paragraph (b) insert—

"(c) A notifies the administrator that A agrees that B may apply for registration as a separate participant.".

Undertakings

4.—(1) In article 24(4) of the principal Order, for "in accordance with article 12", substitute "on or before the last date for making an application for registration provided by article 12".

(2) In article 25(3) of the principal Order, for "in accordance with article 12", substitute "on or before the last date for making an application for registration provided by article 12".

Failures in respect of annual reports

5. In article 74(3) of the principal Order, for "more than 40 days after the due date" substitute "after the last working day of October after the end of the annual reporting year".

Amendments to Schedule 1 to the principal Order

6.—(1) Schedule 1 to the principal Order is amended as follows.

(2) In paragraph 1, for sub-paragraph (4)(b) substitute—

"(b) is connected to a distribution system of an electricity distributor within the meaning of—

(i) in Great Britain, section 6 of the Electricity Act 1989(**a**); or

(ii) in Northern Ireland, article 3 of the Electricity (Northern Ireland) Order 1992(**b**).".

(3) For paragraph 4(2), substitute—

"(2) Sub-paragraph (1) does not apply to the extent that the electricity is used directly for—

(a) the generation, transmission or distribution of electricity, or

(b) the transport, supply or shipping of gas.".

(4) In paragraph 14(3), after "paragraph 16(3)" insert "and (3A)".

(5) In paragraph 15(3), after "paragraph 16(3)" insert "and (3A)".

(6) In paragraph 16—

(a) in sub-paragraph (2), for "sub-paragraph (3)" substitute "sub-paragraphs (3) and (3A)";

(**a**) 1989 c.29.
(**b**) S.I. 1992/231 (N.I.1).

(b) after sub-paragraph (3), insert—

"(3A) Sub-paragraph (2) does not apply where the unconsumed supply is consumed by B on the premises occupied by B to operate—

(a) an EU ETS installation;

(b) a CCA facility;

(c) a metallurgical process; or

(d) a mineralogical process.".

(7) After paragraph 29 insert—

"Metallurgical and mineralogical processes consumption

29A.—(1) Subject to sub-paragraph (2), A is not supplied with electricity or gas to the extent that that supply is consumed by A for the purposes of operating a metallurgical process or a mineralogical process.

(2) A is supplied with electricity or gas where A decides that such a supply is not consumed for the purposes of operating a metallurgical process or a mineralogical process.

(3) A decision made under sub-paragraph (2)—

(a) may be made in respect of a phase where such a decision is made on or before the date the participant submits its first annual report for that phase; and

(b) must not be altered during that phase.

(4) "Metallurgical process" means—

(a) any process falling within—

(i) Division 24 of NACE Rev 2, except a process falling within Group 24.46; or

(ii) Group 25.5 of NACE Rev 2, except a process involving sheet metal; or

(b) the following processes falling within Group 25.6 of NACE Rev 2—

(i) plating, anodising, or other similar processing of metals;

(ii) heat treatment of metals; or

(iii) where carried out in conjunction with a process falling within paragraph (a), deburring, sandblasting, tumbling or cleaning of metals.

(5) In sub-paragraph (4), "NACE Rev 2" has the same meaning as it has in Article 1(1) of Regulation (EC) No 1893/2006 of the European Parliament and of the Council establishing the statistical classification of economic activities NACE Revision 2(**a**) and a reference to "Division" and "Group" is to those matters as set out in Annex 1 to the Regulation.

(6) "Mineralogical process" has the same meaning as it has in Article 2(4)(b) of Council Directive 2003/96/EC restructuring the Community framework for the taxation of energy products and electricity(**b**).".

(8) In paragraph 32—

(a) for sub-paragraph (1)(a), substitute—

"(a) A generates electricity using a source of energy or technology specified in section 41(5) of the Energy Act 2008(**c**) and which was commissioned on or after 1st January 2008;"; and

(b) for sub-paragraph (1)(b) substitute—

"(b) in respect of that generation A is eligible—

(**a**) OJ No L 393, 30.12.06, p.1. Explanatory Notes to NACE Rev 2 have been published by the Statistical Office of the European Communities. The Explanatory Notes were last updated by Eurostat on 20 October 2009 and can be viewed at http://epp.eurostat.ec.europa.eu/portal/page/portal/nace_rev2/documents/NACE_rev2_explanatory_notes_EN.pdf.

(**b**) OJ No L 283, 31.10.03, p.51.

(**c**) 2008 c.32.

(i) to be issued with a ROC; or

(ii) to receive a financial incentive made by virtue of a scheme under section 41 of the Energy Act 2008; and".

(9) For paragraph 34 substitute—

"**34.** In paragraph 33 "relevant conversion factor" means—

(a) a factor of zero emissions where A—

(i) is not prohibited from being given a ROC or a financial incentive described in sub-paragraph (1)(b) of paragraph 32 in respect of electricity generated using a source of energy or technology referred to in sub-paragraph (1)(a) of that paragraph; and

(ii) has not at any time received such a ROC or a financial incentive; and

(b) in all other cases a factor listed—

(i) in version 2 of the document named "CRC Energy Efficiency Scheme Order: table of conversion factors 2013/14" published by the Department of Energy and Climate Change in January 2014 and made available at the website address https://www.gov.uk/crc-energy-efficiency-scheme(**a**); or

(ii) in any replacement or revision of the document described in sub-paragraph (b)(i) which is published and made available in the same way as that document.".

Amendments to Schedule 2 to the principal Order

7. In paragraph 2 of Schedule 2 to the principal Order, after sub-paragraph (4)(e) insert—

"(f) A local authority in England, within the meaning of section 579 of the Education Act 1996(**b**), in respect of every school maintained by the authority.".

Richard Tilbrook
Clerk of the Privy Council

(**a**) A paper copy of this document is available from the CRC Team, Department of Energy and Climate Change. Area 1A, 3 Whitehall Place, London SW1A 2HH.

(**b**) 1996 c.56. Section 579 was amended by S.I. 2010/1158, article 3.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the CRC Energy Efficiency Scheme Order 2013 (S.I. 2013/1119) ("the principal Order"). This Order comes into force on 1st April 2014 so that the changes made operate from the beginning of the initial phase of the Scheme as defined in the principal Order.

Article 3 corrects the cross reference to exceptions to the date by which applications for registration must generally be made and extends the ability for undertakings which are part of a group to be a participant separate from the other members of the group.

Article 4 corrects cross references to the closing date for application for registration.

Article 5 amends the date (from 1st September to the last working day in October) on which certain penalties for failure to submit an annual return can apply.

Article 6 amends Schedule 1 to the principal Order including citing the relevant Northern Ireland Electricity Order. The amendments to paragraphs 14 to 16 of that Schedule apply to landlords of premises let to tenants who use those premises in the operation of an EU ETS installation, a CCA facility, a metallurgical process or a mineralogical process. The electricity or gas supplied by the landlord to the tenant for the operation of the installation, facility or process is not to be treated as a supply of energy to the landlord. Article 6 also inserts a new paragraph 29A such that a person may not be treated as supplied with electricity or gas where the supply is used to operate certain metallurgical or mineralogical processes as defined in that paragraph.

By article 7 an English local authority is not a public body for the purposes of the principal Order in respect of the schools which it maintains.

A regulatory impact assessment of the effect that this Order will have on the costs of business and the voluntary sector is available from the Climate Change Team, Department of Energy and Climate Change, 3 Whitehall Place, London, SW1A 2HH and is annexed to the Explanatory Memorandum which is available alongside this Order on the legislation.gov.uk website.

ANNEX C

EXPLANATORY MEMORANDUM TO THE CRC ENERGY EFFICIENCY SCHEME (AMENDMENT) ORDER 2014

This explanatory memorandum has been prepared by the Department of Energy and Climate Change with input from the Devolved Administrations and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the **CRC Energy Efficiency Scheme (Amendment) Order 2014** and I am satisfied that the benefits outweigh any costs.

Alun Davies AM – Minister for Natural Resources and Food

18 February 2014

ANNEX C

1. Description

1.1 This joint Order makes amendments to the CRC Energy Efficiency Scheme Order 2013 (the 2013 Order) in order to finalise simplification of a non-domestic energy efficiency scheme known as the CRC Energy Efficiency Scheme (the CRC Scheme). The UK Government and the Devolved Administrations committed to simplify the CRC Scheme in 2010 and announced its conclusions in December 2012. These changes were enacted in May 2013 through the 2013 Order.

1.2 The simplification conclusions included a commitment to further consider how the CRC Scheme could incentivise participants to take up onsite self-supplied electricity. The UK Government and the Devolved Administrations are proposing that the consumption of energy from supplies that meet the definition of self-supplied renewable electricity will be reported against a zero emissions conversion factor, provided other Government support has not been received for the same supply. In effect, this means that the purchase of CRC allowances will not be required by participants for eligible energy.

1.3 In addition, the UK Government and the Devolved Administrations propose to introduce an exclusion from the CRC Scheme for energy used for metallurgical and mineralogical processes that are deemed eligible for an exclusion from the Climate Change Levy (CCL) as announced by the Chancellor of the Exchequer in Budget 2013. Without the CRC exclusion, holders of Climate Change Agreements (CCAs) (which provide a discount from the CCL and exemption from the CRC Scheme), which are subsequently withdrawn, may become liable for CRC Scheme costs. This is not the policy intent of the Budget 2013 announcement.

1.4 The UK Government and the Devolved Administrations also believe the current drafting of the 2013 Order does not give force to the UK Governments' policy intent on two issues as set out in its conclusion in December 2012. We are proposing to make two drafting changes to avoid double-counting of energy supplies used in third party CCA facilities or EU Emissions Trading System (EU ETS) installations and to allow participants greater flexibility to disaggregate subsidiaries of their organisations. The UK Government and the Devolved Administrations have also taken the opportunity to make a number of technical amendments to the 2013 Order to make the wording of the 2013 Order clearer for participants.

1.5 The UK Government and the Devolved Administrations propose this amendment order comes into force at the beginning of the next phase of the CRC Scheme; on 1st April 2014.

ANNEX C

2. Matters of special interest to the Constitutional and Legislative Affairs Committee

3.1 None.

3. Legislative Background

3.1 The CRC Scheme was introduced by the CRC Energy Efficiency Scheme Order 2010 (SI 2010/768) (the 2010 Order) under powers conferred by sections 44, and 46(3) of and Schedule 2 and paragraphs 9 of Schedule 3 to the Climate Change Act 2008. The CRC Energy Efficiency Scheme (Amendment) Order 2011 (SI 2011/234) (the 2011 Order) postponed the second phase of the CRC Scheme by extending the introductory stage to March 2014 and introduced initial simplification measures. The 2013 Order (SI 2013/1119) delivered 46 proposals to streamline and simplify the CRC scheme. This Order is made under the same powers as the 2010 Order except this Order is subject to the negative procedure (under paragraph 12 of Schedule 3 to the Climate Change Act 2008) as its provisions do not contain any of the matters listed in Section 48(3) of that Act.

3.2 This instrument applies to all of the United Kingdom and is subject to negative resolution procedure.

4. Purpose and Intended Effect of the legislation

4.1 The CRC Scheme is a mandatory UK-wide emissions trading and reporting scheme introduced in April 2010, but the qualification period for the scheme started in 2008. It was designed to improve energy efficiency and drive emission reductions in public and private sector organisations through the application of financial and reputational drivers. It is divided into phases. Phase 1 ran from April 2010 to March 2014 and each phase is divided into compliance years which run from 1st April to 31st March. The next phase begins on 1st April 2014. The Environment Agency, the Scottish Environment Protection Agency, the Natural Resources Body for Wales and the Northern Ireland Chief Inspector administer the scheme.

4.2 Since the introduction of the CRC Scheme in April 2010, stakeholders have argued that it is overly complex and administratively burdensome, especially in relation to emissions regulated under the EU ETS or CCAs. They have also stated that the organisational focus of the CRC Scheme is misaligned with their operational management structures and business processes. The UK Government announced its intention to simplify the CRC scheme in the Annual Energy Statement in July 2010.

4.3 In December 2012[1], the UK Government announced its conclusions on the simplification of the CRC Scheme. The Welsh Government, together with the UK Government and other Devolved Administrations enacted these changes in May

[1] http://www.gov.uk/crc-energy-efficiency-scheme

2013 through the 2013 Order and delivered significant simplifications and consequent cost savings to CRC participants. Changes included:

- Reduction in fuels covered from 29 to 2 – electricity and gas (latter for heating purposes only);
- An organisation-wide 2% de minimis threshold for gas (for heating);
- A reduced reporting burden;
- Removal of the overlap with CCAs and EU ETS schemes; and
- 55% reduction in administrative costs equating to £275 million of savings for participants up to 2030. £61 million net present value of simplification proposals compared to existing scheme.

4.4 To finalise CRC simplification, the UK Government and the Devolved Administrations are making two further amendments in the treatment of renewable energy and energy used in metallurgical and mineralogical processes.

Treatment of renewables

4.5 In the response to its consultation on simplification of the CRC Energy Efficiency Scheme (published in December 2012), the UK Government announced it would consider how the CRC could incentivise the uptake of onsite renewable self-supplied electricity, whilst keeping the energy efficiency focus of the CRC Scheme.

4.6 In its consideration the UK Government and the Devolved Administrations have been conscious not to undermine the core principals of CRC simplification through unnecessarily increasing reporting burdens or duplicating support which is made available through the Renewable Obligation (RO) and Feed-in Tariff (FIT) schemes which are its principle mechanisms to support renewable generation across the economy as this would represent poor value for money for the taxpayer.

4.7. To this end, the UK Government and the Devolved Administrations (from April 2014; the start of the next phase of the CRC Scheme) are proposing to apply a zero emissions conversion factor (through changes to the supply rules) to onsite self-supplied renewable electricity that is eligible for but has not been surrendered to claim Renewables Obligation Certificate (ROC) or FIT scheme payments.

4.8 This will allow CRC participants to select one of the following options (but not both) for the treatment of onsite renewable self-supplied electricity. Option (a), receive revenue from the RO or FIT schemes or option (b), consume the supply (foregoing eligible RO and FIT payments) and receive a reduction in CRC financial liability, as the supply will be rated at a zero-rate emissions conversion factor and not count towards CRC allowance costs. Option (b) will apply to renewable technologies commissioned from 1st January 2008 (the start of

qualification to the CRC Scheme) and specified in section 41(5) of the Energy Act 2008, which qualify for RO and FIT payments. Only renewable electricity supplies generated after 1st April 2014 will be eligible for zero-rating under option (b), ROCs or FITs can never have been claimed for generation from the installation, and no grant from public funds can have been received for the installation.

Energy used in metallurgical and mineralogical processes

4.9 The Chancellor of the Exchequer announced in Budget 2013 that the UK Government would introduce exemptions from the CCL for energy used in metallurgical and mineralogical processes from April 2014. This aims to provide a tax relief to the most energy-intensive businesses as permitted under the Energy Tax Directive, for whom energy makes up a significant proportion of total costs, and helps ensure that UK manufacturers in these sectors remain competitive with producers in other EU member states. Draft legislation has been published by HMRC and has been consulted upon separately, but in its preparation it has come to light that former CCA holders who will no longer need to benefit from the CCL discount that the CCA provides, may become liable for CRC costs for the energy used in eligible metallurgical and mineralogical processes. Allowing this to happen would contradict the original intention of the policy to provide a relief on energy costs for these sectors.

4.10 The UK Government (with the Devolved Administrations) are therefore proposing to introduce a CRC exclusion for energy used in metallurgical and mineralogical processes through changes to the supply rules (i.e. adding a new 'supply deduction' to Schedule 1of the 2013 Order), whereby the energy used for specified metallurgical and mineralogical processes will not be considered a CRC supply for the purposes of both qualification and reporting requirements.

Other issues

4.11 The UK Government and the Devolved Administrations are proposing to amend the current drafting of the 2013 Order because it does not give force to the policy intent. These are:

- Where a landlord and tenant relationship exists and the tenant has a CCA facility or EU ETS installation the landlord who is a CRC participant will be able to exclude the supplies covered under a CCA certificate or EU ETS permit to avoid double counting of supplies regulated by more than one scheme; and
- To allow participants greater flexibility to disaggregate subsidiaries of their organisations at any point within a phase of the scheme by mutual consent i.e. agreement between the highest parent of the subsidiary group and the disaggregated participants for the disaggregation.

4.12 The opportunity has also been taken to make a number of technical amendments to the 2013 Order to make the wording of the order clearer for participants.

Guidance

4.13 The Environment Agency (also on behalf of the devolved agencies) has published detailed guidance on their website describing the obligations that organisations need to undertake to register and fulfil their obligations for the CRC Scheme. They also operate a helpdesk for participants. Current guidance is available at http://www.environmentagency.gov.uk/business/topics/pollution/146886.aspx

5. Consultation

5.1 In November 2013, the UK Government and Devolved Administrations consulted on the two proposals to finalise simplification of the CRC Scheme.

5.2 The UK Government (for and on behalf of the Devolved Administrations) received a total of 31 consultation responses, the majority of which agreed with the measures proposed. Whilst several respondents queried why the incentives offered under the RO and FIT payment schemes would be a barrier to zero-rating all onsite self-supplied renewables electricity, or using actual emissions for the technology in use, the majority of respondents accepted the position that allowances not required to be purchased would be an additional (double) benefit that would not provide additional renewables deployment or provide value for money. The overwhelming majority of respondents supported the proposal to implement the new supply deduction for energy used in metallurgical and mineralogical processes from the start of the next CRC phase in April 2014.

5.3 As a result of the broadly positive feedback on the proposed amendments, UK Government (with the agreement of the Devolved Administrations) have decided to implement the proposals as set out in the consultation document. The proposed drafting amendments that were omitted from the 2013 Order have also been well received.

6. Regulatory Impact Assessment

6.1 The overall net benefit of implementing these proposals is estimated at -£52 million (present value, based on 3.5% social discount rate) over the next 20 years. This is a relatively small loss in carbon savings that should compare to a significant reduction on direct cost to businesses that is represented by the CCL exclusion for mineralogical and metallurgical sectors that fits in to achieving the wider UK Government and the Devolved Administrations objective of reducing regulatory costs.

6.2 An Impact Assessment is attached to this memorandum and will be published alongside the Explanatory Memorandum on the UK Government website at www.gov.uk and on www.legislation.gov.uk. The Impact Assessment has been prepared with input from the Devolved Administrations.

ANNEX C

Title: Finalising CRC simplification: treatment of renewable energy & the metallurgical and mineralogical sectors **IA No: DECC0157** **Lead department or agency:** Department of Energy and Climate Change (DECC) **Other departments or agencies:** Environment/climate change departments from Scottish Government, Welsh Government and Northern Ireland Executive.	Impact Assessment (IA) **Date: 10/2/2014** **Stage:** Enactment **Source of intervention:** Domestic **Type of measure:** Secondary legislation **Contact for enquiries:** **Kiko.Moraiz@decc.gsi.gov.uk**

Summary: Intervention and Options

RPC: Not Applicable

Cost of Preferred (or more likely) Option				
Total Net Present Value	**Business Net Present Value**	**Net cost to business per year** (EANCB in 2009 prices)	**In scope of One-In, Two-Out?**	**Measure qualifies as**
[-52]	[-40]	-3	No	N/A

What is the problem under consideration? Why is government intervention necessary?

This Impact Assessment focuses on assessing two measures: a) delivering a government commitment announced in December 2012 to consider how to incentivise onsite renewable self-supplied electricity in the CRC Scheme; and b) introducing an exclusion from the CRC for energy supplied to metallurgical and mineralogical (min/met) processes in response to changes to the Climate Change Levy (CCL) announced at Budget 2013. Government intervention is necessary to ensure that the CRC Scheme is delivering the original intentions of simplification and to avoid introducing unintended CRC liabilities as a result of changes to the CCL.

What are the policy objectives and the intended effects?

The policy objectives are a) to further incentivise deployment of onsite renewable self-supplied electricity generation within the CRC population of businesses, and b) to avoid unintended consequences of the proposed exclusion of min/met processes from the Climate Change Levy.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

In respect of measure a) a number of options to incentivise onsite renewable self-supplied electricity generation within the CRC population were explored but discarded as they would duplicate support provided by other DECC policies, resulting in poor value for money and carrying state aid risks. The measure presented in this IA represents the best balance between incentives and risks.

For the min/met sectors, the CCL exclusion would result in new financial liabilities under the CRC Scheme where their eligible energy is no longer covered by a Climate Change Agreement. In order to avoid this unintended consequence the only proposed measure is to introduce an exclusion from the CRC for relevant supplies. If do nothing was chosen, then min/met businesses would face additional CRC costs.

Will the policy be reviewed? It will be reviewed. **If applicable, set review date:** 2016						
Does implementation go beyond minimum EU requirements?			**N/A**			
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	**Micro No**	**< 20 No**	**Small No**	**Medium No**	**Large Yes**	
What is the CO2 equivalent change in greenhouse gas emissions? (Million tonnes CO2 equivalent)			**Traded: [0.1]**	**Non-traded: [0.2]**		

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister: ..... Date: .....

ANNEX C

Summary: Analysis & Evidence

Policy Option 1

Description: This IA covers the impact of implementing measures to remove from the CRC Scheme, supplies from eligible renewable sources and to exclude emissions from metallurgical and mineralogical processes.

FULL ECONOMIC ASSESSMENT

Price Base Year 2012	PV Base Year 2011	Time Period Years 20	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	**High: Optional**	**Best Estimate: [-52]**

COSTS (£m)	**Total Transition** (Constant Price)	**Average Annual** (excl. Transition) (Constant Price)	**Total Cost** (Present Value)
Low	Optional	Optional	**Optional**
High	Optional	Optional	**Optional**
Best Estimate			**[-6]**

Description and scale of key monetised costs by 'main affected groups'

This option combines two measures A) incentivising onsite renewable self-supplied generation and B) excluding energy supplies for min/met processes. This option reduces administrative and capital costs to businesses by £6m as a number of participants would leave the CRC as a result of the min/met exclusion.

Other key non-monetised costs by 'main affected groups'

BENEFITS (£m)	**Total Transition** (Constant Price)	**Average Annual** (excl. Transition) (Constant Price)	**Total Benefit** (Present Value)
Low	Optional	Optional	**Optional**
High	Optional	Optional	**Optional**
Best Estimate			**[-58]**

Description and scale of key monetised benefits by 'main affected groups'

These measures would result in a reduction of energy savings attributable to the CRC Scheme and an associated reduction in emissions covered by the Scheme. The reduction of energy savings would also impact on other ancillary benefits such as air quality. The loss of benefits is driven by a reduction of £44m in energy savings, £13m in Carbon savings and £1m in Air Quality benefits. This represents a decrease of £58m in the Present Value of benefits. CRC liability benefits for CRC participants have not been accounted for in this section as they represent a net transfer between participants and government but they have been included in calculating direct costs and benefits to business.

Other key non-monetised benefits by 'main affected groups'

Key assumptions/sensitivities/risks **(%)**	**Discount rate**	3.5

ANNEX C

Evidence Base (for summary sheets)

1. This Impact Assessment (IA) follows the completion of a consultation published in December 2013 entitled 'Finalising CRC simplification: treatment of renewable energy & the metallurgical and mineralogical sector'. It reflects an assessment of the measures that Government will introduce (i.e. the preferred option) having incorporated responses received from consultees.

Problem under consideration

2. The IA focuses on two main issues:

    a. A measure to deliver the December 2012 commitment in the Government Response on simplifying the CRC Energy Efficiency Scheme, to consider how the CRC can incentivise the uptake of onsite renewable self-supplied electricity; and

    b. A measure to introduce an exclusion from the CRC for energy supplied to metallurgical and mineralogical (min/met) processes, in response to changes to the Climate Change Levy (CCL) announced at Budget 2013.

3. The December 2013 consultation also proposed amendments to legislative text to ensure the CRC Order delivered on Government policy proposals on supplies used in a third party CCA facility or EU ETS installation and organisational disaggregation in a landlord-tenant situation. These two proposals were changes that Government introduced through CRC simplification, the impacts of which have been assessed in the Simplification Final Stage Impact Assessment of December 2012 (and updated in February 2013)[2] and no additional impacts are assessed in this IA.

Rationale for intervention

4. The rationale for introducing these two measures is twofold:

Delivering the CRC simplification package – incentivising renewable self-supplied electricity

5. The CRC Simplification conclusions published in December 2012 explained that whilst the focus of the CRC is on energy efficiency, Government recognises the importance of and potential for further incentivising the growth of renewable generation under the CRC. Government therefore committed to consider how the CRC could incentivise the uptake of onsite renewable self-supplied electricity.

[2] https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/153713/CRC_Simplification_Final_Stage_Impact_Assessment_December_2012__FINAL_IA_GB_.pdf

Removing unintended CRC liabilities for metallurgical and mineralogical sectors

6. In addition, Government is introducing an energy supply exclusion from the CRC for min/met processes. This is because exclusion for these sectors from the Climate Change Levy (CCL), as announced in Budget 2013, may mean that former holders of Climate Change Agreements (which provide a discount from the CCL and exclusion from CRC) become liable for CRC costs. This is an unintended consequence of the CCL exemption. The CRC exclusion aims to protect Government's policy intention for the CCL exemption, to support the competitiveness of UK businesses that are energy intensive.

Description of options considered

Incentivising onsite renewable self-supplied electricity

7. The consideration of options for incentivising renewable energy in the CRC, was constrained by the need to take into account the scope and impact of DECC policies targeted at promoting renewable energy generation across the wider economy. In particular, the Renewable Obligation (RO) and Feed-in Tariff schemes (FIT). It is essential that any CRC approach does not lead to duplication of support which would represent poor value for money to the taxpayer.

8. Following the December 2013 consultation, Government has decided that the consumption of energy from supplies that meet the definition of self-supply renewable electricity generation will be reported against a zero emissions conversion factor, providing these supplies have not been surrendered to claim ROC or FIT payments. In effect, this means that CRC allowances will not need to be purchased for eligible renewable energy.

9. Crucially, this will apply to all eligible supplies from April 2014. Eligible supplies are those that meet the criteria for claiming ROCs or FITs, which are from installations commissioned form 1st January 2008 (the start of qualification for the CRC scheme) and which are eligible for but have **not** received payments under the Renewable Obligation and Feed-in Tariff schemes.

Excluding energy from metallurgical and mineralogical processes from the CRC

10. The Budget 2013 announcement to exclude from the CCL energy used in min/met processes aims to provide a tax relief to the most energy-intensive businesses as permitted under the Energy Tax Directive, and for whom energy makes up a significant proportion of total costs, and to help ensure that UK manufacturers in these sectors remain competitive with producers in other EU member states.

11. One consequence of the announcement is that where a CCA is withdrawn (as holders no longer need to benefit from the CCL discount that a CCA provides), former holders may become liable for CRC costs for the energy used in eligible

min/met processes. In some cases, CCA coverage will have provided for a supply deduction for min/met process energy from the CRC to date.

12. Without further measures this supply deduction would cease to apply, and min/met process energy would no longer be excluded from the CRC. Allowing this to happen would contradict the original intention of the policy to provide a relief from energy costs for these sectors. Government is therefore going to introduce an exclusion from the CRC for eligible min/met process energy to remove this liability.

13. This will be done via a new 'supply deduction' whereby the energy used for specified min/met processes will not be considered a CRC supply for the purposes of both qualification and compliance. The existing provisions for the exclusion of CCA energy is delivered in an analogous way in the current CRC Order via a 'supply deduction' in Schedule 1 paragraph 29.

14. The detailed scope intended for the min/met and CCL exclusion, and so the detail of what the CRC supply deduction will need to cover to avoid the unintended consequences, has been published in a draft legislation paper for the Finance Bill 2014[3].

Summary of consultation responses and government response

15. The Government received a total of 31 responses to the consultation, 23 from CRC participants including the private and public sectors, and 8 from non-CRC participants. The majority of consultation respondents agreed that the proposed measures would deliver the Government's policy intent for the CRC on simplification and promoting the uptake of renewable energy, and support the effective implementation of the CCL exemption for min/met processes to help protect the competiveness of UK energy intensive businesses.

16. A number of concerns were raised in relation to self-supplied onsite renewables. For instance:
    - Proposals do not go far enough and a limited amount of large generators would face a disproportionate impact;
    - Feed-in-Tariffs do not reflect the return on investment faced by CRC participants;
    - There is no clear rationale to exclude renewable generation based on the start date of the CRC Scheme.

17. Prior to the consultation, a number of options to incentivise onsite renewable self-supplied electricity generation within the CRC population were explored but discarded as they would duplicate support provided by other DECC policies, resulting in poor value for money and state aid risks. Government has decided that the measure presented in this IA represents the best balance between incentives and risks.

[3] https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/264648/Draft_clauses_and_explanatory_notes_for_Finance_Bill_2014.pdf

18. In relation to the exclusion of min/met supplies, participants asked for a proportionate approach to accounting for energy covered by a CCA, such as the Directly Associated Activities or under the 70:30 rule, that would not be eligible for the min/met supply deduction.

19. However, there is still some uncertainty in accounting for what energy would not be eligible for the min/met supply deduction that cannot be resolved until DECC and the Environment Agency announce further details on the timing and process for withdrawal of CCAs. It is envisaged that this process will take place during the course of 2014.

20. Government also received comments on the economic analysis and costs of the two measures. These related mainly to the cost impact of the CRC Scheme overall rather than the two measures assessed in this IA. Whilst some respondents questioned the assumptions employed in the economic analysis, no specific data evidence was provided that would enable the estimates presented in the consultation document to be revised.

21. In conclusion, Government acknowledges the concerns raised, but does not think they call for a revision of the estimates presented in the consultation document. The issues mentioned above are within the acceptable limits of evidence and it would not be possible to improve the assessment presented in this IA that would be proportionate in terms of cost and additional burdens on CRC participants.

Option 0 – The current CRC Scheme (Business as Usual)

22. In this IA, the Business as Usual (BAU) option reflects the current Scheme following the implementation of the simplification changes enacted in May 2013 through the CRC Energy Efficiency Order 2013 (2013 Order) and the added emissions from the min/met sector as a result of the CCL exemption announced at Budget 2013 (See para 30-36 for details of the estimated relevant min/met emissions).

23. Costs and benefits of the BAU are presented in Table 1 below. Although these are consistent with the cost benefit assessment of the simplification measures in the December 2012 IA (updated in February 2013), values in this IA have been updated to reflect new energy demand trends and policy overlaps published in DECC's most recent Updated Emissions Projections (UEP) of October 2013[4].

[4]Updated energy and emissions projections: 2013, https://www.gov.uk/government/publications/updated-energy-and-emissions-projections-2013

ANNEX C

Table 1 Net Present Value of CRC BAU updated

			Net Present Value (£m, in 2012 prices, discounted to 2011)	**Present Value of Costs (£2012m)**		**Present Value of Benefits (£2012m)**			
Option 0	Lifetime Change in TRADED INDIRECT emissions ($MtCO_2e$)	Lifetime Change in NON-TRADED emissions ($MtCO_2e$)		Capital Cost	Admin Cost	Air Quality	Energy Savings	Non-traded sector savings	*Traded sector savings*
Simplification package February 2013	*4.9*	*20.8*	*4096*	*318*	*228*	*63*	*3543*	*949*	*86*
BAU	3.8	18.7	2809	346	228	43	2419	852	68

24. Comparing this updated baseline with the assessment of the values in the Simplification IA, there is a significant reduction in energy savings which is driven by lower energy demand projections in the public and industrial sectors in the latest UEP. A lower energy demand projection has resulted in a reduction of total lifetime carbon savings in the CRC of 3.2$MtCO_2$ over the period 2011 to 2030, and a reduction in overall Net Present Value of the policy, although the policy remains net positive overall.

Option 1 - Measures to incentivise onsite renewable self-supplied electricity and exclude metallurgical and mineralogical processes (Preferred option).

25. Implementing measures to incentivise onsite renewable self-supplied electricity and excluding energy supplies from min/met processes that are eligible for the exemption from the CCL will impact on the value of the CRC via:

- A reduction in emissions covered by the CRC; and
- A reduction in the number of CRC participants

Estimated uptake of onsite self-supplied renewable generation

26. This measure provides a choice for participants between either claiming a subsidy for their renewable generation via a ROC or FIT, or reducing their CRC liability. While there is significant uncertainty associated with the uptake estimates (we have not undertaken primary research to ascertain companies' intentions), the relative value of the CRC relief when compared to existing incentives available through RO and FIT payments, suggests a small impact.

27. Some companies with existing onsite renewable generation capacity may wish to take advantage of the zero rating policy. However, the scope of this effect would be limited to generation capacity that was (a) installed after the start of the CRC (in 2008) and before the launch of FITs and the Renewables Obligation (RO);

and (b) did not take advantage of the FITs and RO qualification window (available to all such generation).

28. Therefore, estimated uptake of this measure is based on existing and new generation but, in both cases, we believe this would be relatively small based on the following considerations:

    a. **Existing generation** would only cover onsite renewable installations commissioned during the lifetime of the Scheme since 2008, the first CRC qualification year. These installations would have been eligible for RO or FIT payments but did not claim, and would therefore qualify for zero rating in the CRC. The extent of the generation captured in this category would be reported in the CRC Annual Reports within existing onsite generation from Energy Generating Credits (EGC).

    However, reporting data does not provide the relevant detail to enable us to distinguish (within EGC generation) between technologies that qualify for ROCs and FITs and those that do not. For simplicity, this IA assumes that the majority of EGCs are related to energy from waste facilities which do not qualify for ROCs (but see 'Risks and assumptions' below).

    Furthermore, we have removed all self-supply EGC from waste and water companies on the assumption that these all generate energy from waste. Table 2 below shows that 10% of self-supply EGCs in 2012-13 relates to non-waste/water companies. By excluding waste/water company supplies, the total amount of existing self-supplied generation in 2012-13 that could qualify for zero rating is 22,409 MWh (10,738 tCO2). Whilst some consultation respondents indicated that not all their energy is generated from waste, they did not provide evidence that would enable us to revise this assumption. This estimate is subject to the further assumption that existing capacity in 2012-13 would continue unchanged throughout the period 2014-15 to 2016-17.

Table 2 CRC Annual Report Data – Self Supply Electricity[5]

Reporting Year	Self-Supply EGC (MWh) from Waste/Water	Self-Supply EGC (MWh) from Non Waste/Water	Percentage of Self-Supply EGC from Non Waste/Water
2011-12	224,502	82,867	37%
2012-13	231,341	22,409	10%

[5] Environment Agency

b. **New generation** uptake is expected to be relatively small. The monetary value of zero rating CRC self-supplied onsite renewable generation is 0.76p/kWh (equivalent to £16/tCO_2[6]). This incentive is considerably lower than the support offered by FITs and ROCs, which ranges from 4.6p/kWh to 17.5p/kWh. Since ROCs and FITs pay at least five times more than CRC allowance zero rating, it is unlikely that CRC participants that qualify would choose CRC allowance zero rating over a ROC or FIT subsidy. There could be some isolated cases where participants would prefer the CRC zero rating but, in the absence of other information, we have not considered any additional uptake from new generation.

29. Overall, the total amount of take up this measure is estimated to result in and would qualify for CRC allowance zero rating is approximately 22.5 GWh or 11 $KtCO_2$.

Estimated CRC liabilities for metallurgical and mineralogical sectors

30. Estimating the impact of the measure to avoid min/met sectors falling into the CRC as a result of the CCL exclusion for min/met processes, has required us to identify emissions from two possible sources:

a) CRC emissions from min/met processes not covered by CCAs or EU ETS – these will result in a reduction of emissions covered by the CRC; and

b) CRC emissions from CCAs (as a result of the 70:30 rule or directly associated activities) that may not be covered by the min/met processes – these will result in an increase of emissions covered by the CRC.

Source (a) - Emissions not covered by CCAs or EU ETS

31. We have identified the min/met sectors that do not have CCA agreements and extracted all the CRC emissions related to these sectors from the CRC database. A draft list[7] of eligible min/met processes has been matched to SIC code classifications. The list was then matched against the corresponding SIC codes in CCAs. Finally, a number of SIC codes that do not correspond with a CCA sector were identified and are listed in Table 3 below.

32. Using data submitted by CRC participants in their annual reports for the sectors in Table 3 we estimate that the amount of CRC emissions related to organisations that fall within the min/met category and would now be excluded from the CRC, is 252$KtCO_2$. Assuming a constant level of emissions and a price of £16/tCO_2, the associated CRC allowance revenue impact would be £4m per year.

[6] This figure is expressed in real terms and is equivalent to the average of £15.60 and £16.40 announced by HMT in the Autumn Statement 2013.

[7] A final list will be confirmed by HMT for the Finance Bill after 1 April 2014.

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Table 3 Min-Met sectors with no CCA agreement

List of min/met sectors with no CCA agreement.	SIC Code
Processing of nuclear fuel	D.23.30
Manufacture of concrete products for construction purposes	D.26.61
Manufacture of ready-mixed concrete	D.26.63
Manufacture of mortars	D.26.64
Manufacture of fibre cement	D.26.65
Manufacture of other articles of concrete, plaster and cement	D.26.66
Cutting, shaping and finishing of stone	D.26.70
Production of abrasive products	D.26.81
Precious metals production	D.27.41
General mechanical engineering	D.28.52

Source (b) - CRC emissions from CCAs that may not be covered by the min/met processes

33. Eligibility for the CRC supply deduction is based on NACE codes for processes eligible for the CCL exemption published in draft legislation by HMRC in December 2013. Government is continuing to consider the list of eligible processes and is due to finalise this list in the Finance Bill 2014 after April.

34. This new 'supply deduction' would not cover 100% of the emissions covered by the relevant CCAs. Some processes currently covered by a CCA as Directly Associated Activities (DAAs) or under the 70:30 rule, may not be eligible for the min/met supply deduction and so may become liable for CRC payments where the implementation of the CCL exemption leads to a CCA withdrawal. Engagement with industry will soon be undertaken setting out the implications of CCA withdrawal.

35. However, at present, DECC has not been able to quantify the impact of this measure owing to a lack of data at the level of disaggregation necessary to distinguish between supplies from core processes, DAAs and the 70:30 rule.

36. Having considered the possible range of impacts, we believe the emissions that would fall back into the CRC Scheme would be relatively small because:

- DECC consulted with industry on the impact of this measure as part of the CCA simplification consultation. The response to the consultation indicated that only a limited amount of energy would be captured by the 70:30 rule.
- The majority of the energy captured by CCAs would also be within an EU ETS installation (given the new treatment of these installations in the CRC); and
- Given the majority of emissions would be excluded, the remaining supplies might not meet the 6000 MWh qualification threshold for CRC participation.

Quantified impacts of the preferred option

37. The impacts of the measures included in the preferred option have been assessed relative to the BAU set out above in Option 0.

38. Figures in Table 4 present the joint impact of these measures on the CRC Scheme NPV. These have been calculated by adjusting the Simplification IA of December 2012 (updated in February 2013) to the changes in emissions coverage of the Scheme identified in the previous section i.e. a reduction in the emissions covered by the CRC of 11KtCO_2 and 252KtCO_2, from onsite self-supplied renewable energy and min/met exclusions respectively. This adjustment pro rates energy, carbon savings and capital costs to the change of emissions resulting from the two measures. At the same time, the change in administration cost has been adjusted to the number of CRC participants that would fall out of the scheme as a result of min/met exclusions (note only the min/met measure reduces administration costs driven by participants leaving the Scheme).

39. Reducing the number of participants reduces the emissions covered by the CRC by 0.3MtCO_2 overall, and a £44m reduction in energy savings. Additionally, fewer participants in the Scheme also results in a small reduction of £1m in administration costs. The net impact is a reduction of £52m or 2% of the Net Present Value over the period 2011 to 2030, although the Scheme overall remains net positive. Of the £52m reduction in NPV, this IA has estimated that the majority (£40m) would be associated with a loss to Business Net Present Value. This takes into account loss of energy, capital and administrative savings[8.] Overall, these reductions are justified by providing wider policy coherence with renewables and by safeguarding the full benefits to the min/met sector from the CCL exemption.

[8] Since there is no information on capital cost and administrative cost, this IA has adjusted Business Net Present Value by a scaling factor of 77%, which corresponds to the ratio of business to total emissions in the Simplification IA (February 2013).This results in a loss to Business Net Present Value of £40m.

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Table 4 Cumulative Impact of proposals, 2011 -2030

			Net Present Value (£m, in 2012 prices, discounted to 2011)	**Present Value of Costs (£2012m)**		**Present Value of Benefits (£2012m)**			
Option	Lifetime Change in TRADED INDIRECT emissions ($MtCO_2e$)	Lifetime Change in NON-TRADED emissions ($MtCO_2e$)		Capital Cost	Admin Cost	Air Quality	Energy Savings	Non-traded sector savings	*Traded sector savings*
BAU	3.8	18.7	2809	346	228	43	2419	852	68
Option 1	3.7	18.4	2758	340	227	42	2375	841	66
Net Impact	**-0.1**	**-0.2**	**-52**	**-6**	**-1**	**-1**	**-44**	**-11**	**-2**

40. Note that the Net Present Value calculations treat the cost of allowances as a cost to business and a benefit to Government but with a neutral impact on the Net Present Value since it represents a net transfer between participants and Government[9].

Direct costs and benefits to business

41. Direct costs to business of participation in the CRC Scheme are mainly driven by the cost of allowances. Other costs to businesses such as administrative and capital expenditure costs are considered to be negligible because the impact of these measures in energy savings is minimal (about 1% of carbon savings).

42. The net cost to business calculation applies to the non-public sector only. Some of the savings in CRC allowances cost from renewables could be attributed to local authorities and other public organisations. However, given the small coverage identified, this IA assumes that this would be minimal and they have not been deducted from the overall costs.

Benefits to businesses from incentivising onsite self-supplied renewable energy

43. This impact has been estimated by converting projected electricity generation from eligible supplies into CRC allowances using currently published emissions factors[10]. Our assessment takes into account the 22,409 MWh identified above that could qualify for zero rating and assumes this capacity remains constant. On this basis, the impact associated with the existing stock of onsite generation would be £0.17 million per annum reduction in allowance liabilities for CRC participants.

[9] This in accordance with appraisal guidance from: the Green Book published by HMT; IAG guidance on carbon appraisal by DECC; and the One in Two Out evaluation guidance published by BIS.
[10] https://www.gov.uk/crc-energy-efficiency-scheme

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Benefits to businesses from the metallurgical and mineralogical exclusion

44. Table 5 shows the projected emissions that would be covered by this exclusion in each annual report from 2014-15 to 2019-2020[11], and the associated revenue impact (in real 2012 prices).

45. This impact has been estimated by:
    - Identifying all CRC emissions in the CRC report that relate to min/met processes not covered by CCAs;
    - Applying the CRC projected emissions trend for the period 2014-15 to 2019-20; and
    - Multiplying projected emissions by the relevant price of allowances.

Table 5 Reduction of CRC allowance liabilities of the min/met exclusion

Min-Met sector with no CCA agreement.	Annual Report Emissions 2010-2011	2014-2015	2015-2016	2016-2017	2017-2018	2018-2019	2019-2020
Total Emissions tCO_2	252,415	217,345	214,838	212,636	212,017	211,096	210,696
Total CRC Allowance Impact by year Real (2012) £m	2.7	3.4	3.4	3.5	3.6	3.8	3.8

Net cost to business per year

46. The net cost to business per year is a reduction of £3m (EANCB in 2009 prices)[12]. It has been estimated by aggregating benefits from renewables up to 2030 and the min/met exclusion and transforming all revenues from 2012 to 2009 prices and discounting these by the annuity rate. Although the CRC is not in scope of One In Two Out, reporting benefits to business in EANCB in 2009 prices allows for comparison with other policies.

Risks and Assumptions

Onsite self-supplied renewables

47. Estimates of renewable uptake presented in this IA are subject to considerable uncertainty because in the first two years the CRC Scheme generated some

[11] These values have been projected to 2030 to estimate the overall NPV but Table 5 only shows up to 2020.
[12] EANCB = Equivalent Annual Net Cost to Business
http://www.bis.gov.uk/assets/biscore/better-regulation/docs/o/11-671-one-in-one-out-methodology.pdf

unreliable EGC data due to the complexity of reporting. In the annual reports of 2010-11 and 2011-12, EGCs were subject to significant revisions. As a result, estimates of EGCs emissions are based in data reported for 2012-13 only.

48. In addition, this IA assumes that there are no eligible supplies from EGCs generated by waste treatment and water companies. Some consultation responses challenged this assumption, indicating that some of the generation from this sector could come from qualifying technologies. Although no evidence was submitted that would enable us to revise our estimate of onsite self-supplied renewables, this IA considers the relative impact on our results from alternative assumptions:

- 5% of the energy from these technologies that generate electricity from EGCs would qualify for the exemption
- 10% of the energy from these technologies that generate electricity from EGCs would qualify for the exemption

Table 6 Sensitivity of assumption on eligible EGCs from waste and water companies

Assumption	NPV of the CRC	Impact on Emissions covered CRC ($MtCO_2$)	Impact on Annual Revenue (£m) at £16/tCO_2
None	2758	0.01	0.17
5%	2757	0.02	0.26
10%	2752	0.02	0.35

49. Table 6 above shows the impact on the estimates presented in this IA from using alternative assumptions of eligible EGCs from waste and water companies. Although the impact on emissions doubles relative to the assumption in the IA, it is against a very low emissions impact base. There is a larger impact on revenues, double in the case of the 10% sensitivity. However, this too is set against a low base.

50. The impact of alternative assumptions is small and therefore our assumption in the preferred option is valid.

Mineralogical and metallurgical exclusion

51. The following assumptions and caveats apply to the calculation of the impacts of the min/met exclusion:

- In estimating the annual revenue impacts, it is assumed that emissions follow the CRC emissions trend.

- Reporting for the CRC is based on the SIC code of the parent organisation[13] but this does not mean that 100% of these emissions would be related to the same sector. For example, an organisation could be classified as Precious Metals Production while owning a subsidiary in the hospitality sector.
- Min/met processes do not cover total energy reported by CRC participants. As a consequence, not all the energy used by these participants would qualify for exclusion.

52. It is likely that the impact of the last two assumptions will be negligible because removing energy from energy intensive processes may well result in an organisation falling below the CRC qualification threshold.

Wider impacts

53. This IA quantifies the direct impact on businesses of the proposed simplification measures. The following impacts have been considered as having no or negligible effects:

1. Costs in employment
2. Barriers to start up and other impacts in small and medium size business
3. Competitive distortions
4. Regional distortions
5. Social impacts such us well-being, human rights and inequality

[13] Or Participant Equivalent

Constitutional and Legislative Affairs Committee Draft Report
CLA(4)-10-14

CLA380 - The CRC Energy Efficiency Scheme (Amendment) Order 2014

This joint Order between the UK Government and the Devolved Administrations makes amendments to the CRC Energy Efficiency Scheme Order 2013 ('the 2013 Order') in order to finalise simplification of a non-domestic energy efficiency scheme known as the CRC Energy Efficiency Scheme.

The UK Government and the Devolved Administrations are proposing that the consumption of energy from supplies that meet the definition of self-supplied renewable electricity will be reported against a zero emissions conversion factor, provided other Government support has not been received for the same supply.

In addition, the UK Government and the Devolved Administrations propose to introduce an exclusion from the CRC Scheme for energy used for metallurgical and mineralogical processes that are deemed eligible for an exclusion from the Climate Change Levy as announced by the Chancellor of the Exchequer in Budget 2013.

The UK Government and the Devolved Administrations have also taken the opportunity to make a number of technical amendments to the 2013 Order to make the wording of the 2013 Order clearer for participants.

Procedure: **Negative**

Technical Scrutiny

The following points are identified for reporting under Standing Order 21.2 in respect of this instrument:

1. Being a Composite Order, this Order has been made in English only.

[Standing Order 21.2(ix) – that the instrument is not made in both English and Welsh.]

Merits Scrutiny

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

Legal Advisers

Constitutional and Legislative Affairs Committee

March 2014

Government Response

The CRC Energy Efficiency Scheme (Amendment) Order 2014

This joint Order, between the UK Government and the devolved administrations, makes amendments to the CRC Energy Efficiency Scheme Order 2013 ('the 2013 Order') in order to finalise simplification of a non-domestic energy efficiency scheme known as the CRC Energy Efficiency Scheme. It is a UK wide scheme.

It provides for the consumption of energy from supplies that meet the definition of self-supplied renewable electricity to be reported against a zero emissions conversion factor, provided other Government support has not been received for the same supply. In addition, the joint Order introduces an exclusion from the CRC Energy Efficiency Scheme for energy used for metallurgical and mineralogical processes that are deemed eligible for an exclusion from the Climate Change Levy, as announced by the Chancellor of the Exchequer in Budget 2013.

The joint Order also makes a number of technical amendments to the 2013 Order to make the wording of the 2013 Order clearer for participants.

This is an Order in Council, and so has been laid in the National Assembly for Wales, both Houses of Parliament, the Scottish Parliament and the Northern Ireland Assembly. Accordingly, it is not considered reasonably practicable for this instrument to be laid, or made, bilingually.

WELSH STATUTORY INSTRUMENTS

2014 No. 566 (W. 67)

NATIONAL HEALTH SERVICE, WALES

The Emergency Ambulance Services Committee (Wales) Regulations 2014

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for the constitution and membership of the Emergency Ambulance Services Committee ("the joint committee") including its procedures and administrative arrangements. The Emergency Ambulance Services Committee (Wales) Directions 2014 which were made on 10 March 2014 provide that the seven Local Health Boards in Wales will work jointly to exercise functions relating to the planning and securing of emergency ambulance services and for the purpose of jointly exercising those functions, Local Health Boards will establish the joint committee.

Part 2 of these Regulations makes provision for —

(a) the composition and membership of the joint committee (regulation 3);

(b) the appointment of the chair and vice-chair to the joint committee (regulation 4);

(c) eligibility requirements for members of the joint committee (regulation 5 and Schedule 2); and

(d) tenure of office, termination of appointment and suspension of members of the joint committee (regulations 6 to 9).

Part 3 contains provisions in relation to the meetings and proceedings of the joint committee including the powers of the vice- chair (regulations 10 and 11).

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with these

Regulations. A copy can be obtained from the Welsh Government, Cathays Park, Cardiff, CF10 3NQ.

WELSH STATUTORY INSTRUMENTS

2014 No. 566 (W. 67)

NATIONAL HEALTH SERVICE, WALES

The Emergency Ambulance Services Committee (Wales) Regulations 2014

Made *10 March 2014*

Laid before the National Assembly for Wales *11 March 2014*

Coming into force *1 April 2014*

The Welsh Ministers in exercise of the powers conferred on them by sections 11, 12(3), 13(2)(c) and (4)(c) and 203(9) and (10) of and paragraph 4 of Schedule 2 to the National Health Service (Wales) Act 2006(**1**) make the following Regulations:

PART 1

Introduction

Title and commencement

1. The title of these Regulations is the Emergency Ambulance Services Committee (Wales) Regulations 2014 and they come into force on 1 April 2014.

Interpretation

2. In these Regulations—

"the Act" ("*y Ddeddf*") means the National Health Service (Wales) Act 2006;

"associate member" ("*aelod cyswllt*") means a person who holds any office set out in accordance with regulation 3(3);

"chief officers" (*"prif swyddogion"*) means the chief officer of each Local Health Board;

(**1**) 2006 c.42.

"host Local Health Board" (*"Bwrdd Iechyd Lleol cynhaliol"*) means Cwm Taf University Local Health Board;

"health service body" *("corff gwasanaeth iechyd")* means the National Health Service Commissioning Board, the National Institute for Health and Care Excellence, the Health and Social Care Information Centre, a clinical commissioning group, a Special Health Authority, Strategic Health Authority, Local Health Board, NHS Trust, NHS Foundation Trust or Primary Care Trust;

"the joint committee" *("y cyd-bwyllgor")* means the Emergency Ambulance Services Committee established pursuant to the Emergency Ambulance Services Committee (Wales) Directions 2014 made on 10 March 2014.

"Local Health Board" ("*Bwrdd Iechyd Lleol*") means a Local Health Board established in accordance with section 11(2) of the Act(**1**);

"member" ("*aelod*") means a member of the joint committee as set out in regulation 3;

"nominated representative" ("*cynrychiolydd enwebedig"*) means an officer member nominated by the chief officer of each of the Local Health Boards. Officer member in this context means any office set out in regulation 3(2) of the Local Health Boards (Constitution, Membership and Procedures) (Wales) Regulations 2009(**2**); and

"officer member" ("*swyddog-aelod*") means a member of the joint committee who holds any office set out in regulation 3(2).

PART 2

Membership of the joint committee

Membership of the joint committee

3.—(1) The members of the joint committee consist of —

(a) the chief officers or nominated representatives;

(**1**) Powys Teaching Local Health Board was established under the Local Health Boards (Establishment) (Wales) Order 2003 (S.I. 2003/148 (W.18)). Abertawe Bro Morgannwg University Local Health Board, Aneurin Bevan University Local Health Board, Betsi Cadwaladr University Local Health Board, Cardiff and Vale University Local Health Board, Cwm Taf University Local Health Board and Hywel Dda University Local Health Board were established under the Local Health Boards (Establishment and Dissolution) (Wales) Order 2009 (S.I. 2009/778 (W.66) as amended by S.I. 2013/2918 (W. 286)).

(**2**) S.I. 2009/779 (W.67).

(b) a chair; and

(c) the officer member employed by the host Local Health Board.

(2) The officer member for the purposes of regulation 3(1)(c) is the person employed to undertake the functions of the Chief Ambulance Services Commissioner in accordance with direction 3 of the Emergency Ambulance Services Committee (Wales) Directions 2014(**1**).

(3) In addition there will be three associate members who will be the chief executives of Velindre National Health Service Trust, the Welsh Ambulance Services National Health Service Trust and the Public Health Wales National Health Service Trust.

(4) Where a chief officer intends to nominate a representative for the purposes of regulation 3(1)(a), the nomination must be in writing addressed to the chair of the joint committee, and must specify whether the nomination is for a specific length of time.

Appointment of the chair and vice-chair

4.—(1) The chair is appointed by the Welsh Ministers.

(2) The joint committee must appoint a vice chair of the joint committee from amongst the chief officers or nominated representatives.

(3) Appointments made in accordance with paragraph (1) will be in accordance with the provisions in Schedule 1 to these Regulations.

(4) Where the joint committee appoints the vice-chair in accordance with paragraph (2) the appointment will be subject to standing orders relating to the joint committee.

(5) Where a chair is appointed in accordance with paragraph (1) regard must be had to the need to encourage diversity in the range of persons who may be appointed.

Eligibility requirements for members of the joint committee

5.—(1) Any person must fulfil the relevant requirements for eligibility in Schedule 2 to these Regulations before that person may be appointed as a chair of the joint committee and must continue to fulfil the relevant requirements while that person holds office.

(2) The officer member may only hold office on the joint committee provided he or she continues to

(**1**) 2014 (No. 8).

exercise the functions of the Chief Ambulance Services Commissioner.

(3) Any person appointed pursuant to regulation 4(2) to be a vice-chair or who is an associate member or chief officer of the joint committee will only hold office on the joint committee provided they continue to hold office as appropriate as a chief executive of a NHS Trust in Wales or a chief officer of a Local Health Board.

(4) A nominated representative of a chief officer may only hold office on the joint committee provided he or she continues to hold office as an officer member, as set out in regulation 3(2) of the Local Health Board (Constitution, Membership and Procedures) (Wales) Regulations 2009, of the chief officer's Local Health Board.

Tenure of office of chair

6.—(1) This regulation applies to any person who is appointed as chair of the joint committee.

(2) Subject to these Regulations, a chair holds and vacates office in accordance with the terms of that person's appointment.

(3) A chair may be appointed for a period of no longer than four years.

(4) Subject to paragraph (5) a chair may on the expiration of his or her term of office be re-appointed in accordance with regulation 4(1).

(5) A person may not hold office as a chair for the joint committee for a total period of more than eight years.

Tenure of office of vice-chair

7.—(1) This regulation applies to any person who is appointed as vice- chair of the joint committee.

(2) A vice-chair may be appointed for a period of no longer than two years.

(3) Subject to regulation 5(3) and paragraph (4) a vice-chair may on the expiration of his or her term of office on the joint committee be re-appointed in accordance with regulation 4(2).

(4) A person may not hold office as a vice-chair of the joint committee for a total period of more than four years.

(5) References to the tenure of office of the vice chair are to his or her appointment as a vice chair and not to his or her tenure of office as a member of the joint committee.

Termination of appointment of chair

8.—(1) The Welsh Ministers may immediately remove a chair from office if they determine that —

(a) it is not in the interests of the health service in Wales; or

(b) it is not conducive to the good management of the joint committee,

for that chair to continue to hold office.

(2) If it comes to the notice of the Welsh Ministers that a chair appointed has become ineligible under Schedule 2 to these Regulations, the Welsh Ministers may remove that chair from office.

(3) A chair appointed must immediately notify the joint committee and the Welsh Ministers if that chair becomes ineligible under Schedule 2 to these Regulations.

(4) If a chair appointed has failed to attend any meeting of the joint committee for a period of six months or more, the Welsh Ministers may remove that chair from office unless they are satisfied that —

(a) the absence was due to a reasonable cause; and

(b) the chair will be able to attend such meetings within such period as the Welsh Ministers consider reasonable.

(5) A chair may at any time resign his or her office by notice in writing to the Welsh Ministers and each Local Health Board but subject to the terms of that chair's appointment.

Suspension of chair

9.—(1) Before making a decision to remove a chair from office under regulation 8, the Welsh Ministers may suspend the tenure of office of that chair for such period as they consider reasonable.

(2) Where a chair is suspended in accordance with paragraph (1), the Welsh Ministers will immediately notify that chair and each Local Health Board in writing, stating the reasons for his or her suspension.

(3) A chair whose appointment is suspended under paragraph (1) may not perform the functions of chair.

PART 3

Meetings and proceedings of the joint committee

Meetings and proceedings

10.—(1) Each Local Health Board must agree standing orders for the regulation of the meetings and proceedings of the joint committee.

(2) The meetings and proceedings of the joint committee must be conducted in accordance with standing orders relating to the joint committee.

(3) Associate members may not vote in any meetings or proceedings of the joint committee.

Powers of vice-chair

11. Where the chair of the joint committee—

(a) has died;

(b) has ceased to hold office; or

(c) is unable to perform the duties of chair owing to illness, absence or any other cause,

the vice-chair will act as chair until a new chair is appointed or the existing chair resumes the duties of chair, as the case may be.

Mark Drakeford

Minister for Health and Social Services, one of the Welsh Ministers.

10 March 2014

SCHEDULE 1 Regulation 4(1) and 4(3)

PROCEDURES FOR APPOINTMENT OF CHAIR

1. This Schedule applies to the appointment of a chair of the joint committee.

2. The Welsh Ministers will ensure that appropriate arrangements are in place for the appointment of the chair and that those arrangements take into account —

(a) the principles from time to time laid down by the Commissioner for Public Appointments for Ministerial Appointments to Public Bodies;

(b) the requirement that the appointment be open and transparent;

(c) the requirement of fair and open competition in the appointment; and

(d) the need to ensure that successful candidates meet the relevant eligibility requirements set out in Schedule 2 to these Regulations.

SCHEDULE 2 Regulation 5(1)

ELIGIBILITY REQUIREMENTS

Eligibility requirements for chair

General requirements

1.—(1) This Schedule applies in relation to the eligibility for appointment of the chair of the joint committee.

(2) Subject to paragraphs (4), (5), (6) and (8), a person is not eligible for appointment as a chair if that person—

(a) has within the preceding five years been convicted in the United Kingdom, the Channel Islands or the Isle of Man of any offence and has received a sentence of imprisonment (whether suspended or not) for a period of not less than three months without the option of a fine;

(b) is the subject of a bankruptcy restrictions order or an interim order or has made a composition or arrangement with creditors;

(c) has been dismissed, other than by reason of redundancy, from any paid employment with a health service body;

(d) has had his or her membership as chair, member or director of a health service body other than a clinical commissioning group terminated, other than by reason of redundancy, voluntary resignation, reorganisation of the health service body, or expiry of the period of office for which that person was appointed; or

(e) has been removed from office as the chair or member of the governing body of a clinical commissioning group.

(3) For the purposes of paragraph (2)(a) the date of conviction is deemed to be the date on which the ordinary period allowed for making an appeal or application with respect to the conviction expires or, if such an appeal or application is made, the date on which the appeal or application is finally disposed of or abandoned or fails by reason of its not being prosecuted.

(4) For the purposes of paragraph (2)(c), a person is not to be treated as having been in paid employment by reason only of having held the position of member, associate member or director of a health service body other than a clinical commissioning group, or of having held the position of chair or member of the governing body of a clinical commissioning group.

(5) Where a person is ineligible by reason of paragraph (2)(b)—

(a) if the bankruptcy is annulled on the ground that the person ought not to have been adjudged bankrupt or on the ground that the person's debts have been paid in full, that person becomes eligible for appointment as a chair or officer member on the date of the annulment;

(b) if the person is discharged from bankruptcy, that person becomes eligible for appointment as a chair or officer member on the date of the discharge;

(c) if, having made a composition or arrangement with creditors, the person's debts are paid in full, that person becomes eligible for appointment as a chair or officer member on the date upon which such debts are paid in full; and

(d) having made a composition or arrangement with creditors, that person becomes eligible for appointment as a chair or officer member on the expiry of five years from the date on which the terms of the deed of composition or arrangement were fulfilled.

(6) Subject to paragraph (7), where a person is ineligible by reason of paragraph (2)(c), that person may, after the expiry of two years from the date of

dismissal, apply in writing to the Welsh Ministers to remove the ineligibility, and the Welsh Ministers may direct that the ineligibility ceases.

(7) Where the Welsh Ministers refuse an application to remove an ineligibility, no further application may be made by that person until the expiry of two years beginning with the date of the application and this paragraph applies to any subsequent application.

(8) Where a person is ineligible by reason of paragraph (2)(d), that person becomes eligible for appointment as a chair on the expiry of two years from the date of termination of membership or such longer period as may have been specified by the body which terminated the membership, but the Welsh Ministers may, on application being made in writing to them by that person, reduce the period of ineligibility.

Part 1

Explanatory Memorandum to the Emergency Ambulance Services Committee (Wales) Regulations 2014

This Explanatory Memorandum has been prepared by the Department for Health and Social Services and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation which follows the negative procedure, and in accordance with:

Standing Order 27.1

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Emergency Ambulance Services Committee (Wales) Regulations 2014. I am satisfied that the benefits outweigh any costs.

Professor Mark Drakeford AM

Minister for Health and Social Services

10 March 2014

1. Description

These Regulations make provision for the Emergency Ambulance Services Committee ("the joint Committee") , which will be responsible for commissioning emergency ambulance services for Local Health Boards in Wales. The Regulations make provision for the composition and membership of the joint Committee; appointment and eligibility of members of the joint Committee; the term of office of the members; and the suspension of and termination of the Chair of the joint Committee. The Regulations also make provision for the proceedings and administrative arrangements of the joint Committee.

2. Matters of special interest to the Constitutional and Legislative Affairs Committee

The Constitutional and Legislative Affairs Committee may be interested to note that the Minister for Health and Social Services has also made the Emergency Ambulance Services Committee (Wales) Directions 2014. These Directions direct Local Health Boards to establish the Emergency Ambulance Services Committee ("the joint Committee") to jointly exercise the functions of planning and securing the provision of emergency ambulance services for the sick and injured from 1 April 2014. The Emergency Ambulance Services Committee (Wales) Regulations 2014 are therefore necessary to make provision for the constitution and membership of the joint committee.

In addition, the Minister has also made the Welsh Health Specialised Services Committee (Wales) Amendment Directions 2014. These Directions, which come into force on 1 April 2014, take away the function of planning and securing the provision of emergency ambulance services from the Welsh Health Specialised Services Committee.

3. Legislative background

The Welsh Ministers' powers to make the Emergency Ambulance Services Committee (Wales) Regulations 2014 are found in sections 11, 12(3), 13(2)(c) and (4)(c) and 203(9) and (10) and paragraph 4 of Schedule 2 to the National Health Service (Wales) Act 2006.

These Regulations are subject to the negative procedure.

4. Purpose & intended effect of the legislation

Introduction

As stated in paragraph 2 above, the Minister has already made the Emergency Ambulance Services Committee (Wales) Directions 2014 and the Welsh Health Specialised Services Committee (Wales) Amendment Directions 2014. The combined effect of these two sets of Directions will be to remove the function of planning and securing the provision of emergency ambulance services from the Welsh Health Specialised Services Committee which deals with a large range of highly specialised but, in the main, relatively low volume commissioning and place the function with the newly created joint committee of LHBs which will be dedicated to planning and securing the provision of emergency ambulance services. The Emergency Ambulance Services Committee (Wales) Regulations 2014 provide for the composition and membership of the joint committee including its procedures and

administrative arrangements. The policy aim behind the legislative changes is to provide greater clarity with regard to the planning and commissioning of emergency ambulance services in Wales.

The Emergency Ambulance Services Committee will plan and secure the provision of emergency ambulance services in line with both the Welsh Government and NHS planning frameworks.

Background

Emergency ambulance services include responses to emergency calls via 999; GP urgent admission requests; high dependency and urgent inter-hospital transfers; and major incidents.

The *McClelland Strategic Review of Welsh Ambulance Services (2013)* clearly stated that there were 'compelling arguments for change' and that 'funding and accountability arrangements (for emergency ambulance services) must change'. The Review also recommended a change from the existing funding mechanism which was described as 'complex, opaque and time consuming' and one that does not allow the Welsh Ambulance Services NHS Trust to match aims and objectives for their delivery of emergency ambulance services to Welsh residents.

The Minister for Health and Social Services responded to the Review by announcing an intention to make the legislative changes outlined above to strengthen the arrangements for planning and securing the provision of emergency ambulance services in Wales

Purpose of Legislation

To achieve this objective, Chief Executives of Local Health Boards will be directed to establish a Committee for the purposes of undertaking the function of planning and securing the provision of emergency ambulance services on a joint basis. The joint committee will be known as the Emergency Ambulance Services Committee.

The general terms the Regulations make provision for the constitution and membership of the joint Committee including its procedures and administrative arrangements.

Part 1 of these Regulations confirms the title of the Regulations, the coming into force date of 1 April 2014 and the how various terms used in the Regulations are to be interpreted.

Part 2 makes provision for –

(a) the composition and membership of the joint Committee (regulation 3). The Regulations provide that the Committee will be comprised of:

- A Chair;
- A Vice Chair (a role that will be taken up by one of the Chief Executive Officers)
- The seven Chief Executive Officers of Local Health Boards or a representative nominated to attend the joint committee in his or her place ;

- The Chief Ambulance Services Commissioner who is employed by the LHB which hosts the joint Committee;
- The Chief Executive Officers of Public Health Wales, Velindre NHS Trust; and the Welsh Ambulance Services NHS Trust – as associate members with no voting rights.

(b) the appointment of the chair and vice chair to the joint committee (regulation 4);

(c) eligibility requirements for members of the joint committee (regulation 5 and Schedule 2) and

(d) tenure of office, termination of appointment and suspension of chair and vice chair.

Part 3 contains provisions in relation to the meetings and proceedings of the joint committee including the powers of the vice chair, regulations 10 and 11.

Intention of Legislation

The intention of the legislation is that the Emergency Ambulance Services Committee and Chief Ambulance Services Commissioner will secure and facilitate strong local partnerships that have at their heart the right level of strategic and clinical engagement, together with effective operational leverage that enables delivery and change. The intended change should also provide assurance on the strategic and operational performance and development of the Ambulance Trust and its value for money to the Welsh Government.

Further, the Emergency Ambulance Services Committee will commission emergency ambulance services *only*. This represents a distinct change from the previous arrangements where the Welsh Health Specialised Services Committee commissioned a significant number of highly specialised, and often relatively low volume services, in addition to the high volume nature of emergency ambulance services.

Ultimately, the legislation is intended to provide the individual attention that is required to secure a robust emergency ambulance service for the population of Wales.

5. Consultation

Details of consultation undertaken are included in the Regulatory Impact Assessment (RIA) overleaf.

Part 2 – Regulatory Impact Assessment

Options

Do Nothing

This would maintain the current situation. The Welsh Health Specialised Services Committee will remain responsible for commissioning emergency ambulance services.

The *McClelland Strategic Review of Welsh Ambulance Services (2013)* clearly stated that there were 'compelling arguments for change' based on stakeholder engagement, focus groups, literary reviews and analysis of previous reviews of the ambulance service. The Review also stated that 'funding and accountability arrangements (for emergency ambulance services) must change'.

The Welsh Health Specialised Services Committee commissions a significant number of highly specialised, and often relatively low volume services, in addition to the high volume nature of emergency ambulance services.

Maintaining the current regulatory situation would not achieve the policy objective or public expectation of making funding and accountability a simpler and more transparent process, nor increase Local Health Board ownership for the provision of emergency ambulance services.

Make the Emergency Ambulance Services Committee (Wales) Regulations 2014; the Emergency Ambulance Services Committee (Wales) Directions 2014 and the Welsh Health Specialised Services Committee (Wales) (Amendment) Directions 2014.

This option is to make the legislation outlined above which includes the Emergency Ambulance Services Committee (Wales) Regulations 2014 which will have the combined effect of providing greater clarity with regard to the planning and commissioning of emergency ambulance services in Wales.

This package of legislation (including the Regulations) are intended to secure and facilitate strong local partnerships through a national joint Committee, that have at their heart the right level of strategic and clinical engagement, together with effective operational leverage that enables delivery and change.

The intended change should also provide assurance on the strategic and operational performance and development of the ambulance Trust and its value for money to the Welsh Government, via both the focussed Committee arrangement and the introduction of the Chief Ambulance Services Committee.

Ultimately, the legislation is intended to provide the focussed attention that is required to secure a robust emergency ambulance service for the population of Wales.

For these reasons, this approach is the preferred option for addressing the policy objectives of making funding and accountability a simpler and more transparent process, and increasing Local Health Board ownership of the provision of emergency ambulance services.

Costs & benefits

Do Nothing

Existing costs associated with the running of the Welsh Health Specialised Services Committee, including an annual salary for a Chair would continue to apply if the current arrangements are maintained or not.

Continuing to use the Welsh Health Specialised Services Committee to commission emergency ambulance services would result in ongoing adherence to funding arrangements described as 'complex, opaque and time consuming' in the McClelland *Strategic Review of Welsh Ambulance Services* (2013), at a potential cost to Welsh residents.

Make the Emergency Ambulance Services Committee (Wales) Regulations 2014; the Emergency Ambulance Services Committee (Wales) Directions 2014 and the Welsh Health Specialised Services Committee (Wales) (Amendment) Directions 2014.

The changes brought about by the new legislation will generate new costs in an annual salary for the Chief Ambulance Services Commissioner. NHS Wales representatives have not determined the pay band for the Commissioner although it is not likely to exceed £150,000, including costs of support staff.

The appointment of a Commissioner has the potential to reduce ongoing costs by increasing focus on the strategic and operational development of the Ambulance Trust, creating organisational efficiencies and increasing value for money to the Welsh Government. The Commissioner will be accountable for ensuring compliance with the commissioning framework and performance standards. The appointment is intended to:

- Eliminate complexity and delays in agreements between Local Health Boards and the Ambulance Trust;
- Provide clarity in respect of expectations of the Ambulance Trust as a delivery organisation and their compliance with agreed specifications; and
- Ensure Local Health Boards are accountable for commissioning and funding to meet required standards locally and nationally.

There will be an additional cost in the form of a nominal annual payment for the Chair of the Emergency Ambulance Services Committee based on 26 days a year at £249 a day which will be funded by Local Health Boards. Given the benefits associated with appointing a Chair who will represent a senior, identifiable figure who is directly accountable to Welsh Ministers for the performance of the Emergency Ambulance Services Committee, this is a small part of the annual NHS Wales budget.

The Committee will be hosted by Cwm Taf University Health Board and utilise the experience and skills of existing staff to support the administration of the Committee.

Summary for chosen option

Making the Emergency Ambulance Services Committee (Wales) Regulations 2014, the Emergency Ambulance Services Committee (Wales) Directions 2014 and the Welsh Health Specialised Services Committee (Wales) (Amendment) Directions 2014 is the only approach that meets the policy objectives of making funding and accountability a simpler and more transparent process, and increasing Local Health Board ownership of the provision of emergency ambulance services.

Further, the estimated costs associated with establishing this Committee represent an extremely small proportion of the annual revenue budget of the Health and Social Services Directorate (less than 0.001%).

Consultation

The public consultation on making provision for the Emergency Ambulance Services Committee (Wales) Regulations 2014, the Emergency Ambulance Services Committee (Wales) Directions 2014 and the Welsh Health Specialised Services Committee (Wales) (Amendment) Directions 2014 (referred to as "Public consultation on legislative changes affecting ambulance services in Wales") ran from 19 December 2013 to 13 February 2014.

In total, 62 responses were received. Not all responses addressed every question asked in the consultation, and the analysis reflects this.

18 of the responses were submitted by individuals, and the rest were submitted on behalf of organisations. All consultation responses are available to be viewed, but identifying information (such as names and addresses) has been removed where requested by respondents.

A more detailed analysis of consultation responses is included at:
http://wales.gov.uk/consultations/healthsocialcare/ambulance/?lang=en

All bodies affected by the proposed Regulations (including Public Health Wales, Velindre NHS Trust, Welsh Ambulance Services NHS Trust, Local Health Boards and Community Health Councils) were notified by letter of the consultation, and were offered meetings and phone calls with officials to discuss any issues or concerns that they might have.

These organisations were consulted in order to understand the views of organisations affected by the proposed Regulations. Community Health Councils were consulted to encourage a greater number of responses on the proposed changes from members of the public.

Officials met with the Welsh Ambulance Services NHS Trust on several occasions to discuss the proposed changes to regulations and to explore the impact of making these changes on their organisation.

No amendments were made to the legislation as a result of the consultation, although some changes of a technical nature (which do not affect the policy consulted upon) were made when the Regulations were undergoing final checking procedures.

All views will be considered while formulating future Welsh Government policies on ambulance services.

Competition Assessment

A Competition Assessment was not required.

Equality Assessment

A DRAFT Equality Impact Assessment is attached at Doc 5. We are continuing to build on the EIA with a view to publishing it by 14 March 2014.

Post implementation review

Officials will monitor the Emergency Ambulance Services Committee's performance in terms of its planning and commissioning of emergency ambulance services, and the ambulance Trust's performance against national and local standards.

Constitutional and Legislative Affairs Committee Draft Report

CLA382 The Emergency Ambulance Services committee (Wales) Regulations 2014

Procedure: Negative

In accordance with the Emergency Ambulance Services Committee (Wales) Directions 2014 ("the 2014 Directions"), Local Health Boards are to establish, by way of a joint committee, an Emergency Ambulance Services Committee ("the Joint Committee").

These Regulations make provision for composition, membership and proceedings of the Joint Committee which will be responsible for commissioning emergency ambulance services for Local Health Boards in Wales.

The Minister for Health and Social Services has also made the Welsh Health Specialised Services Committee (Wales) (Amendment) Directions 2014. The combined effect of these directions and the 2014 Directions is to remove the functions of planning and securing the provision of emergency ambulance services from the Welsh Health Specialised Services Committee and to place it with the Joint Committee.

Technical Scrutiny

Pursuant to Standing Order 21.2.(v) (form or meaning requires further explanation) and (vii) (inconsistencies between the meaning of the its English and Welsh texts) the Assembly is invited to pay attention to these Regulations.

- Schedule 2 to the Regulations makes provision as to the eligibility of a person to be appointed as Chair of the Joint committee.

- Paragraph 1(5) makes reference to instances where a person's ineligibility no longer applies. This paragraph makes reference to appointment as "chair or officer member".

- Clarification is sought as to whether the references to "officer member" are correct given that regulation 5(1) which introduces Schedule 2 refers only to eligibility for appointment as chair.

- Schedule 2 paragraph 1(5)(b) states:-

  "if the person is discharged from bankruptcy, that person becomes eligible for appointment as a ***chair or officer member*** *on the date of the discharge";*

- The Welsh text of paragraph 1(5)(b) refers to a person's eligibility to be appointed as **a member** on the date of discharge.

Merits Scrutiny

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

Legal Advisers
Constitutional and Legislative Affairs committee

17 March 2014

STATUTORY INSTRUMENT CONSENT MEMORANDUM

THE PUBLIC BODIES (ABOLITION OF THE ADVISORY COMMITTEE ON VALUATION OF IMPROVEMENTS AND TENANT-RIGHT MATTERS) ORDER 2014

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 ("the Assembly") if a UK Statutory Instrument makes provision, in relation to Wales, amending primary legislation within the legislative competence of the Assembly.

2. The Public Bodies (Abolition of the Advisory Committee on Valuation of Improvements and Tenant-Right Matters) Order 2014 ("the Order") was laid before Parliament on 6 February 2014 and before the Assembly on 7 February 2014.

3. In accordance with section 9(6) of the Public Bodies Act 2011, Assembly consent is required to make the Order. Section 9(6) of the Public Bodies Act 2011 requires the consent of the Assembly in circumstances where an Order made under sections 1 to 5 of that Act makes provision which would be within the legislative competence of the Assembly if it were contained in an Act of the Assembly.

Summary of the Order and its objective

4. The objective of the Order is to abolish the Committee on Agricultural Valuation ("the CAV"). The CAV is the name by which the advisory committee on valuation of improvements and tenant-right matters, established by section 92 of the Agricultural Holdings Act 1986, is known. The CAV is included under Schedule 1 of the Public Bodies Act 2011 which provides for its abolition.

5. The CAV was established to advise on end of agricultural tenancy compensation in England and Wales, including the method for the purpose of calculating valuation of tenancy holdings. There have been no appointments to the CAV for over twenty years and the Committee has been effectively dormant since 1991. Advice on tenancy matters is provided to the Welsh Ministers by the Tenancy Reform Industry Group (TRIG) which is a non-statutory body. The abolition of CAV as a statutory non-departmental public body is an outcome of the UK Government's 2010 review of the structure of public bodies.

6. The Public Bodies (Abolition of the Advisory Committee on Valuation of Improvements and Tenant-Right Matters) Order 2014 abolishes the CAV. It repeals section 92 of the Agricultural Holdings Act 1986 which established the committee and also makes minor consequential repeals.

7. The order extends to England and Wales.

Provision to be made by the Order for which consent is sought

8. The Order laid by the UK Parliament amends Primary Legislation, namely the Agricultural Holdings Act 1986. Article 2 of the Order abolishes the CAV, established by section 92 of the Agricultural Holdings Act 1986. Article 3 repeals section 92 of the Agricultural Holdings Act 1986 and also repeals the reference to the entry in schedule 1 to the Public Bodies Act 2011 relating to the CAV. The main subject matter of the Agricultural Holdings Act 1986 is agriculture. Further, the provisions of the 2014 Order clearly "relate to" Agriculture given they abolish a committee whose functions were to advise on agricultural tenancy matters and which was established pursuant to an Act, the primary subject area of which is agriculture.

9. Section 107(4) of the Government of Wales Act 2006 (GoWA) permits the Assembly to "make laws... known as Acts of the National Assembly for Wales". Section 108(4) of GoWA 2006 provides that an Act of the Assembly is within its legislative competence if it "relates to" one or more of the subjects listed under any of the headings in Part 1 of Schedule 7 (subject to exceptions and restrictions). "Agriculture" is one of those subjects and as such, the Assembly would be able to pass legislation containing the necessary provisions abolishing the CAV and repealing the necessary section of the Agricultural Holdings Act 1986 of its own volition, in relation to Wales, as it has legislative competence in this area.

10. It is the view of the Welsh Government that the provisions described in paragraph 8 above fall within the legislative competence of the Assembly in so far as they relate to Agriculture listed under paragraph 1 of Part 1, Schedule 7 to GoWA.

Why is it appropriate for the Order to make this provision

11. The Welsh Government considers that it is appropriate to use a single legislative vehicle to deal with the abolition of the CAV. As the CAV is an England and Wales body the most efficient way for it to be abolished in both countries at the same time will be through a single order. Whilst the Welsh Government and the Assembly have the requisite powers to effect the abolition in Wales, the use of the Order to effect the abolition in both England and Wales appears to represent the most practicable and proportionate method to take this forward.

12. The abolition of the CAV will not have any practical effect on the process for advising on end of agricultural tenancy compensation and valuation of agricultural tenancy holdings in Wales. The CAV is considered to be an obsolete public body as it has not met , or had any members appointed to it, for over twenty years. In effect, the functions of CAV in Wales are now carried out by TRIG a non-statutory organisation.

13. TRIG was originally set up to make recommendations to Ministers for tenancy reform and its work culminated in the changes to tenancy legislation which came into force in 2006. However, TRIG continues to meet on an ad hoc basis to provide advice on tenancy related matters. TRIG comprises of industry representatives and professional bodies, such as the National Farmers Union, Tenant Farmers Association and Country Land and Business Association.

14. A joint UK and Welsh Government public consultation on the abolition of the CAV was conducted by the Department for Environment, Food and Rural Affairs on an England and Wales basis between 16 September and 7 October 2013. In total 5 responses were received with all respondents agreeing to the proposal to abolish the CAV.

Financial implications

15. There are no financial implications arising form the abolition of the CAV. The CAV has no staff or members and the abolition is merely an administrative step to reduce the number of existing redundant public bodies.

Alun Davies AM
Minister for Natural Resources and Food
February 2014

Draft Order laid before Parliament under section 11 of the Public Bodies Act 2011, for approval by resolution of each House of Parliament after the expiry of the 40-day period referred to in section 11(4) of that Act.

DRAFT STATUTORY INSTRUMENTS

2014 No. XXX

PUBLIC BODIES

LANDLORD AND TENANT, ENGLAND AND WALES

The Public Bodies (Abolition of the Committee on Agricultural Valuation) Order 2014

Made - - - - ***

Coming into force in accordance with article 1

The Secretary of State, in exercise of the powers conferred by sections 1(1), 6(1) and (5) and 35(2) of the Public Bodies Act 2011(**a**) ("the Act") makes this Order.

In accordance with section 8 of the Act, the Secretary of State considers that this Order—

(a) serves the purpose of improving the exercise of public functions, having had regard to the factors set out in section 8(1); and

(b) does not remove any necessary protection or prevent any person from continuing to exercise any right or freedom which that person might reasonably expect to continue to exercise.

In accordance with section 9(6) of the Act, the National Assembly for Wales consents to the making of this Order.

The Secretary of State has consulted in accordance with section 10 of the Act.

A draft of this Order, and an explanatory document containing the information required by section 11(2) of the Act, have been laid before Parliament in accordance with section 11(1) after the end of the period of twelve weeks mentioned in section 11(3).

In accordance with section 11(4) of the Act, a draft of this Order has been approved by a resolution of each House of Parliament after the expiry of the 40-day period referred to in that provision.

(**a**) 2011 c. 24.

Citation, commencement and extent

1.—(1) This Order may be cited as the Public Bodies (Abolition of the Committee on Agricultural Valuation) Order 2014.

(2) This Order comes into force on the day after the day on which it is made, except as provided by paragraph (3).

(3) Article 3(3) of this Order comes into force two days after the day on which this Order is made.

(4) This Order extends to England and Wales except as provided by paragraph (5).

(5) The repeals made by article 3 have the same extent as the provisions to which they relate.

Abolition of advisory committee on valuation of improvements and tenant-right matters

2. The committee appointed under section 92 of the Agricultural Holdings Act 1986(**a**) is abolished.

Repeals

3.—(1) Section 92 of the Agricultural Holdings Act 1986 (advisory committee on valuation of improvements and tenant-right matters) is repealed.

(2) In Schedule 1 to the Freedom of Information Act 2000(**b**), in the list in Part 6 (bodies that are public authorities for the purposes of the Act), the entry relating to the Committee on Agricultural Valuation is repealed.

(3) In Schedule 1 to the Public Bodies Act 2011 (power to abolish: bodies and offices), the entry relating to the Committee on Agricultural Valuation is repealed.

Name
Parliamentary Under Secretary of State
Date Department for Environment, Food and Rural Affairs

EXPLANATORY NOTE

(This note is not part of the Order)

This Order abolishes the advisory committee on valuation of improvements and tenant-right matters (known as the Committee on Agricultural Valuation) established under section 92 of the Agricultural Holdings Act 1986 (c.5). It repeals that section and makes other related repeals.

An impact assessment has not been prepared for this Order as its effects are unlikely to impact on businesses, civil society or regulatory matters. There is no impact on staff, nor do the effects impose a cost on the public sector, but neither do they result in any savings for the public sector.

(**a**) 1986 c. 5.
(**b**) 2000 c. 36.

EXPLANATORY DOCUMENT TO

THE PUBLIC BODIES (ABOLITION OF THE COMMITTEE on AGRICULTURAL VALUATION) ORDER 2014

2014 No. [XXXX]

1. This explanatory document has been prepared by the Department for Environment, Food and Rural Affairs and is laid before Parliament under section 11(1) of the Public Bodies Act 2011.

2. Purpose of the instrument

2.1 To abolish the Advisory Committee on Valuation of Improvements and Tenant-Right Matters, otherwise known as the Committee on Agricultural Valuation (CAV) as part of the Government's public body reform programme

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

4. Legislative Context

4.1 The Government is proposing to use the powers in the Public Bodies Act 2011 (Act) to abolish the Committee.

4.2 The CAV was originally established under section 79 of the Agricultural Holdings Act 1948, and upon repeal of that Act continued in existence by virtue of section 92 of the Agricultural Holdings Act 1986 "the 1986 Act")

4.3 The function of the CAV is to advise Ministers about provisions to be included in regulations on the amount of compensation for improvements and tenant-right matters to be paid to tenants at the end of an agricultural tenancy in England and Wales.

4.4 In July 2010, Caroline Spelman, the then Secretary of State for Defra announced proposals to reform a number of public bodies, which included the abolition of the CAV.

4.5 The CAV has not met for over twenty years. Since 2003 advice to Ministers on tenancy matters, including end of tenancy compensation has been provided by the Tenancy Reform Industry Group (TRIG). This is an informal, non-statutory body comprising representatives of the main industry organisations and professional bodies, which meets on an ad hoc basis as

necessary. TRIG has an independent Chair, who is paid a fee by Defra; otherwise Defra does not contribute funding.

4.6 The Order is being made to abolish the Advisory Committee on Valuation of Improvements and Tenant-Right Matters and to repeal its functions under section 92 of the Agricultural Holdings Act 1986.

4.7 The Minister for the Cabinet Office announced the outcome of the Public Bodies Bill Review on 14 October 2010, which included the proposal to abolish the CAV. The Public Bodies Review examined whether a body's functions are needed and, if they are, whether the body should continue to operate at arm's length from Government. This decision was based upon three tests:

- Does it perform a technical function?
- Do its activities require political impartiality?
- Does it need to act independently to establish facts?

4.8 The Department applied these three Cabinet Office tests to determine whether it is right that the CAV functions should continue and if they should be delivered by a public body. Ministers decided that the CAV met one of the tests as it performs a technical function, but that it is not necessary for the CAV to be retained as a standalone public body in order to carry out its functions. Therefore Ministers concluded the CAV should be abolished.

5. Territorial Extent and Application

5. 1 The Order extends to England and Wales except in so far as related repeals have the same extent as the provisions to which they relate.

6. European Convention on Human Rights

6. 1 George Eustice, Parliamentary Under Secretary of State for the Department for Environment, Food and Rural Affairs, has made the following statement regarding Human Rights:

> "In my view the provisions of the Advisory Committee on Valuation of Improvements and Tenant-Right Matters (Abolition) Order 2013 are compatible with the Convention Rights."

7. Policy background

7.1 The Agricultural Holdings Act 1986 provides that tenants are entitled to the payment of compensation by the landlord on the termination of the

tenancy or quitting the holding for improvements carried out on the holding or for tenant-right matters. The sole function of the CAV is to advise Ministers as to the provisions to be included in regulations regarding the amount of compensation under section 66(2) of the 1986 Act. There is no requirement in the legislation for the Minister to be bound by the advice of the Committee when making regulations. However he does have a duty under section 92 to establish a Committee to advise him on such regulations.

7.2 Section 66(2) provides that compensation payable under the Agricultural Holdings Act 1986 for improvements specified in Part I, or tenant-right matters specified in Part II of Schedule 8 to the Act shall be the value to an incoming tenant calculated in accordance with such method, if any, as may be prescribed.

7. 3 Part I of Schedule 8 to the 1986 Act sets out categories of short-term improvements in respect of which tenants are entitled to compensation on quitting an agricultural holding. Improvements in Part I of the Schedule include:

- mole drainage,
- protection of fruit trees against animals,
- application of manure and fertiliser to the land.

Parties are able to take into account any benefits to the tenant for carrying out improvements specified in Part I of Schedule 8 agreed in writing between the tenant and landlord.

7.4 Part II of Schedule 8 deals with tenant-right matters in respect of which a departing tenant has the right to compensation. Tenant-right is the term used to express the right of a tenant to take or receive the benefit of labour and capital extended by the tenant in cleaning, tilling and sowing the land during the tenancy, which would otherwise be lost on termination of the tenancy. The tenant-right matters in Part II of Schedule 8 include:

- crops and produce grown on the holding which the tenant does not have the right to sell or remove,
- seeds sown and cultivated at the expense of the tenant, pasture laid down with clover, grass, Lucerne, sainfoin or other seeds,
- acclimatisation and settlement of hill sheep).

Parties are able to provide an alternative measure of compensation for any matter failing within Part II of Schedule 8 by specifying it in a written tenancy agreement.

7. 5 The regulations currently in force are the Agriculture (Calculation of Value for Compensation) Regulations 1978 ("the 1978 Regulations"). These were last amended in 1983.

7. 6 Under section 92(1) of the 1986 Act the Minister, now the Secretary of State and the Welsh Ministers shall appoint to the Committee of Agricultural Valuation such number of persons with such qualifications as the Minister thinks expedient, including persons with experience in land agency, farming, estate management and the valuation of tenant-right.

7.7 Prior to 1990 we understand that the usual membership of the Committee was a Chairman and 12 members supported by two technical advisers and an administrative secretary. Members were appointed in a personal capacity for their relevant experience. A Committee was appointed for a fixed term, usually three years, and breaks sometimes occurred between the termination of one Committee and the appointment of the next. The last appointments were made to the Twelfth Committee in 1990 and its term formally expired in February 1993.

7. 8 No members have been appointed or Committees formed since 1993 and the last meeting was held in 1991. The Committee is regarded as having "withered on the vine". Advice to Ministers on agricultural tenancy matters is now provided on a non-statutory basis by the Tenancy Reform Industry Group (TRIG) which meets as and when needed. This is chaired by an independent Chair, Julian Sayers (a member of the Royal Institution of Chartered Surveyors (RICS)) and comprises representatives, of the National Farmers Union, Tenant Farmers Association, Country Land and Business Association, Farmers Union of Wales, National Federation of Young Farmers Clubs, Association of Chief Estate Surveyors in Local Government, RICS, Central Association of Agricultural Valuers and Agricultural Law Association.

7.9 The CAV effectively ceased to exist over 20 years ago. Its role has now been taken over by an existing non-statutory organisation, and therefore it is no longer necessary to retain legislative provision for the Committee. Its abolition is a deregulatory measure and will not impact on business or generate any savings. The Public Bodies Act (PBA) 2011 is seen as an appropriate and effective vehicle for abolishing the CAV.

7.10 Welsh Ministers are in agreement that the CAV should be abolished and the consent of the National Assembly is being sought.

8. Compliance with section 8(1) of the Public Bodies Act 2011

8.1 Section 8 of the PBA 2011 states that a Minister may make an order under the PBA 2011 only where it is considered that the order serves the purpose of improving the exercise of public functions, having regard to efficiency, effectiveness, economy and securing appropriate accountability to Ministers. The Minister considers that this Order serves the purpose of improving the exercise of public functions in section 8(1) of the 2011 Act, having regard to efficiency, effectiveness, economy and securing appropriate accountability to Ministers. Ministers have reviewed the proposed abolition of the CAV and are satisfied that it would serve the purpose of improving the exercise of public functions having regard to:

8.2 **Efficiency -** The proposal to abolish the Committee on Agricultural Valuation is driven by a desire to remove a non-departmental public body which is effectively moribund and whose functions could be carried out by a non-statutory group, the Tenancy Reform Industry Group (TRIG).

8.3 **Effectiveness -** As stated previously the CAV has not existed as a functioning body for more than 20 years. Advice on agricultural tenancy matters is now provided by TRIG.

8.4 **Economy** – There is no budget allocated for the CAV. Its abolition will not result in any savings to the Government but it will help to tidy up the existing public body landscape. CAV does not have any employees, no pension liabilities, nor does it receive any funding or have any assets. The functions of the CAV are now carried out by TRIG, an informal, non-statutory body, which has been meeting on ad hoc basis since 2003. TRIG has not been set up as a consequence of the proposal to abolish the CAV. While the Chairman of TRIG is fee paid, this is not a new cost resulting from abolition of the CAV.

8.5 **Securing appropriate accountability to Ministers-** Abolition of the CAV does not create any issues of accountability given that the body is no longer operational. TRIG will continue to provide advice on tenancy matters, including end of tenancy compensation, but it is a non-statutory body and accountability for legislation on end of tenancy compensation remains with the Minister.

9. Compliance with section 8 (2) of the Public Bodies Act 2011

9.1 The Minister considers that -

a) The Order does not remove any necessary protection

The abolition of the CAV will not alter any of the existing protection given to tenants under the Agricultural Holdings Act 1986 to claim compensation for improvements and tenant-right matters at the end of a tenancy.

b) The Order does not prevent any person from continuing to exercise any right or freedom which that person might reasonably expect to continue to exercise

The abolition of the CAV will not prevent parties to tenancies under the Agricultural Holdings Act 1986 from continuing to exercise any right or freedom which they might reasonably expect to continue to exercise. Tenants will still be able to claim compensation for improvements and tenant-right matters at the end of a tenancy.

10. Interest in the Houses of Parliament

10.1 There was no significant discussion of the Committee on Agricultural Valuation during the passage of the Public Bodies Act**.**

11. Consultation outcome

11.1 Defra and the Welsh Government published a joint consultation paper on the proposed abolition of the Committee on Agricultural Valuation on 16 September 2013

11.2 The consultation was made available via an online survey and twenty-six stakeholders, including individuals, industry bodies, professional practioners and landowning interests were sent a copy of the consultation document by e-mail and invited to comment on the proposals. The consultation paper was also made available on the Government website at:

https://www.gov.uk/government/consultations/abolition-of-the-committee-on-agricultural-valuation.

The consultation exercise closed on 7 October 2013 by which time a total of five responses had been received.

11.3 The consultation document asked three questions:

- Do you agree with the Government's proposal to abolish the CAV?
- If you do not agree with the proposal, what are your reasons for this?
- Are there any other comments you wish Ministers to consider before they take a final decision?

11.4 Of the five responses received, four were from industry bodies, including TRIG, and one from an individual. All agreed with the proposal to abolish the CAV. However the four industry bodies expressed a view that the abolition of the CAV should be delayed until amendments to the Agriculture (Calculation of Value for Compensation) Regulations 1978 have been implemented.

11.5. A summary of the responses is set out in the table below:

Organisation	**Do you agree with the Government proposal to abolish the CAV?**	**If you do not agree with the abolition of the CAV, what are your reasons for this?**	**Are there any other comments you wish Ministers to consider before they take a decision?**
Tenant Farmers Association	Yes	No response	The abolition of the CAV should follow the enactment of the amended Agriculture (Calculation Value for Compensation) Regulations agreed by the Tenancy Reform Industry Group. These regulations have been with Ministers for some time and need urgent attention to enact them in order to provide the correct framework for end of tenancy compensation matters. The TFA would support the abolition of the CAV without first enacting the amended regulations.
Individual response	Yes	No response	The CAV makes the economy less competitive in the agricultural area
Central Association of Agricultural	Yes	No response	The abolition of the CAV should not take effect until new Regulations are enacted to replace the Agriculture (Calculation of Value for Compensation) Regulations as proposed by the Tenancy Reform Industry Group

NFU	Yes	No response	The NFU would like the Government to look at and consider the amendment put forward last year by the Tenancy Reform Industry Group to the Agriculture (Calculation of Value for Compensation) Regulations.
Chairman of the Tenancy Reform Industry Group (TRIG)	Yes	No response	TRIG supports the abolition of the Committee on Agricultural Valuation providing the Group's proposed amendments to the Agricultural (Calculation of Value for Compensation) Regulations are enacted.

11.6 The response to the joint consultation from the UK Government and the Welsh Government was published on the Government website on 11 December at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/264158/cav-consult-gov-response-20131211.pdf

11. 7 The response explained that as part of both Governments' commitment to remove red tape and burdens from businesses, much wider reform of agricultural tenancy legislation was being considered. Amendment of the Agriculture (Calculation of Value for Compensation) Regulations would be considered as part of that overall package. The CAV was effectively a defunct body and the Governments did not wish to delay its abolition until the wider reform of tenancy legislation had been completed. Therefore the UK Government proposed to lay an Order before Parliament to abolish the CAV at an early opportunity. As well as publishing the response on the Government website, George Eustice, the Parliamentary Under Secretary for Defra also wrote to Julian Sayers, Chairman of TRIG, to inform him of the intention to abolish the CAV.

12. Guidance

None.

13. Impact

13.1 The Order has no impact on business, charities or voluntary bodies and does not impose any new costs, administrative burdens or information obligations.

14. Regulating small business

14.1 The legislation does not apply to small business.

15. Monitoring and review

15.1 Defra will continue to monitor the arrangement whereby advice on tenancy matters, including regarding provision for end of tenancy compensation, is provided by TRIG, to ensure it remains fit for purpose.

16. Contact

16.1 Judith Marsden at the Department for Environment, Food and Rural Affairs (Tel: 020 7238 5748 or email: judith.marsden@defra.gsi.gov.uk) can answer any queries regarding the instrument.

16.2 Copies of all responses to the public consultation exercise can be seen at, or obtained from, Judith Marsden Area 3A, Nobel House (Telephone 020-7238-5748, email Judith.marsden@defra.gsi.gov.uk).

16.3 Copies of the responses will also be made available to the Environment, Food and Rural Affairs Select Committee and the Merits of Statutory Instruments Committee of the House of Lords.

Copy to Gareth

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26 February 2014

David Melding AM
National Assembly for Wales
Cardiff Bay
Cardiff
CF99 1NA

Dear David,

Commission Work Programme 2014

I am writing to you to thank you for the contributions your Committee made to the EU Committee's thinking on the Commission Work Programme here in the House of Lords.

It was tremendously useful to have the view of the National Assembly for Wales in informing our response to the Commission, which I attach for your information.

I look forward to seeing you at the next European Chairs UK meeting, and in the meantime, please do get in touch if you are visiting London and in a position to meet with myself and other members of the EU Select Committee.

Yours,

Tim.

Lord Boswell
Chairman of the European Union Committee

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Mr José Manuel Barroso
President of the European Commission
Rue de la Loi 200,
1040 Bruxelles,
BELGIUM

3 February 2014

Dear President,

Commission Work Programme for 2014

I am writing in response to the Commission Work Programme for 2014.

2014 will clearly be an unusual year, with elections for the European Parliament in 2014, and the appointment of a new Commission later in the year. Nonetheless, the Commission's Communication, and the accompanying lists of priority current proposals; key new initiatives; work connected with REFIT; legislation to be withdrawn; and legislation coming into force in 2014, will be of use in helping to organise our work over the coming year.

The broad priorities identified by the Commission in the communication, on economic and monetary union; growth; justice and security; and external affairs; seem appropriate. As ever the key will, of course, be the content of the actual initiatives taken forward over the coming year.

The Committee has already examined the major current initiatives in Annex I under our scrutiny procedures. We have also produced detailed reports on some of them, including the Financial Transaction Tax. We will continue to engage as appropriate with these initiatives as negotiations on them continue.

The Committee will also scrutinise carefully the new initiatives listed in Annex II, and any others that may emerge, both for their compliance with the principle of subsidiarity and for their policy merits.

Each of our six subject specialist Sub-Committees has considered the Work Programme, and we make the following detailed comments on the key items listed in the Annexes. In some cases we are already seeking further information from, and engaging directly with, the

relevant Commissioner. We ask three questions in this letter (in italics); two on economic and financial affairs, and one on food. We would be grateful for timely answers, as part of the political dialogue between National Parliaments and the Commission.

Economic and financial affairs
(Sub-Committee on Economic and Financial Affairs)

Of the six proposals relating to economic and financial policy listed as "priority items for adoption", the Committee has published reports on two of them (MiFID II and the FTT), is shortly to publish a report on another (Single Resolution Mechanism), and has conducted detailed scrutiny of the other three (Recovery and Resolution Directive, Deposit Guarantee Schemes and Long-Term Investment Funds). We broadly agree that these should all be priority items for adoption, although, given the significant issues that remain outstanding, this will be a particular challenge in relation to the Single Resolution Mechanism. The Committee will set out its views on the proposal in its report on Genuine Economic and Monetary Union, to be published in February. This report will also focus on the most prominent gap in the programme, the Commission's proposals for a Single Deposit Insurance Mechanism.

The exception to our general support for the Commission's programme in economic and financial affairs is the commitment to agreement on the Financial Transaction Tax being taken forward by 11 Member States under enhanced cooperation. In our March 2012 report, and in the follow-up report published in December 2013, the Committee expressed deep concern about the Commission's proposals, in particular given the likely significant impact on non-participating Member States, including the UK.

We note that the Commission's introduction and analysis of the key challenges for 2014 also offers glimpses of the priorities of the next Commission, including:

1. "exploratory work ... to prepare the decisions of the next Commission, in particular in terms of elaborating on the path towards a deep and genuine Economic and Monetary Union";
2. The continued "overhaul of financial regulation and supervision with work in areas such as the structural reform of banks, shadow banking and long-term financing"; and
3. "efforts to ensure a sound and efficient fiscal platform for public finances, as well as explor[ing] how the design and implementation of tax policy can better support the EU economy".

We would be interested if you could provide us with further details as to what the Commission has in mind in each of these three areas. With regard to the second of these, we note that the Commission has now published its proposals for structural reform of the EU banking sector. What is the Commission seeking to achieve through these proposals? What is the timetable for their implementation? How would you respond to suggestions that the Commission has watered down the proposals original set out by the Liikanen Group on structural reform of the EU Banking Sector? What will be the implications for the UK in light of the significant reforms being introduced in the UK through the Financial Services (Banking Reform) Bill?

Finally, although we agree that the steps taken since the outbreak of the financial crisis are not insignificant, the Commission is right to acknowledge both that the challenges remaining are formidable and that there is no room for complacency. The economic and financial crisis

is far from over, and in contemplating its future work programme, the Commission must ensure that it takes every step necessary to ensure the future economic health not only of the eurozone but of the EU as a whole.

Employment
(Sub-Committee on Internal Market, Infrastructure and Employment)

The Committee believes that tackling youth unemployment should be a key priority for the Commission in its remaining time in office. The Committee is currently conducting an inquiry into this topic, and considers it to be one of, if not the most, important issue facing the EU at present.

Labour mobility
(Sub-Committee on Internal Market, Infrastructure and Employment)

The Committee conducted enhanced scrutiny on the Commission's draft Directive reaffirming the rights of EU migrant workers to live and work freely in the EU and for barriers to their free movement to be removed. The Committee was interested to see that a labour mobility package is proposed, and will examine these measures with interest.

REFIT
(Sub-Committee on Internal Market, Infrastructure and Employment)

The Committee supports the initiatives proposed in the Communication as part of REFIT, which it hopes will help bolster the EU's competitiveness, especially by removing 'red-tape' for SMEs.

The Committee also notes with interest the REFIT proposal to align the Common Fisheries Policy's technical measures Regulation with the reformed Common Fisheries Policy. This is clearly impotant in order to ensure that the regulatory framework and industry are prepared for the discard ban as it is gradually introduced from 2015.

The Committee is examining in further the detail of the proposed 'fast track' process.

External affairs
(Sub-Committee on External Affairs)

While the Eastern Partnership has suffered a setback with both Armenia and Ukraine declining to sign partnership agreements, closer integration with neighbouring countries must remain a priority in external affairs. On Ukraine, the Committee considers that some sectoral and technical matters should be rescued from the Association Agreement and that cooperation should continue. The Committee considers that the EU should undertake a sober and strategic reassessment of its policies in the eastern neighbourhood, while continuing to deepen its trade, economic and cultural relations with the Eastern Partnership countries and playing an active role in encouraging reform.

The Committee agreed with the Commission that the ongoing crisis in Syria "has again underlined the crucial contribution of the EU to tackling crises" and that more EU action is needed. The Committee suggests that Syria should be the key development priority in 2014

and that the Commission should also consider how the EU might assist in formulating a long-term reconstruction plan for the country.

Trade
(Sub-Committee on External Affairs)

The Committee is currently conducting an inquiry into the Transatlantic Trade and Investment Partnership (TTIP), and feels strongly that, while these matters deserve careful consideration, the momentum of negotiations should not be avoidably disrupted.

Agriculture and food
(Sub-Committee on Agriculture, Fisheries, Environment and Energy)

Much of the content in this area is expected. *However the anticipated Sustainable Food Communication is an obvious omission. When will this be available?*

Energy
(Sub-Committee on Agriculture, Fisheries, Environment and Energy)

Among the various items highlighted in the Work Programme, the Committee will take a particular interest in the Energy and Climate Framework for 2030, given its pertinence to the Committee's report on energy policy, published in May 2013. The shale gas framework and the work on the internal energy market are also relevant and of interest in that context.

Future Justice and Home Affairs programme
(Sub-Committees on Home Affairs, Health and Education; and Justice, Institutions and Consumer Protection)

The expected Commission Communication on the future of the EU justice policy and a new European agenda for home affairs will be of direct relevance to the Committee's current inquiry into this subject, and will receive close consideration.

Justice and equality
(Sub-Committee on Justice, Institutions and Consumer Protection; Sub-Committee on Internal Market; Infrastructure and Employment)

Reasoned Opinions submitted by national parliaments (including this House) on the proposal for a European Public Prosecutor's Office, asserting breach of the principle of subsidiarity, were sufficient to require the Commission to review its proposal (a "yellow card"). You will understand this Committee's dissatisfaction with the Commission's swiftly announced intention to maintain the proposal unchanged, despite the triggering of the yellow card and the serious concerns raised by national parliaments about the proposal. The Committee will pursue further the Commission's inappropriate response to the Yellow Card on the EPPO, and also intends to undertake an inquiry into the proposal itself.

The Committee will consider carefully the proposed initiatives on tackling the gender pay gap; EU accession to the ECHR; OLAF reform; and on the rule of law in the EU.

Home affairs
(Sub-Committee on Home Affairs, Health and Education)

The Committee will continue to engage with the current proposals on ensuring a high common level of network and information security; on data protection; and tobacco products.

On major new initiatives, the Committee will examine carefully the Communication suggesting to Member States how to develop new tools to counter or prevent violent forms of extremism, and suggesting revision to the EU Strategy on radicalisation and recruitment.

I am copying this letter to the Rt Hon David Lidington MP, Minister for Europe; Bill Cash MP, Chairman of the European Scrutiny Committee of the House of Commons; and Martin Schulz, President of the European Parliament.

Lord Boswell
Chairman of the European Union Committee