

# Constitutional and Legislative Affairs Committee

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Meeting Venue:  
**Committee Room 2 – Senedd**

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Meeting date:  
**11 January 2016**

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Meeting time:  
**14.30**

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Cynulliad  
Cenedlaethol  
Cymru

National  
Assembly for  
Wales



For further information please contact:

**Gareth Williams**  
Committee Clerk  
0300 200 6565

[SeneddCLA@Assembly.Wales](mailto:SeneddCLA@Assembly.Wales)

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## Agenda

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

**2 Instruments that raise no reporting issues under Standing Order 21.2 or 21.3**

**CLA(4)-01-16 – Paper 1 – Statutory instruments with clear reports**

Negative Resolution Instruments

**CLA624 –The Environmental Damage (Prevention and Remediation) (Wales) (Amendment) (No.2) Regulations 2015**

Negative procedure: Date made: 24 November 2015; Date laid: 27 November 2015;

Coming into force date: 18 December 2015

**CLA633 –The Agricultural Holdings (Units of Production) (Wales) (No. 3) Order 2015**

Negative procedure; Date made: 2 December 2015; Date laid: 8 December 2015;

Coming into force date: 30 December 2015

**CLA634 –The Fire and Rescue Services (National Framework) (Wales) (Revision) (No. 2) Order 2015**

Negative procedure; Date made: 8 December 2015; Date laid: 9 December 2015;  
Coming into force date: 1 January 2016

**CLA635 –The Sheep and Goats (Records, Identification and Movement) (Wales) Order 2015**

Negative procedure; Date made: 8 December 2015; Date laid: 11 December 2015;  
Coming into force in accordance with article 1(3)

**CLA636 –The Nitrate Pollution Prevention (Wales) (Amendment) Regulations 2015**

Negative procedure; Date made: 11 December 2015; Date laid: 14 December 2015;  
Coming into force date: 8 January 2016

**CLA639 – The Council Tax (Exceptions to Higher Amounts) (Wales) Regulations 2015**

Negative procedure: Date made: 21 December 2015; Date laid: 22 December 2015;  
Coming into force date: 31 January 2016

**CLA640 – The Specified Crustaceans (Prohibition on Fishing, Landing, Sale and Carriage) (Wales) Order 2015**

Negative procedure: Date made: 23 December 2015; Date laid: 30 December 2015;  
Coming into force date: 1 February 2016

Affirmative Resolution Instruments

**CLA622 –The Education Workforce Council (Registration Fees) (Wales) Regulations 2016**

Affirmative procedure: Date made: Not Stated; Date laid: Not stated; Coming into force date: 1 February 2016 except as provided for in regulation 1(1)

**CLA626 –The Council Tax Reduction Schemes (Prescribed Requirements and Default Scheme) (Wales) (Amendment) Regulations 2016**

Affirmative procedure: Date made: Not stated; Date laid: Not stated; Coming into force in accordance with regulation 1(2)

**CLA627 –The Town and Country Planning (Fees for Applications, Deemed Applications and Site Visits) (Wales) (Amendment) Regulations 2016**

Affirmative procedure: Date made: Not stated; Date laid: Not stated; Coming into force date: 16 March 2016

**CLA628 –The Developments of National Significance (Fees) (Wales) Regulations 2016**

Affirmative procedure; Date made: Not stated; Date laid: Not stated; Coming into force date: 1 March 2016

**CLA629 –The Developments of National Significance (Specified Criteria and Prescribed Secondary Consents) (Wales) Regulations 2016**

Affirmative procedure; Date made: Not stated; Date laid: Not stated; Coming into force date: 1 March 2016

**CLA630 –The Child Minding and Day Care Exceptions (Wales) (Amendment) Order 2016**

Affirmative procedure: Date made: Not stated; Date laid: Not stated: Coming into force date: 1 April 2016

**CLA631 – The Regulation of Child Minding and Day Care (Wales) Order 2016**

Affirmative procedure: Date made: Not stated; Date laid: Not stated: Coming into force date: 1 April 2016

**CLA632 –The Reservoirs Act 1975 (Exemptions, Appeals and Inspections) (Wales) Regulations 2016**

Affirmative procedure; Date made: Not stated; Date laid: Not stated; Coming into force in accordance with regulation 1(2)

**CLA638 – The Welsh Language Standards (No.2) Regulations 2016**

Affirmative procedure: Date made: Not stated; Date laid: Not stated; Coming into

force date: 16 February 2016

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

#### Negative Resolution Instruments

**CLA623 –The Fire and Rescue Services (National Framework) (Wales) (Revision) Order 2015** (Pages 1 – 14)

Negative procedure; Date made: 23 November 2015; Date laid: 24 November 2015 2015; Coming into force date: 1 January 2016

**CLA(4)–01–16 – Paper 2 – Report**

**CLA(4)–01–16 – Paper 3 – Order**

**CLA(4)–01–16 – Paper 4 – Explanatory Memorandum**

**CLA625 –The Non-Domestic Rating Contributions (Wales) (Amendment) Regulations 2015** (Pages 15 – 21)

Negative procedure: Date made: 11 November 2015; Date laid: 30 November 2015; Coming into force date: 31 December 2015

**CLA(4)–01–16 – Paper 5 – Report**

**CLA(4)–01–16 – Paper 6 – Regulations**

**CLA(4)–01–16 – Paper 7 – Explanatory Memorandum**

#### Affirmative Resolution Instruments

**CLA637 – The Welsh Language (Wales) Measure 2011 (Amendment of Schedule 6) Order 2016** (Pages 22 – 46)

Affirmative procedure; Date made: Not stated; Date laid: Not stated: Coming into force date: 15 February 2016

**CLA(4)–01–16 – Paper 8 – Report**

**CLA(4)–01–16 – Paper 9 – Order**

**CLA(4)–01–16 – Paper 10 – Explanatory Memorandum**

**Papers to note** (Pages 47 – 81)

**CLA(4)-01-16 – Paper 11** – Government Response: Making Laws in Wales

**CLA(4)-01-16 – Paper 12** – Letter from the Secretary of State for Wales to the Chair of the Health and Social Care Committee: Draft Wales Bill

**CLA(4)-01-16 – Paper 13** – Letter from the Secretary of State for Wales to the Chair of the Enterprise and Business Committee: Draft Wales Bill

**CLA(4)-01-16 – Paper 14** – Supplementary evidence from Huw Williams, Geldards LLP: Draft Wales Bill

**CLA(4)-01-16 – Paper 15** – Letter from Philip Rycroft Head of UK Governance Group

**CLA(4)-01-16 – Paper 16** – Letter from the House of Lords European Union Committee to President Juncker: EU Commission Work Programme 2016

**CLA(4)-01-16 – Paper 17** – House of Commons Public Administration and Constitutional Affairs Committee Consultation on Inter-institutional relations in UK

**CLA(4)-01-16 – Paper 18** – Letter from Chair to the Chair of the Welsh Affairs Select Committee

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

(ix) any matter relating to the internal business of the committee, or of the Assembly, is to be discussed

#### **Clerk's Update**

No paper

# National Assembly for Wales

## Constitutional and Legislative Affairs Committee

### Statutory Instruments with Clear Reports

11 January 2016

## Agenda Item 2

### CLA624 -The Environmental Damage (Prevention and Remediation) (Wales) (Amendment) (No.2) Regulations 2015

Procedure: Negative

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These Regulations amend the Environmental Damage (Prevention and Remediation) (Wales) Regulations 2009 (SI 2009/995 as amended) which continue to implement Directive 2004/35/EC of the European Parliament and of the Council on environmental liability with regard to the prevention and remedying of environmental damage. Further, these Regulations make only technical amendments to update legislative references.

### CLA633 -The Agricultural Holdings (Units of Production) (Wales) (No. 3) Order 2015

Procedure: Negative

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This Order prescribes units of production for the assessment of the productive capacity of agricultural land situated in Wales. It also sets out the amount which is to be regarded as the net annual income from each such unit for the year 12 September 2015 to 11 September 2016 for certain purposes of the Agricultural Holdings Act 1986

### CLA634 -The Fire and Rescue Services (National Framework) (Wales) (Revision) (No. 2) Order 2015

Procedure: Negative

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This Order revokes the Fire and Rescue Services (National Framework) (Wales) (Revision) Order 2015 (S.I. 2015/1931 (W. 289)) and re-enacts its provisions in order to correct an error which was identified in the original Order.

Section 21 of the Fire and Rescue Services Act 2004 ("the Act") requires the Welsh Ministers to prepare a Fire and Rescue National Framework, which must set out priorities and objectives for fire and rescue authorities in Wales and which may provide guidance to fire and rescue authorities in connection with



the discharge of any of their functions. Fire and rescue authorities must have regard to the framework in carrying out their functions.

Article 3 of this Order substitutes the Fire and Rescue National Framework for Wales 2016 (“the Framework”) for the Fire and Rescue National Framework for Wales 2012.

## CLA635 -The Sheep and Goats (Records, Identification and Movement) (Wales) Order 2015

### Procedure: Negative

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This Order revokes and replaces the Sheep and Goats (Records, Identification and Movement) (Wales) Order 2009 (S.I. 2009/3364 (W. 296)). It makes provision for the administration and enforcement in Wales of Council Regulation (EC) No. 21/2004 (establishing a system for the identification and registration of ovine and caprine animals and amending Regulation (EC) No.1782/2003 and Directives 92/102/EEC and 64/432/EEC).

## CLA636 -The Nitrate Pollution Prevention (Wales) (Amendment) Regulations 2015

### Procedure: Negative

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This instrument amends the Nitrate Pollution Prevention (Wales) Regulations 2013 and the Conservation of Habitats and Species Regulations 2010.

The instrument implements, in Wales, Commission Decision (2013/781/EU) (“the Decision”). The Decision grants a derogation from Council Directive 91/676/EEC concerning the protection of waters against pollution caused by nitrates from agricultural sources (“the Nitrates Directive”), in relation to the maximum amount of nitrogen from livestock manure that can be applied on individual farms in Nitrate Vulnerable Zones, providing certain conditions are met.



# CLA639 - The Council Tax (Exceptions to Higher Amounts) (Wales) Regulations 2015

## Procedure: Negative

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These Regulations are made under Sections 12A (4) and (5) and 12B (5) and (6) of the Local Government Finance Act 1992. Further, these Regulations prescribe the classes of dwelling in relation to which a billing authority may not make a determination to apply a higher amount of council tax on long-term empty homes and/or second homes.

# CLA640 - The Specified Crustaceans (Prohibition on Fishing, Landing, Sale and Carriage) (Wales) Order 2015

## Procedure: Negative

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This Order makes provision regarding fishing for, landing, sale, exposure or offer for sale, possession for the purposes of sale and carriage of specified crustaceans in Wales and the Welsh zone.

This Order revokes, replaces and remakes with amendments the provisions of:

- the Undersized Crabs Order 1986 (S.I. 1986/497),
- the Undersized Velvet Crabs Order 1989 (S.I. 1989/919),
- the Undersized Crabs (Variation) Order 1989 (S.I. 1989/2443),
- the Undersized Lobsters Order 1993 (S.I. 1993/1178),
- the Lobster and Crawfish (Prohibition of Fishing and Landing) Order 2000 (S.I. 2000/874),
- the Lobster and Crawfish (Prohibition of Fishing and Landing) (Wales) Order 2002 (S.I. 2002/676 (W. 73)) and
- the Undersized Spider Crabs (Wales) Order 2002 (S.I. 2002/1897 (W. 198)).

Paragraphs 7-9 of the Explanatory Memorandum explain the exemptions for foreign fishing boats.



# CLA622 -The Education Workforce Council (Registration Fees) (Wales) Regulations 2016

## Procedure: Affirmative

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These Regulations prescribe the fee payable in connection with registration in the register established and maintained by the Education Workforce Council from 1 April 2016 and revoke the Education Workforce Council (Registration Fees) (Wales) Regulations 2015.

# CLA626 -The Council Tax Reduction Schemes (Prescribed Requirements and Default Scheme) (Wales) (Amendment) Regulations 2016

## Procedure: Affirmative

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These regulations amend the Council Tax Reduction Schemes Requirements (Wales) Regulations 2013 and the Council Tax Reduction Schemes (Default Scheme) (Wales) Regulations 2013 with effect from 1 April 2016 in relation to the calculation of a person's entitlement to a reduction under the Council Tax Reduction Scheme and to the subsequent level of reduction.

# CLA627 -The Town and Country Planning (Fees for Applications, Deemed Applications and Site Visits) (Wales) (Amendment) Regulations 2016

## Procedure: Affirmative

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These Regulations amend the Town and Country Planning (Fees for Applications, Deemed Applications and Site Visits) (Wales) Regulations 2015 ("the 2015 Regulations").

Regulation 2 makes provision for fees payable in respect of requests for pre-application services made to local planning authorities().

Regulation 3 makes minor amendments to regulations 8(3), 9(3) and 15 of the 2015 Regulations in relation to applications for approval of reserved matters. These amendments are consequential to amendments to be made to articles 22 and 23 of the Town and Country Planning (Development Management Procedure) (Wales) Order 2012 by the Town and Country Planning (Development Management Procedure) (Wales) (Amendment) Order 2016.

Regulation 4 provides for reduced fees to be payable for applications under section 73 of the Town and Country Planning Act 1990 when an earlier application under section 96A(4) of that Act has been refused, partially refused or not determined within the relevant period. Regulation 5 makes provision for



fees payable in respect of amendments to applications for major development submitted before the local planning authority has determined the application.

## CLA628 -The Developments of National Significance (Fees) (Wales) Regulations 2016

### Procedure: Affirmative

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These Regulations provide for the payment of fees in respect of—

- pre-application services provided by the Welsh Ministers and local planning authorities under the Developments of National Significance (Wales) Regulations 2016 (regulations 3 and 4);
- notifications of proposed applications under section 62D of the Town and Country Planning Act 1990 (“the 1990 Act”) (regulation 5);
- applications under section 62D of the 1990 Act, including fees for local impact reports required in relation to such applications by section 62I of the 1990 Act (regulations 6 to 12).

They also prescribe the circumstances in which—

- part of initial fees paid to the Welsh Ministers in respect of applications under section 62D of the 1990 Act are refunded (regulation 7); and
- fees paid to the Welsh Ministers for local impact reports are remitted to local planning authorities or refunded to applicants (regulations 8 and 9).

## CLA629 -The Developments of National Significance (Specified Criteria and Prescribed Secondary Consents) (Wales) Regulations 2016

### Procedure: Affirmative

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These Regulations specify the criteria for development which is of national significance for the purposes of section 62D of the Town and Country Planning Act 1990 (“the 1990 Act”).

Regulation 3 specifies the types of development which could be of national significance: generating stations; underground gas storage facilities; facilities for liquid natural gas; gas reception facilities; airports; railways; rail freight interchanges; dams and reservoirs; transfer of water resources; waste water treatment plants and hazardous waste facilities.



Regulations 4-14 set out the applicable criteria in relation to each type of development. These Regulations also prescribe consents for the purposes of the 1990 Act and make consequential amendments. The prescribed consents are “secondary consents” for the purposes of sections 62E to 62G of that Act (regulation 15 and Schedule 1).

The effect of being prescribed by these Regulations is that the consent can be considered by the Welsh Ministers alongside an application made to them for planning permission for development of national significance.

## CLA630 -The Child Minding and Day Care Exceptions (Wales) (Amendment) Order 2016

### Procedure: Affirmative

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This Order made under section 19(4) of the Children and Families (Wales) Measure 2010 (‘the Measure 2010’) amends the Child Minding and Day Care Exceptions (Wales) Order 2010 (SI 2010/2839).

The Order extends the circumstances in which a person whose activity would otherwise fall within the definition of “child minding” or “day care for children” is excepted from it and who is therefore, not required to register under Part 2 of the Measure 2010.

## CLA631 - The Regulation of Child Minding and Day Care (Wales) Order 2016

### Procedure: Affirmative

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This Order amends section 19(4) of the Children and Families (Wales) Measure 2010 to extend the registration requirement to persons who act as a child minder or a day care provider for children under the age of 12.

This Order also makes transitional provision to:

- ensure that existing registered providers are automatically treated on and after 1 April 2016 as registered to care for children under the age of twelve;
- allow the Welsh Ministers until 31 August 2016 to determine variation application received before the 1 April 2016 from registered providers.



# CLA632 -The Reservoirs Act 1975 (Exemptions, Appeals and Inspections) (Wales) Regulations 2016

## Procedure: Affirmative

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For the purposes of the Reservoirs Act 1975, these Regulations provide for:

- specified things (such as certain mines, lagoons and canals) not to be treated as large raised reservoirs
- a right of appeal against designations of large raised reservoirs as high-risk reservoirs
- a right of appeal against notices given by the Natural Resources Body for Wales either to appoint an engineer or to carry a recommendation of an engineer into effect
- the timings of reservoir inspections

# CLA638 - The Welsh Language Standards (No.2) Regulations 2016

## Procedure: Affirmative

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The Welsh Language (Wales) Measure 2011 (“the Measure”) makes provision for the specification of standards of conduct in relation to the Welsh language (“standards”). These replace the system of Welsh language schemes provided for by the Welsh Language Act 1993.

Section 26 of the Measure enables the Welsh Ministers to specify standards, and section 39 enables them to provide that a standard is specifically applicable to a person by authorising the Welsh Language Commissioner (“the Commissioner”) to give a notice to that person requiring compliance with the standard (a “compliance notice”).

These Regulations specify standards in relation to the conduct of 32 bodies listed in Schedule 6 to the Regulations (which are referred to in the Regulations as “bodies”). The Regulations also authorise (subject to certain exceptions set out in regulation 3(2)) the Commissioner to give a compliance notice to those bodies, in relation to standards specified by the Regulations. |



# Agenda Item 3.1

## National Assembly for Wales Constitutional and Legislative Affairs Committee

### CLA623 - The Fire and Rescue Services (National Framework) (Wales) (Revision) Order 2015

#### Procedure:

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Negative

#### Background

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Section 21 of the Fire and Rescue Services Act 2004 requires the Welsh Ministers to prepare a Fire and Rescue National Framework, which must set out priorities and objectives for fire and rescue authorities in Wales. It may also provide guidance to fire and rescue authorities in connection with the discharge of any of their functions. Fire and rescue authorities must have regard to the framework in carrying out their functions.

Article 2 of this Order substitutes the Fire and Rescue National Framework for Wales 2016 (“the Framework”) for the Fire and Rescue National Framework for Wales 2012.

#### Technical Scrutiny

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

The Order was made on the 23rd November 2015, but purported to give effect to a document that was not then in existence – the new Framework to be published on the 25th November.

[Defective drafting – Standing Order 21.2(vi)]

#### Merits Scrutiny

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

#### Government Response

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The Government accepts the technical point identified by the Legal Adviser to the Constitutional and Legislative Affairs Committee in his draft Report. An Order correcting the error was made on 8 December 2015 and laid on 9 December 2015, with a coming into force date of 1 January 2016.

**Legal Advisers**  
**Constitutional and Legislative Affairs Committee**  
**01 December 2015**



Cynulliad  
Cenedlaethol  
Cymru

National  
Assembly for  
Wales

**2015 No. 1931 (W. 289)**

**FIRE AND RESCUE  
SERVICES, WALES**

**The Fire and Rescue Services  
(National Framework) (Wales)  
(Revision) Order 2015**

**EXPLANATORY NOTE**

*(This note is not part of the Order)*

Section 21 of the Fire and Rescue Services Act 2004 (“the Act”) requires the Welsh Ministers to prepare a Fire and Rescue National Framework, which must set out priorities and objectives for fire and rescue authorities in Wales and which may provide guidance to fire and rescue authorities in connection with the discharge of any of their functions. Fire and rescue authorities must have regard to the framework in carrying out their functions.

Article 2 of this Order substitutes the Fire and Rescue National Framework for Wales 2016 (“the Framework”) for the Fire and Rescue National Framework for Wales 2012.

The principal differences are that the Framework sets revised priorities for fire and rescue authorities under six key objectives. Those objectives are that fire and rescue authorities should—

- (1) continually and sustainably reduce risk and enhance the safety of citizens and communities;
- (2) respond swiftly and effectively to incidents;
- (3) be clearly and publicly accountable for delivery and funding, manifesting the highest standards of governance;
- (4) maintain downward pressure on costs and take all opportunities to realise efficiencies;
- (5) work effectively with partners to improve efficiency and citizen and community well-being;

(6) value and develop the workforce to the highest standards.

The Framework has effect from 1 January 2016 and has an open-ended duration. Copies of the Framework may be obtained from Fire Services Branch, Welsh Government, Rhyd y Car, Merthyr Tydfil, CF48 1UZ. It was published on the Welsh Government website: [www.wales.gov.uk](http://www.wales.gov.uk) on 25 November 2015.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to this Order. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with this Order. A copy can be obtained from the Fire Services Branch, Welsh Government, Rhydycar, Merthyr Tydfil, CF48 1UZ or by calling 0300 062 8226.

**2015 No. 1931 (W. 289)**

**FIRE AND RESCUE  
SERVICES, WALES**

The Fire and Rescue Services  
(National Framework) (Wales)  
(Revision) Order 2015

*Made* 23 November 2015

*Laid before the National Assembly for Wales*  
24 November 2015

*Coming into force* 1 January 2016

The Welsh Ministers make this Order in exercise of the powers conferred on the National Assembly for Wales by sections 21(6) and 62 of the Fire and Rescue Services Act 2004<sup>(1)</sup> and now vested in them.

In accordance with section 21(5) of that Act the Welsh Ministers have consulted fire and rescue authorities or persons considered to represent them, persons considered to represent employees of fire and rescue authorities and such other persons they considered appropriate.

**Title, commencement and application**

1.—(1) The title of this Order is the Fire and Rescue Services (National Framework) (Wales) (Revision) Order 2015 and it comes into force on 1 January 2016.

(2) This Order applies in relation to Wales.

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(1) 2004 c. 21. The functions under section 21 of the Fire and Rescue Services Act 2004 are now vested in the Welsh Ministers so far as they are exercisable in relation to Wales. They were previously vested in the National Assembly for Wales by section 62 of the Fire and Rescue Services Act 2004. By virtue of paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c. 32), they were transferred to the Welsh Ministers.

## **The Fire and Rescue National Framework**

2. The Fire and Rescue National Framework prepared by the Welsh Ministers and entitled “The Fire and Rescue National Framework for Wales 2016” published by the Welsh Ministers on 25 November 2015 has effect as a revision, which appears to the Welsh Ministers to be significant, of the Fire and Rescue National Framework for Wales 2012<sup>(1)</sup>.

*Leighton Andrews*

Minister for Public Services, one of the Welsh Ministers

23 November 2015

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(1) S.I. 2012/934 (W. 120).

## **Explanatory Memorandum to the Fire and Rescue Services (National Framework) (Wales) (Revision) Order 2015**

This Explanatory Memorandum has been prepared by the Education and Public Services Group 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 Fire and Rescue Services (National Framework) (Wales) (Revision) Order 2015. I am satisfied that the benefits outweigh any costs.

**Leighton Andrews**  
**Minister for Public Services**  
**23 November 2015**

## **1. Description**

The Fire and Rescue Services (National Framework) (Wales) (Revision) Order 2015 (“the Order”) brings into effect a revision of the Fire and Rescue National Framework for Wales 2012. The Framework sets priorities and objectives and provides guidance for Fire and Rescue Authorities (FRAs) in Wales. FRAs must have regard to the Framework in carrying out their functions.

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

No matters of special interest.

## **3. Legislative background**

The Order is made in exercise of the powers conferred on the Welsh Ministers by sections 21(6) and 62 of the Fire and Rescue Services Act 2004. Section 21 imposes an obligation on Welsh Ministers to prepare and review a Fire and Rescue National Framework. The Framework must set out priorities and objectives for FRAs and may contain guidance to FRAs in connection with the discharge of their functions; and it may contain other matters relating to FRAs or their functions as the Welsh Ministers consider appropriate. The Welsh Ministers must keep the Framework under review.

In respect of FRAs in Wales, the functions of the Secretary of State in the Act were originally conferred on the National Assembly for Wales under section 62 of the Act. Those functions were transferred to the Welsh Ministers by paragraph 30 of Schedule 11 to the Government of Wales Act 2006.

## **4. Purpose & Intended effect of the legislation**

The Order brings into effect the Fire and Rescue National Framework for Wales 2016, which has effect as a revision of the Fire and Rescue National Framework 2012. The revised Framework sets priorities and objectives for, and gives guidance to, Fire and Rescue Authorities in Wales from 2016 onwards. The Framework applies to all three Fire and Rescue Authorities in Wales.

It is intended that the Order will come into force on 1 January 2016.

## **5. Consultation**

The Welsh Government consulted on the draft revised Framework from 16 July 2015 for 12 weeks. Please refer to the Regulatory Impact Assessment consultation paragraph below for further information.

As the Order merely brings the Framework into effect, there has been no further or separate consultation on its terms.

## **REGULATORY IMPACT ASSESSMENT**

### **6. Options**

#### **Option 1: Do Nothing**

Welsh Ministers are required by Section 21 of the Fire and Rescue Services Act 2004 to prepare a Fire and Rescue National Framework for Wales. The Framework may contain guidance for FRAs in connection with the discharge of their functions. The Framework must also set out the priorities and objectives for FRAs which are connected to the discharge of their functions. It may also contain other matters relating to FRAs or their functions as the Welsh Ministers consider appropriate. The Fire and Rescue Services Act 2004 requires Welsh Ministers to keep the terms of the Framework under review and to make appropriate revisions. The existing Fire and Rescue National Framework for Wales 2012 has an open-ended duration and will therefore remain in place until a new Framework is introduced by Order. The 2012 Framework contains references to policies and strategies that are now out of date and does not take account of new legislation such as the Well-being of Future Generations (Wales) Act 2015.

#### **Option 2: Make the Legislation**

Making the legislation will introduce the Fire and Rescue National Framework for Wales 2016 by way of The Fire and Rescue Services (National Framework) (Revision) (Wales) Order 2015. The 2016 Framework has been subject to full consultation and includes priorities and objectives for the FRAs based on the changing context of the environment in which they operate, including the severe medium to long term pressure on public finances, an aging population in Wales and a shift from residential to home-based care, which potentially increases the number of people at risk of fire, and a more general focus in the public sector on prevention. These priorities are focussed around 6 key objectives:

- continually and sustainably reducing risk and enhancing the safety of citizens and communities;
- responding swiftly and effectively to incidents;
- being clearly and publicly accountable for delivery and funding, manifesting the highest standards of governance;
- maintaining downward pressure on costs and taking all opportunities to realise efficiencies;
- working effectively with partners to improve efficiency and citizen and community well-being;
- valuing and developing the workforce to the highest standards.

#### **a) Benefits**

The 2016 Framework sets out priorities and objectives for FRAs and provides guidance for FRAs in carrying out their functions. It also provides strategic direction from the Welsh Government while allowing FRAs to deliver services which reflect local needs and risks.

## **b) Costs**

The Framework does not alter FRAs' core duties (e.g. of promoting fire safety, fighting fires and effecting rescues). Its provisions in respect of those duties are considered to be cost neutral and do not constitute new burdens.

The Framework also encourages FRAs to use their enabling powers to address other risks and to respond to other types of incidents. FRAs already carry out much of this work on a voluntary basis; the Framework seeks only to focus and codify it. The Framework acknowledges that further expansion and diversification would be subject to the falling incidence of fire creating spare capacity for FRAs. Therefore, these provisions are also considered to be cost-neutral.

The Framework highlights the principle of FRAs undertaking a wider role, but does not commit FRAs to doing so to any particular extent. This is a matter for FRAs based on what is safe and reasonable, and within capacity.

## **7. Consultation**

The consultation commenced on 16 July 2015 for 12 weeks. The Welsh Government drew the consultation to the attention of FRAs, firefighters' unions and associations, all Local Authorities, Local Health Boards and NHS Trusts, Police and Crime Commissioners and Chief Constables, the Welsh Local Government Association, the Wales Audit Office and Natural Resources Wales. Twenty-three responses were received in as follows:-

Mid and West Wales Fire and Rescue Authority  
North Wales Fire and Rescue Authority  
South Wales Fire and Rescue Authority  
Fire Brigades Union  
Fire Officers Association (Mid and West Wales Branch)  
Retained Firefighters Union  
Welsh Local Government Association  
Carmarthenshire County Council  
Isle of Anglesey County Council  
Wales Audit Office  
Aneurin Bevan Local Health Board  
Hywel Dda Local Health Board  
Welsh Ambulance Service Trust  
Public Health Wales  
Natural Resources Wales  
Wales and West Utilities Ltd  
Private individuals and groups (6)

A detailed analysis of responses is provided at the following link :-

<http://gov.wales/consultations/people-and-communities/fire-rescue-national-framework-2016-onwards/?skip=1&lang=cy>

<http://gov.wales/consultations/people-and-communities/fire-rescue-national-framework-2016-onwards/?status=closed&lang=en>

In summary, there was general support for the draft National Framework in terms of its references to the changing context within which FRAs operate, and the main objectives and priorities for FRAs as set out in the Framework.

14 respondents agreed in principle with the proposals for further diversification of the functions undertaken by the FRA and firefighters with several respondents pointing to activity already being undertaken or planned in this area, either by the FRAs or other agencies. Responses indicated the importance of developing and delivering proposals locally and in partnership with all organisations with an involvement/interest including the public sector and third sector. Respondents felt this was particularly important where FRAs were not the lead agencies, but were or would be delivering a service on behalf of another organisation. FRAs referred to the need for priorities for collaboration in the Framework to be reflected in other partners' plans too. A similar issue was raised about the need for priorities around data sharing to be reflected in all public sector and third sector plans.

There was general support for Welsh Government's proposals to review and consult on extending the statutory functions of FRAs to include flooding. Respondents again noted that this would need to be in the context of collaboration with other partners with a statutory responsibility. One respondent indicated that whilst there was a role for FRAs in supporting the delivery of emergency medical response, statutory responsibility should remain solely with the Wales Ambulance Services Trust ("WAST").

However, nine respondents, including all three FRAs, questioned references to using latent capacity as a result of falling number of fires to expand the prevention and response roles of FRAs. Comments relating to this included :-

- The need to take into account efficiencies or budget savings that FRAs had already made as a result of the reduction in fires over the last ten years. This and austerity measures had left little capacity. The Framework focused on expanding roles but did not address any risk to FRAs' primary response functions as a result of budgetary constraints.
- There was no recognition of the potential difference in capacity between wholetime and Retained Duty (on-call) firefighters. One respondent indicated the majority of costs associated with RDS related to providing on-call availability and that prevention work undertaken by RDS staff had previously been funded via central grant. The

suggestion therefore was that capacity issues were only applicable to a small element of the service.

- The Framework needed to make clear that the percentage reduction in fires did not equate to an equivalent percentage increase in capacity. In reality only a small amount of a firefighter's time was taking up responding to fires; the rest was used for acquiring and maintaining firefighter skills (the need for such training was increasing as experience from real-life exposure to such decreased), an increase in other emergency responses and the associated training for these non-fire emergencies, and a need to maintain fire cover.

Respondents also questioned the additional cost implications of undertaking wider activities, including additional training and development, and equipment costs. Comments mentioned that there was no indication of the extent of resources likely to be required and the extent of resources available for redistribution. One FRA indicated that the additional responsibilities proposed in the Framework would be balanced against cost and the ability to reduce risk in the community.

Some respondents believed that reference to "a shift in emphasis from response to prevention" could imply less of a focus on responding to emergencies.

### **Welsh Government Response**

The Welsh Government welcomes the responses received to the consultation.

The Framework's proposals about diversifying the role of FRAs and firefighters represent a major shift, and the Welsh Government is particularly concerned to accommodate the comments which respondents made about this. Notwithstanding the capacity issues raised by respondents, the Welsh Government is pleased to note the general support for the priorities and objectives set out in the Framework. In particular, we were pleased to note the support for further diversification of the role and functions of FRAs and firefighters.

The Welsh Government notes the issues raised about provision of support to WAST. The Framework does not propose giving FRAs the same duties or functions as WAST; however, FRAs already have statutory powers (in s11 of the 2004 Act) to respond to medical emergencies. The Framework has been amended to reflect this. More generally, the Framework does not propose FRAs taking on the role of other professionals, but is aimed at complementing those roles within collaborative arrangements.

The Welsh Government recognises the issues raised relating to retained firefighters being flexible "on call" frontline workers. We also accept points about increased training needs, both in terms of any new requirements, and as a result of firefighters having less experience because of falling incidents. We have amended the Framework accordingly. However, whilst the

Framework highlights the principle of FRAs undertaking diverse roles to support wider outcomes, it does not detail the extent to which each FRA should do so. That is clearly a matter for FRAs based on what is safe and reasonable and within capacity. The Welsh Government remains convinced that there is some capacity for such diversification in all FRAs; and we are aware of and support work which FRAs are already undertaking.

We recognise that diversifying roles may cost money, for instance on training staff and purchasing new equipment. However, FRAs are already undertaking some of this work within their existing resources – for instance, all routinely respond to flooding incidents. As the Framework does not mandate particular levels of activity, and as FRAs do not receive core funding from the Welsh Government in any event, we do not see any case for providing FRAs with further resources at this stage.

The Welsh Government accepts the concerns which respondents raised about the proposed “ shift in emphasis from response to prevention”. We did not intend this to be interpreted as implying a lesser focus on responding to emergencies. We agree that effective response will always be of utmost importance and have therefore amended references in the Framework to the effect that an effective balance between response and prevention is the key aim.

The Welsh Government supports comments which proposed developing and delivering diversification proposals locally and in collaboration with all relevant partners. The Welsh Government agrees that success in terms of widening the prevention and response role of FRAs, and targeting those at most risk through effective information sharing, will rely heavily on the commitment of all relevant partners. The Framework can only set priorities for the FRAs, however the Welsh Government accepts that it has a wider role in ensuring other public-sector bodies also have a similar focus. Officials are working across Welsh Government Departments, and with relevant public sector organisations, such as Public Health Wales, the Emergency Ambulance Services Commissioner, and Natural Resources Wales, to support progress on collaboration and data sharing issues.

## **8. Competition Assessment**

Not applicable.

## **9. Post implementation review**

The Welsh Ministers must keep the terms of the Framework under review pursuant to section 21 (3) of the Fire and Rescue Services Act 2004. Welsh Ministers are also required to prepare a biennial report on the extent to which the FRAs are acting in accordance with the Framework pursuant to section 25 of the Fire and Rescue Services Act 2004.

The Welsh Ministers will keep the terms of the Framework under review and may from time to time make revisions to it.

## **10. Equality Impact Assessment**

A copy of the Equality Impact Assessment and Welsh Language Impact Assessment can be accessed via the links below :-

<http://gov.wales/topics/people-and-communities/communities/safety/fire/national-framework/?skip=1&lang=cy>

<http://gov.wales/topics/people-and-communities/communities/safety/fire/national-framework/?skip=1&lang=en>

<http://gov.wales/docs/dsjlg/consultation/150716-fire-framework-consultation-impact-assessment-cy.pdf>

<http://gov.wales/docs/dsjlg/consultation/150716-fire-framework-consultation-impact-assessment-en.pdf>

# Agenda Item 3.2

## National Assembly for Wales Constitutional and Legislative Affairs Committee

### CLA625 - The Non-Domestic Rating Contributions (Wales) (Amendment) Regulations 2015

#### Procedure:

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Negative

#### Background

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These Regulations amend the Non-Domestic Rating Contributions (Wales) Regulations 1992 (S.I. 1992/3238) (“the 1992 Regulations”).

Under Part II of Schedule 8 to the Local Government Finance Act 1988 (c. 41) (“the 1988 Act”), billing authorities (in Wales, county and county borough councils) are required to pay amounts (called non-domestic rating contributions) to the Welsh Ministers. The 1992 Regulations contain rules for the calculation of those contributions for Welsh billing authorities.

These Regulations amend those rules for the financial years beginning on or after 1 April 2016 by substituting a new a Schedule 4 (Adult Population Figures).

#### Technical Scrutiny

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The Assembly is invited to pay special attention to this instrument under Standing Order 21.1.(x) – unjustifiable delay in laying before the Assembly.

This instrument was made on 11 November 2015; it was not laid until 30 November 2015.

#### Merits Scrutiny

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

**Legal Advisers**  
**Constitutional and Legislative Affairs Committee**  
**06 January 2016**



**2015 No. 1905 (W. 277)**

**RATING AND VALUATION,  
WALES**

**The Non-Domestic Rating  
Contributions (Wales)  
(Amendment) Regulations 2015**

**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations, which apply in relation to Wales, amend the Non-Domestic Rating Contributions (Wales) Regulations 1992 (“the 1992 Regulations”).

Under Part II of Schedule 8 to the Local Government Finance Act 1988, billing authorities (in Wales, county and county borough councils) are required to pay amounts (called non-domestic rating contributions) to the Welsh Ministers. The 1992 Regulations contain rules for the calculation of those contributions for Welsh billing authorities.

These Regulations amend the 1992 Regulations by substituting a new Schedule 4 (Adult Population Figures).

**2015 No. 1905 (W. 277)**

**RATING AND VALUATION,  
WALES**

**The Non-Domestic Rating  
Contributions (Wales)  
(Amendment) Regulations 2015**

*Made* 11 November 2015

*Laid before the National Assembly for Wales*  
30 November 2015

*Coming into force* 31 December 2015

The Welsh Ministers make the following Regulations in exercise of the powers conferred on them by section 60 of and paragraphs 4 and 6 of Schedule 8 to the Local Government Finance Act 1988<sup>(1)</sup>.

**Title, commencement, application and interpretation**

1.—(1) The title of these Regulations is the Non-Domestic Rating Contributions (Wales) (Amendment) Regulations 2015 and they come into force on 31 December 2015.

(2) These Regulations apply in relation to Wales.

(3) In these Regulations “the 1992 Regulations” (“*Rheoliadau 1992*”) means the Non-Domestic Rating Contributions (Wales) Regulations 1992<sup>(2)</sup>.

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- (1) 1988 c. 41. Section 60 of and paragraphs 4 and 6 of Schedule 8 to the Local Government Finance Act 1988 (c. 41) were amended by section 5 of and Part 1 of Schedule 3 to the Local Government Finance Act 2012 (c. 17).
- (2) S.I. 1992/3238 as amended by S.I. 1993/1505, 1993/3077, 1994/547, 1994/1742, 1994/3125, 1995/3235, 1996/619, 1996/3018, 1997/3003, 1998/2962, 1999/3439 (W. 47), 2000/3382 (W. 220), 2001/3910 (W. 322), 2002/3054 (W. 289), 2003/3211 (W. 304), 2004/3232 (W. 280), 2005/3345 (W. 259), 2006/3347 (W. 307), 2007/3343 (W. 295), 2008/2929 (W. 258), 2009/3147 (W. 274), 2010/2889 (W. 239), 2011/2610 (W. 283), 2012/3036 (W. 310), 2013/3046 (W. 305) and 2014/3193 (W. 323).

## Amendment to the 1992 Regulations

2.—(1) The 1992 Regulations are amended as follows in relation to financial years beginning on or after 1 April 2016.

(2) For Schedule 4 to the 1992 Regulations substitute the Schedule to these Regulations.

*Leighton Andrews*

Minister for Public Services, one of the Welsh Ministers

11 November 2015

## SCHEDULE Regulation 2

### □ SCHEDULE 4

#### ADULT POPULATION FIGURES

<i>Billing authority area</i>	<i>Prescribed figure</i>
Blaenau Gwent	55,722
Bridgend	112,178
Caerphilly	141,099
Cardiff	281,207
Carmarthenshire	147,829
Ceredigion	62,875
Conwy	94,564
Denbighshire	75,337
Flintshire	121,644
Gwynedd	98,583
Isle of Anglesey	56,533
Merthyr Tydfil	46,587
Monmouthshire	74,234
Neath Port Talbot	112,590
Newport	113,566
Pembrokeshire	99,000
Powys	107,516
Rhondda Cynon Taf	186,911
Swansea	194,267
Torfaen	72,248
Vale of Glamorgan	100,662
Wrexham	107,275□

## **Explanatory Memorandum to the Non-Domestic Rating Contributions (Wales) (Amendment) Regulations 2015**

This Explanatory Memorandum has been prepared by Local Government Finance Policy Division, 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 Non-Domestic Rating Contributions (Wales) (Amendment) Regulations 2015.

**Leighton Andrews AM**  
**Minister for Public Services**  
11 November 2015

## **Description**

1. The Non-Domestic Rating Contributions (Wales) (Amendment) Regulations 2015 (“the 2015 Regulations”) amend the Non-Domestic Rating Contributions (Wales) Regulations 1992 (SI 1992/3238) (“the 1992 Regulations”).
2. The 1992 Regulations prescribe the rules for calculating non-domestic rates contributions paid by Local Authorities to the non-domestic rates pool. Amendments are made annually to Schedule 4 (Adult Population Figures) to the 1992 Regulations to ensure that the basis for Authorities’ contributions to the non-domestic rates pool remains up-to-date. Amendments to the 1992 Regulations are now required to enable local authorities to calculate their non-domestic rates contributions for 2016-2017.

## **Matters of special interest to the Constitutional and Legislative Affairs Committee**

3. There are no matters of special interest to the Committee.

## **Powers**

4. The relevant legal powers for this instrument to be made are conferred upon the Welsh Ministers by the Local Government Finance Act 1988 (section 60 and paragraphs 4 and 6 of Schedule 8).
5. The powers under paragraphs 4 and 6 of Schedule 8 to the 1988 Act were originally conferred on the Secretary of State and were later transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999. The powers were subsequently transferred to the Welsh Ministers by virtue of section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006.
6. The Local Government Finance Act 2012 amended the 1988 Act which now expressly provides that the various powers in Schedule 8 to the 1988 Act (including those to make regulations) are vested in the Welsh Ministers.
7. The 2015 Regulations amend the 1992 Regulations and are subject to the negative resolution procedure.
8. The Local Government Finance Act 1988 (paragraph 4(6) of Schedule 8) requires that for these Regulations to be effective for a particular financial year, they must come into force before 1 January in the preceding financial year (i.e. no later than 31 December 2015 for the 2016-17 financial year.)

## **Purpose and intended effect of the legislation**

9. Local Authorities (county and county borough councils) are required to pay Non-Domestic Rates contributions to the Welsh Ministers in respect of the rates they collect from non-domestic properties in their areas. Local Authorities in Wales do not retain the non-domestic rates they collect. All rates are paid into the Non-Domestic Rating Pool from which they are redistributed to Local Authorities

and Police and Crime Commissioners on the basis of adult population figures. Local Authorities make payments into the pool on the basis of estimates completed before the start of each financial year. Local Authorities submit audited returns after the end of the financial year and receive payments from the Welsh Ministers or make additional payments to the pool as appropriate.

10. The 2015 Regulations update the adult population figures for each Authority. These are used to set a threshold for Local Authorities to recalculate, where necessary, their provisional contributions to the pool.
11. Amendments to the 1992 Regulations are now required to enable Local Authorities to calculate their Non-Domestic Rating contributions for 2016-17. The 2015 Regulations amend the 1992 Regulations by substituting a new Schedule 4 (Adult Population Figures).
12. If these changes are not made, the estimates made by Local Authorities for their contributions to the rating pool will be inaccurate as they will be based on the previous year's population figures which are out-of-date.

### **Consultation**

13. These amendments are only of interest to Local Authorities and have no effect on ratepayers. They are technical in nature. The population figures are updated annually and have no policy implications. In light of this, no consultation exercise has been undertaken.

### **Regulatory Impact Assessment**

14. These are routine amendments which are made annually to update the rules Local Authorities (county and county borough councils) must apply in calculating their contributions to the Non-Domestic Rating Pool. They are technical in nature, of interest only to Local Authorities and have no effect on ratepayers. As such, a regulatory impact assessment has not been prepared.

## CLA637 - The Welsh Language (Wales) Measure 2011 (Amendment of Schedule 6) Order 2016

### Procedure:

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Affirmative

### Background

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The Order amends Schedule 6 to the Welsh Language (Wales) Measure 2011 ('the Measure') which sets out (i) the organisations (referred to as "persons" in the Measure) who are liable to be required to comply with Welsh language standards and (ii) which classes of standards are potentially applicable to each organisation.

The Order makes changes such as omitting the names of organisations that no longer exist, including new organisations, and amending the names of others to reflect changes that have occurred since the Measure was made..

### Technical Scrutiny

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No points are identified for reporting under Standing Order 21.2 in respect of this instrument.

### Merits Scrutiny

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The following points are identified for reporting under Standing Order 21.3(ii) in respect of this instrument.

1.The power to amend the list of organisations set out in Schedule 6 to the Measure is contained in section 35 of the Measure. In order to be added to Schedule 6, the organisations must come within a category specified in Schedule 5 to the Measure. These include public authorities, regulators and persons receiving more than £400,000 of public money in a financial year. Neither the Order itself nor the Explanatory Memorandum explains which of the categories in Schedule 5 applies to each of the organisations that the Order intends to add to Schedule 6. The absence of this information will make it more difficult for Assembly Members and the organisations concerned to satisfy themselves that the power has been appropriately exercised.

2.The Explanatory Memorandum explains that inclusion in Schedule 6 to the Measure is first step in the process of imposing by the Welsh Language Commissioner of a requirement to comply with standards under the Measure. Nevertheless, it is striking that no consultation in relation to this Order has been undertaken with the bodies listed. Reference is made to earlier participation by all but two of them in an investigation by the Commissioner, but no further information is provided as to the views that the organisations expressed to the Commissioner.

[Standing Order 21.3(ii) that the Order is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Assembly.]



# Government Response

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Government response is attached as Annex 1

**Legal Advisers**  
**Constitutional and Legislative Affairs Committee**  
**01 December 2015**



## Annex 1 - Government Response

Officials have considered the points raised by the Constitutional and Legislative Affairs Committee on their Merit Report on The Welsh Language (Wales) Measure 2011 (Amendment of Schedule 6) Order 2016

### Categories of Persons

To aid transparency the table indicates, for organisations being inserted in Schedule 6, which Schedule 5 category the Welsh Ministers consider that they fall within. Where there is potential for the organisation to fall within more than one category only one category has been noted.

Body	Category in Schedule 5
Board of Community Health Councils in Wales	Category (2): Persons providing services to the public established by an enactment.
The British Film Institute	Category (3): Persons established by prerogative instrument— ..... (b) to collect, preserve or provide access to recorded knowledge or to objects and things which further understanding, (c) to support, improve, promote or provide access to heritage, culture, sport or recreational activities,
British Transport Police Authority	Category (1): Public Authority
The Canal and River Trust	Category (4): Persons upon whom functions of providing services to the public are conferred or imposed by an enactment.
Career Choices Dewis Gyrfa Limited	Category (5): Persons providing services to the public who receive public money amounting to £400,000 or more in a financial year, where— (a)that person also received public money in a previous financial year, or (b)a decision has been made that that person will receive public money in a subsequent financial year.
Civil Nuclear Police Authority	Category (1): Public Authority
Coleg Ceredigion	Category (5): Persons providing services to the public who receive public money amounting to £400,000 or more in a financial year, where— (a)that person also received public



	money in a previous financial year, or (b) a decision has been made that that person will receive public money in a subsequent financial year.
Coleg Sir Gâr	Category (5): Persons providing services to the public who receive public money amounting to £400,000 or more in a financial year, where— (a) that person also received public money in a previous financial year, or (b) a decision has been made that that person will receive public money in a subsequent financial year.
The General Pharmaceutical Council	Category (6): Persons overseeing the regulation of a profession, industry or other similar sphere of activity.
Gofal Cymru	Category (5): Persons providing services to the public who receive public money amounting to £400,000 or more in a financial year, where— (a) that person also received public money in a previous financial year, or (b) a decision has been made that that person will receive public money in a subsequent financial year.
Hafal	Category (5): Persons providing services to the public who receive public money amounting to £400,000 or more in a financial year, where— (a) that person also received public money in a previous financial year, or (b) a decision has been made that that person will receive public money in a subsequent financial year.
Her Majesty's Chief Inspector of Education and Training in Wales	Category (1): Public Authority
The Human Fertilisation and Embryology Authority	Category (6): Persons overseeing the regulation of a profession, industry or other similar sphere of activity.
The Human Tissue Authority	Category (6): Persons overseeing the regulation of a profession, industry or other similar sphere of activity.
Leonard Cheshire Disability	Category (5): Persons providing services to the public who receive public money amounting to £400,000 or more in a financial year, where— (a) that person also received public



	money in a previous financial year, or (b) a decision has been made that that person will receive public money in a subsequent financial year.
The National Association of Citizens Advice Bureaux	Category (5): Persons providing services to the public who receive public money amounting to £400,000 or more in a financial year, where— (a) that person also received public money in a previous financial year, or (b) a decision has been made that that person will receive public money in a subsequent financial year.
Police and Crime Commissioners	Category (1): Public Authority
Qualifications Wales	Category (6): Persons overseeing the regulation of a profession, industry or other similar sphere of activity.
Royal Voluntary Service	Category (5): Persons providing services to the public who receive public money amounting to £400,000 or more in a financial year, where— (a) that person also received public money in a previous financial year, or (b) a decision has been made that that person will receive public money in a subsequent financial year.
The Statistics Board	Category (2): Persons providing services to the public established by an enactment.
Wales Audit Office	Category (1): Public Authority
Wallich-Clifford Community	Category (5): Persons providing services to the public who receive public money amounting to £400,000 or more in a financial year, where— (a) that person also received public money in a previous financial year, or (b) a decision has been made that that person will receive public money in a subsequent financial year.
WEA YMCA CC Cymru	Category (5): Persons providing services to the public who receive public money amounting to £400,000 or more in a financial year, where— (a) that person also received public money in a previous financial year, or (b) a decision has been made that that person will receive public money in a



## Consultation

It was not considered necessary to consult on this Order as it does not in itself place any duties on the organisations, and the process of requiring an organisation to comply with standards provides a number of opportunities for an organisation to engage in the process and raise any concerns it may have.

The organisations in the Order that participated in the Welsh Language Commissioner's Standards Investigation are engaged in and aware of the process of making standards. The Commissioner has presented an analysis of their responses along with her conclusions in a series of reports to the Welsh Ministers.

Section 66(2) of the Welsh Language (Wales) Measure 2011 ('the Measure') places a duty on the Welsh Ministers to have due regard to the standards investigation reports prepared by the Commissioner when deciding whether and how to exercise the powers to specify standards and make them specifically applicable. Any concerns raised by an organisation are considered by the Welsh Ministers during this process.

Furthermore before giving the organisation a compliance notice the Commissioner must consult with them in accordance with section 47 of the Measure (unless the Commissioner is satisfied that they have already been consulted or given the opportunity to be consulted on that matter in connection with a standards investigation). A compliance notice sets out which standards (and in which circumstances or areas) the organisation has to comply with. The compliance notice will also give the date from which the organisation has to comply.

There is also a clear procedure for an organisation to challenge the requirements to comply with a particular standard on the grounds of whether it is reasonable and proportionate to require it to do so. In the first place, an organisation will be able to present a challenge to the Commissioner. If the organisation wishes to appeal the Commissioner's decision, they may appeal to the Welsh Language Tribunal, and thereafter to the High Court.

The organisations who were not included in the Commissioner's second or third investigations are the British Film Institute who have taken over the functions of the UK Film Council and the Canal and Rivers Trust which is the successor organisations of the British Waterways Board. Both these organisations are currently named in Schedule 6 to the Measure and the inclusion of the British Film Institute and the Canal and Rivers Trust in the Order brings Schedule 6 up to date. Qualification Wales was not established until after both of the Commissioner's Investigations had come to an end. There is a commitment in the Regulatory Impact Assessment that accompanied the Qualifications Wales Bill that the organisation will be brought within the group of bodies named in the Welsh Language (Wales) Measure 2011, who are liable to have to comply with Welsh language duties, known as Welsh Language Standards under the system established by the Measure.

These bodies cannot be required to comply with Welsh language standards until the conditions set out in section 25 of the Measure are met, and consultation on the compliance notice (in accordance with section 47) has been undertaken.

The Welsh Ministers intend to withdraw the Explanatory Memorandum and re-lay an updated version to include the information provided above.



*Draft Order laid before the National Assembly for Wales under section 150(2)(f) of the Welsh Language (Wales) Measure 2011, for approval by resolution of the National Assembly for Wales.*

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W E L S H S T A T U T O R Y  
I N S T R U M E N T S

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**2016 No. (W. )**

**WELSH LANGUAGE**

**The Welsh Language (Wales)  
Measure 2011 (Amendment of  
Schedule 6) Order 2016**

**EXPLANATORY NOTE**

*(This note is not part of the Order)*

The Welsh Language (Wales) Measure 2011 (nawm 1) (“the Measure”) makes provision for the specification of standards of conduct in relation to the Welsh language (“standards”).

Section 25 of the Measure provides that a person must comply with a standard of conduct specified by the Welsh Ministers if, and for as long as, six conditions are met. Condition 1 is that the person is liable to be required to comply with standards. Condition 2 is that the standard is potentially applicable to the person. The other conditions are not relevant to this Order.

Section 33 of the Measure provides that a person is liable to be required to comply with standards if the person is (a) within Schedule 5 and also within Schedule 6, or (b) within Schedule 7 and also within Schedule 8. A person is within Schedule 5 if the person falls within a category of persons specified in column 2 of the table in Schedule 5. A person is within Schedule 6 if the person (a) is specified in column 1 of the table in Schedule 6 (“the Schedule 6 table”), or (b) is within a category of persons specified in that column. Schedules 7 and 8 are not relevant to this Order.

Section 36 provides that a standard is potentially applicable to a person if the standard belongs to a class of standard that is specified in column 2 of the person’s entry in the Schedule 6 table. Each of the following is a class of standard—

- (i) service delivery standards,
- (ii) policy making standards,
- (iii) operational standards,
- (iv) promotion standards,
- (v) record keeping standards.

Section 35 enables the Welsh Ministers, by order, to amend the Schedule 6 table so that it includes a reference to a person who falls within one or more of the Schedule 5 categories or a category of persons, all of whom fall within one or more of the Schedule 5 categories.

Section 38 enables the Welsh Ministers, by order, to amend the Schedule 6 table so that column 2 of an entry includes a reference to one or more of the following—

- (i) service delivery standards;
- (ii) policy making standards;
- (iii) operational standards;
- (iv) record keeping standards.

This Order amends Schedule 6 to the Measure by—

- (a) inserting new persons into Schedule 6 and specifying classes of standard in column 2 of each person's entry;
- (b) removing persons from Schedule 6 where appropriate, for example if an organisation has been abolished;
- (c) updating Schedule 6 to reflect changes of names since the Measure was made.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to this Order. As a result, it was not considered necessary to carry out a regulatory impact assessment as to the likely costs and benefits of complying with this Order.

*Draft Order laid before the National Assembly for Wales under section 150(2)(f) of the Welsh Language (Wales) Measure 2011, for approval by resolution of the National Assembly for Wales.*

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W E L S H   S T A T U T O R Y  
I N S T R U M E N T S

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**2016 No. (W. )**

**WELSH LANGUAGE**

**The Welsh Language (Wales)  
Measure 2011 (Amendment of  
Schedule 6) Order 2016**

*Made*

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*Coming into force*

*15 February 2016*

The Welsh Ministers, in exercise of the powers conferred by sections 35, 38 and 150(2)(f) of the Welsh Language (Wales) Measure 2011<sup>(1)</sup>, make the following Order.

In accordance with section 150(2) of the Measure, a draft of this Order was laid before and approved by resolution of the National Assembly for Wales.

**Title, commencement, application and interpretation**

**1.**—(1) The title of this Order is the Welsh Language (Wales) Measure 2011 (Amendment of Schedule 6) Order 2016.

(2) This Order comes into force on 15 February 2016.

(3) This Order applies in relation to Wales.

(4) In this Order “the Measure” means the Welsh Language (Wales) Measure 2011.

**Amendment of Schedule 6**

**2.** Schedule 6 (public bodies etc: standards) to the Welsh Language (Wales) Measure 2011 is amended in accordance with the Schedule.

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(1) 2011 nawm 1.

First Minister of Wales  
Date

SCHEDULE Article 2

AMENDMENTS TO SCHEDULE 6

1. In the Welsh text of the table in Schedule 6 (cyrff cyhoeddus etc: safonau) to the Measure, in the appropriate places insert—

“Yr Ffrwythloni Embryoleg Dynol ( <i>“The Human Fertilisation and Embryology Authority”</i> )”	Awdurdod ac Heddlu Sifil ( <i>“Civil Police”</i> )	Safonau cyflenwi gwasanaethau Safonau llunio polisi Safonau gweithredu Safonau cadw cofnodion”
“Awdurdod Niwclear ( <i>“Civil Nuclear Authority”</i> )”	Heddlu Sifil ( <i>“Civil Police”</i> )	Safonau cyflenwi gwasanaethau Safonau llunio polisi Safonau gweithredu Safonau cadw cofnodion”
“Awdurdod Trafnidiaeth ( <i>“British Police Authority”</i> )”	Heddlu Prydain ( <i>“Transport Police”</i> )	Safonau cyflenwi gwasanaethau Safonau llunio polisi Safonau gweithredu Safonau cadw cofnodion”
“Yr Meinweoedd ( <i>“The Human Tissue Authority”</i> )”	Awdurdod Dynol ( <i>“Human Tissue Authority”</i> )	Safonau cyflenwi gwasanaethau Safonau llunio polisi Safonau gweithredu Safonau cadw cofnodion”
“Bwrdd Iechyd Cymuned ( <i>“The Board of Community Health Councils in Wales”</i> )”	Cyngorau Cymru ( <i>“Board of Health Councils in Wales”</i> )	Safonau cyflenwi gwasanaethau Safonau llunio polisi Safonau gweithredu Safonau cadw cofnodion”
“Y Bwrdd ( <i>“The Statistics Board”</i> )”	Ystadegau	Safonau cyflenwi gwasanaethau Safonau llunio polisi Safonau gweithredu Safonau cadw cofnodion”
“Career Gyrfa ( <i>“Career Choices Dewis Gyrfa Limited”</i> )”	Choices Dewis Cyfyngedig ( <i>“Career Choices Dewis Gyrfa Limited”</i> )	Safonau cyflenwi gwasanaethau Safonau llunio polisi Safonau gweithredu Safonau cadw cofnodion”
“Coleg Ceredigion”		Safonau cyflenwi gwasanaethau Safonau llunio polisi Safonau gweithredu Safonau cadw cofnodion”
“Coleg Sir Gâr”		Safonau cyflenwi

	gwasanaethau Safonau llunio polisi Safonau gweithredu Safonau cadw cofnodion”
“Comisiynwyr Heddlu a Throseddu ( <i>“Police and Crime Commissioners”</i> )	Safonau cyflenwi gwasanaethau Safonau llunio polisi Safonau gweithredu Safonau cadw cofnodion”
“Y Cyngor Fferyllol Cyffredinol ( <i>“The General Pharmaceutical Council”</i> )	Safonau cyflenwi gwasanaethau Safonau llunio polisi Safonau gweithredu Safonau cadw cofnodion”
“Cymdeithas Genedlaethol Cyngor ar Bopeth ( <i>“The National Association of Citizens Advice Bureaux”</i> )	Safonau cyflenwi gwasanaethau Safonau llunio polisi Safonau gweithredu Safonau cadw cofnodion”
“Cymwysterau Cymru ( <i>“Qualifications Wales”</i> )	Safonau cyflenwi gwasanaethau Safonau llunio polisi Safonau gweithredu Safonau cadw cofnodion”
“Glandŵr Cymru ( <i>“The Canal &amp; River Trust”</i> )	Safonau cyflenwi gwasanaethau Safonau llunio polisi Safonau gweithredu Safonau cadw cofnodion”
“Gofal Cymru	Safonau cyflenwi gwasanaethau Safonau llunio polisi Safonau gweithredu Safonau cadw cofnodion”
“Hafal	Safonau cyflenwi gwasanaethau Safonau llunio polisi Safonau gweithredu Safonau cadw cofnodion”
“Leonard Cheshire Disability	Safonau cyflenwi gwasanaethau Safonau llunio polisi Safonau gweithredu Safonau cadw cofnodion”
“Prif Arolygydd Ei Mawrhydi dros Addysg a Hyfforddiant yng Nghymru ( <i>“Her Majesty’s Chief Inspector of Education and Training in Wales”</i> )	Safonau cyflenwi gwasanaethau Safonau llunio polisi Safonau gweithredu Safonau cadw cofnodion”

“Royal Voluntary Service			Safonau cyflenwi gwasanaethau Safonau llunio polisi Safonau gweithredu Safonau cadw cofnodion”
“Y Sefydliad Ffilm Prydeinig ( <i>The British Film Institute</i> )”			Safonau cyflenwi gwasanaethau Safonau llunio polisi Safonau gweithredu Safonau cadw cofnodion”
“Swyddfa Archwilio Cymru ( <i>The Wales Audit Office</i> )”			Safonau cyflenwi gwasanaethau Safonau llunio polisi Safonau gweithredu Safonau cadw cofnodion”
“Wallich-Clifford Community			Safonau cyflenwi gwasanaethau Safonau llunio polisi Safonau gweithredu Safonau cadw cofnodion”
“WEA YMCA CC Cymru			Safonau cyflenwi gwasanaethau Safonau llunio polisi Safonau gweithredu Safonau cadw cofnodion”

2. In the English text of the table in Schedule 6 (public bodies etc: standards) to the Measure, in the appropriate places insert—

“The Board of Community Health Councils in Wales ( <i>Bwrdd Cyngorau Iechyd Cymuned Cymru</i> )”			Service delivery standards Policy making standards Operational standards Record keeping standards”
“The British Film Institute ( <i>Y Sefydliad Ffilm Prydeinig</i> )”			Service delivery standards Policy making standards Operational standards Record keeping standards”
“British Transport Police Authority ( <i>Awdurdod Heddlu Trafnidiaeth Prydain</i> )”			Service delivery standards Policy making standards Operational standards Record keeping standards”
“The Canal & River Trust ( <i>Glandŵr Cymru</i> )”			Service delivery standards Policy making standards Operational standards Record keeping standards”
“Career Choices Dewis			Service delivery standards

Gyrfa Limited ( <i>“Career Choices Dewis Gyrfa Cyfyngedig”</i> )	Policy making standards Operational standards Record keeping standards”
“Civil Nuclear Police Authority ( <i>“Awdurdod Heddlu Niwclear Sifil”</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards”
“Coleg Ceredigion	Service delivery standards Policy making standards Operational standards Record keeping standards”
“Coleg Sir Gâr	Service delivery standards Policy making standards Operational standards Record keeping standards”
“The Pharmaceutical Council ( <i>“Y Cyngor Fferyllol Cyffredinol”</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards”
“Gofal Cymru	Service delivery standards Policy making standards Operational standards Record keeping standards”
“Hafal	Service delivery standards Policy making standards Operational standards Record keeping standards”
“Her Majesty’s Chief Inspector of Education and Training in Wales ( <i>“Prif Arolygydd ei Mawrhydi dros Addysg a Hyfforddiant yng Nghymru”</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards”
“The Human Fertilisation and Embryology Authority ( <i>“Yr Awdurdod Ffrwythloni ac Embryoleg Dynol”</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards”
“The Human Tissue Authority ( <i>“Yr Awdurdod Meinweoedd Dynol”</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards”

“Leonard Disability	Cheshire	Service delivery standards Policy making standards Operational standards Record keeping standards”
“The Association of Advice (“ <i>Cymdeithas Genedlaethol Cyngor ar Bopeth</i> ”)	National Citizens Bureaux	Service delivery standards Policy making standards Operational standards Record keeping standards”
“Police and Crime Commissioners (“ <i>Comisiynwyr Heddlu a Throsedd</i> ”)		Service delivery standards Policy making standards Operational standards Record keeping standards”
“Qualifications (“ <i>Cymwysterau Cymru</i> ”)	Wales	Service delivery standards Policy making standards Operational standards Record keeping standards”
“Royal Voluntary Service		Service delivery standards Policy making standards Operational standards Record keeping standards”
“The Statistics Board (“ <i>Y Bwrdd Ystadegau</i> ”)		Service delivery standards Policy making standards Operational standards Record keeping standards”
“The Wales Audit Office (“ <i>Swyddfa Archwilio Cymru</i> ”)		Service delivery standards Policy making standards Operational standards Record keeping standards”
“Wallich-Clifford Community		Service delivery standards Policy making standards Operational standards Record keeping standards”
“WEA Cymru	YMCA CC	Service delivery standards Policy making standards Operational standards Record keeping standards”

3. In the Welsh text of the table in Schedule 6 to the Measure, omit the following entries—

- (a) “Awdurdodau’r Heddlu (“*Police Authorities*”);

- (b) “Ymddiriedolaethau Prawf (*“Probation Trusts”*)”;
- (c) “Yr Asiantaeth Genedlaethol er Gwella Plismona (*“The National Policing Improvement Agency”*)”;
- (d) “Athrofa Prifysgol Cymru, Caerdydd (*“The University of Wales Institute, Cardiff”*)”;
- (e) “Yr Awdurdod Asesu Clinigol Cenedlaethol (*“National Clinical Assessment Service”*)”;
- (f) “Awdurdod Gweithredu’r Gemau Olympaidd (*“The Olympic Delivery Authority”*)”;
- (g) “Bwrdd Dyfrffyrdd Prydain (*“The British Waterways Board”*)”;
- (h) “Y Comisiwn Datblygu Cynaliadwy (*“The Sustainable Development Commission”*)”;
- (i) “Comisiwn Gwasanaethau Cyfreithiol (*“The Legal Services Commission”*)”;
- (j) “Comisiwn y Loteri Genedlaethol (*“The National Lottery Commission”*)”;
- (k) “Comisiynydd y Gronfa Gymdeithasol (*“The Social Fund Commissioner”*)”;
- (l) “Y Cronfeydd Byw’n Annibynnol (*“The Independent Living Funds”*)”;
- (m) “Cymdeithas Fferyllol Frenhinol Prydain Fawr (*“The Royal Pharmaceutical Society of Great Britain”*)”;
- (n) “Cyngor Ffilm y DU (*“UK Film Council”*)”;
- (o) “Gwasanaeth Derbyn y Prifysgolion a’r Colegau (*“Universities and Colleges Admission Service”*)”;
- (p) “Llais Defnyddwyr (*“Consumer Focus”*)”;
- (q) “Prifysgol Cymru, Casnewydd (*“The University of Wales, Newport”*)”;
- (r) “Prifysgol Glyndŵr (*“Glyndŵr University”*);  
and
- (s) “Prifysgol Morgannwg (*“University of Glamorgan”*)”.

4. In the English text of the table in Schedule 6 to the Measure, omit the following entries—

- (a) “Police Authorities (*“Awdurdodau’r Heddlu”*)”;
- (b) “Probation Trusts (*“Ymddiriedolaethau Prawf”*)”;
- (c) “The British Waterways Board (*“Bwrdd Dyfrffyrdd Prydain”*)”;
- (d) “Consumer Focus (*“Llais Defnyddwyr”*)”;
- (e) “Glyndŵr University (*“Prifysgol Glyndŵr”*)”;
- (f) “The Independent Living Funds (*“Y Cronfeydd Byw’n Annibynnol”*)”;

- (g) “The Legal Services Commission (*“Comisiwn Gwasanaethau Cyfreithiol”*)”;
- (h) “National Clinical Assessment Service (*“Yr Awdurdod Asesu Clinigol Cenedlaethol”*)”;
- (i) “The National Lottery Commission (*“Comisiwn y Loteri Genedlaethol”*)”;
- (j) “The National Policing Improvement Agency (*“Yr Asiantaeth Genedlaethol er Gwella Plismona”*)”;
- (k) “The Olympic Delivery Authority (*“Awdurdod Gweithredu'r Gemau Olympaidd”*)”;
- (l) “The Royal Pharmaceutical Society of Great Britain (*“Cymdeithas Fferyllol Frenhinol Prydain Fawr”*)”;
- (m) “The Social Fund Commissioner (*“Comisiynydd y Gronfa Gymdeithasol”*)”;
- (n) “The Sustainable Development Commission (*“Y Comisiwn Datblygu Cynaliadwy”*)”;
- (o) “UK Film Council (*“Cyngor Ffilm y DU”*)”;
- (p) “Universities and Colleges Admission Service (*“Gwasanaeth Derbyn y Prifysgolion a'r Colegau”*)”;
- (q) “University of Glamorgan (*“Prifysgol Morgannwg”*)”
- (r) The University of Wales Institute, Cardiff (*“Athrofa Prifysgol Cymru, Caerdydd”*); and
- (s) “The University of Wales, Newport (*“Prifysgol Cymru, Casnewydd”*)”.

5. In the Welsh text of the table in Schedule 6 to the Measure—

- (a) for “Cyngor Addysgu Cyffredinol Cymru (*“The General Teaching Council for Wales”*)” substitute “Cyngor y Gweithlu Addysg (*“Education Workforce Council”*)”;
- (b) for “Y Cyngor Proffesiynau Iechyd (*“The Health Professions Council”*)” substitute “Y Cyngor Proffesiynau Iechyd a Gofal (*“The Health and Care Professions Council”*)”;
- (c) for “Cyngor Rhagoriaeth Rheoleiddio Gofal Iechyd (*“The Council for Healthcare Regulatory Excellence”*)” substitute “Yr Awdurdod Safonau Proffesiynol ar gyfer Iechyd a Gofal Cymdeithasol (*“The Professional Standards Authority for Health and Social Care”*)”;
- (d) for “Ffocws ar Deithwyr (*“Passenger Focus”*)” substitute “Transport Focus”; and
- (e) for “Panel Asesu Rhenti i Gymru (*“The Rent Assessment Panel for Wales”*)” substitute “Y

pwyllgorau asesu rhenti i Gymru (“*The rent assessment committees for Wales*”).

6. In the English text of the table in Schedule 6 to the Measure—

- (a) for “The Council for Healthcare Regulatory Excellence (“*Cyngor Rhagoriaeth Rheoleiddio Gofal Iechyd*”)” substitute “The Professional Standards Authority for Health and Social Care (“*Yr Awdurdod Safonau Proffesiynol ar gyfer Iechyd a Gofal Cymdeithasol*”)”;
- (b) for “The General Teaching Council for Wales (“*Cyngor Addysgu Cyffredinol Cymru*”)” substitute “Education Workforce Council (“*Cyngor y Gweithlu Addysg*”)”;
- (c) for “The Health Professions Council (“*Y Cyngor Proffesiynau Iechyd*”)” substitute “The Health and Care Professions Council (“*Y Cyngor Proffesiynau Iechyd a Gofal*”)”;
- (d) for “Passenger Focus (“*Ffocws ar Deithwyr*”)” substitute “Transport Focus”; and
- (e) for “The Rent Assessment Panel for Wales (“*Panel Asesu Rhenti i Gymru*”)” substitute “The rent assessment committees for Wales (“*Y Pwyllgorau asesu rhenti i Gymru*”)”.

7. In the Welsh text of paragraph 2 of Schedule 6 to the Measure omit the definition of “Ffocws ar Deithwyr” (“*Passenger Focus*”) and insert in the appropriate place “ystyr “Transport Focus” yw’r Cyngor Teithwyr a sefydlwyd o dan Ddeddf Rheilffyrdd 2005;”.

8. In the English text of paragraph 2 of Schedule 6 to the Measure omit the definition of “Passenger Focus” (“*Ffocws ar Deithwyr*”) and insert in the appropriate place ““Transport Focus” means the Passengers’ Council established under the Railways Act 2005;”.

## **EXPLANATORY MEMORANDUM TO**

### **The Welsh Language (Wales) Measure 2011 (Amendment of Schedule 6) Order 2016**

This Explanatory Memorandum has been prepared by Education and Public Services Group 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 Welsh Language (Wales) Measure 2011 (Amendment of Schedule 6) Order 2016.

Carwyn Jones AM  
First Minister

14 December 2015

## **1. Description**

1.1 The Welsh Language (Wales) Measure 2011 (Amendment of Schedule 6) Order 2016 ('the Order') amends Schedule 6 to the Welsh Language (Wales) Measure 2011 ('the Measure') which sets out (i) the organisations (referred to as "persons" in the Measure) who are liable to be required to comply with Welsh language standards and (ii) which classes of standards are potentially applicable to each organisation.

1.2 The Order deals with changes such as omitting the names of organisations that no longer exist, including new organisations, and amending the names of others to reflect changes that have occurred since the Measure was made.

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

2.1 An order to amend Schedule 6 is likely to be made from time to time to capture changes in the names or status of organisations, delete organisations that no longer exist and insert new organisations, to ensure that Welsh Ministers may make standards specifically applicable to them.

## **3. Legislative background**

3.1 Section 35 of the Measure enables the Welsh Ministers, by order, to amend the Schedule 6 table so that column 1 of the table includes (i) an organisation who falls within one or more of the Schedule 5 categories or (ii) a category of organisation, all of whom fall within one or more of the Schedule 5 categories.

3.2 Section 38 of the Measure enables the Welsh Ministers, by order, to amend the Schedule 6 table so that column 2 of an organisation's entry (or a category of organisations' entry) includes a reference to one or more of the following (i) service delivery standards, (ii) policy making standards, (iii) operational standards and (iv) record keeping standards.

3.3 This Order amends Schedule 6 to the Measure by;

- (a) Inserting new organisations and specifying classes of standard in column 2 of each organisation's entry;
- (b) Removing organisations where appropriate, for example if a organisation has been abolished ;

(c) Amending the names of organisations that have changed since the Measure was made.

3.4 This Order is subject to the approval of the National Assembly for Wales (the affirmative procedure).

#### **4. Purpose & intended effect of the legislation**

##### **Background**

4.1 The Measure confirmed the official status of the Welsh language in Wales and created a new legislative framework for the language. A key step in giving effect to the Measure is specifying standards and authorising the Welsh Language Commissioner (“the Commissioner”) to require organisations to comply with those Standards.

##### **The issue**

4.2 Schedule 6 to the Measure sets out the categories of organisations who are liable to comply with standards. Since the Measure was made the Schedule has become out of date. Some of the organisations named in the Schedule have ceased to exist, some have changed their name and others have merged to create new organisations. In addition the Commissioner has, following a standards investigation, concluded that some organisations that were not previously included in Schedule 6 to the Measure but were included in the standards investigation should be required to comply with Welsh language standards.

4.3 As part of the process of preparing this Order the Welsh Ministers have considered the Commissioner’s conclusions, along with whether these organisations fall into one or more of the categories in Schedule 5 and the appropriateness of including the organisation in Schedule 6. The Order reflects these changes.

##### **Purpose**

4.4 This Order will update the list of organisations in Schedule 6 to reflect the changes.

- Paragraphs 1 and 2 of the Schedule to the Order inserts the names of organisations into Schedule 6 to the Measure

The Welsh Ministers have considered each organisation included in the Order to ensure that they fall into one or more of the categories in Schedule 5 and are satisfied that they do.

- Paragraphs 3 and 4 of the Schedule to the Order omits entries where those organisations no longer exist, already fall into one of the categories in Schedule 6, or where the Welsh Ministers consider an organisation falls within Schedule 7 and 8 to the Measure.
- Paragraphs 5 and 6 of the Schedule to the Order changes the entries where those organisations have changed their name.

## **Effect**

4.5 This Order will enable the Welsh Ministers (by separate Regulations) to make Welsh language standards specifically applicable to the organisations or categories of organisations contained in paragraphs 1 and 2 of the Schedule to the Order and to the organisations whose names have changed (see paragraphs 5 and 6 of the Order). That will mean that the Commissioner is authorised to require those organisations to comply with standards.

## **Risk if legislation changes are not made**

4.6 Unless an organisation who falls into one or more of the categories in Schedule 5 of the Measure is also included in Schedule 6 the Welsh Ministers will not be able to make standards specifically applicable to them. This will mean that the Commissioner will not be able to require the organisation to comply with standards.

4.7 This could lead to the following risks being realised;

- A key component of the Measure not being implemented. That is introducing the standards regime and authorising the Commissioner to require a organisation to comply with standards.
- An organisation that deals with the public may not be included in the new standards regime.
- There will be inconsistency in terms of the duties placed on organisations in the same sectors.
- The public will be unsure about which services they can expect to receive in Welsh. This uncertainty will continue if this Order is not made allowing standards to be made specifically applicable to organisations that fall into one or more of the categories in Schedule 5 to the Measure.
- Organisations that have a Welsh Language Schemes introduced under the Welsh Language Act 1993 will not transition to the standards regime.

## **5. Consultation**

- 5.1 The Welsh Ministers have not consulted on this Order, as the Order does not place any duties directly on the organisation. Schedule 6 to the Measure, sets out the organisations and categories of organisations who are liable to comply with standards.
- 5.2 Before an organisation is required to comply with Standards a number of conditions must be met. These are set out in section 25 of the Measure. One such condition is that the Welsh Ministers have to make standards specifically applicable to the organisation by Regulations. Furthermore, the Commissioner will have to give the organisation a compliance notice setting out with which standards (and in which circumstances or areas) the organisation has to comply. The compliance notice will also set out the date from which the organisation has to comply.
- 5.3 Before giving the organisation a compliance notice the Commissioner must consult with them in accordance with section 47 of the Measure (unless the Commissioner is satisfied that they have already been consulted or given the opportunity to be consulted on that matter in connection with a standards investigation).
- 5.4 Any organisation will be able to challenge the requirements to comply with a particular standard on the grounds of whether it is reasonable and proportionate to require them to do so. In the first place, a organisation will be able to present a challenge to the Commissioner. If they are unable to resolve the dispute, there is a route of appeal available to the Welsh Language Tribunal, and thereafter to the High Court.
- 5.5 With two exceptions, all the organisations in paragraphs 1 and 2 of the Order have participated in the Commissioner's Standards Investigation; the two exceptions are The British Film Institute and the Canal and Rivers Trust who are successor organisations to the UK Film Council and the British Waterways Board respectively. Both of which are named in Schedule 6. Their inclusion in the Order simply brings Schedule 6 up to date.

## **6. Regulatory Impact Assessment (RIA)**

- 6.1 A Regulatory Impact Assessment is not considered necessary in respect of the Welsh Language (Wales) Measure 2011 (Amendment of Schedule 6) Order 2016 as it does not impose direct costs and is part of updating the 2011 Measure.



Our ref: MA-L/FM/0218/15

David Melding AM  
Chair - Constitutional and Legislative Affairs Committee  
National Assembly for Wales  
Cardiff Bay  
Cardiff  
CF99 1NA

3<sup>rd</sup> December 2015

Dear David

The Welsh Government thanks the Committee for its report, *Making Laws in Wales* and welcomes the opportunity to respond to the recommendations. Our full response is attached to this letter.

In our response, we make reference to ongoing work to review the existing approach to managing the Government's legislative programme in preparation for the Fifth Assembly. This work is intended to build on a number of changes that have already been made to the Welsh Government's processes during the Fourth Assembly. As you will note from the response, there is a significant amount of overlap between the Committee's recommendations and work in progress as part of our review. We take comfort from this, as in many respects it is clear the Committee shares our vision of how the Government's approach to its legislative programme should continue to develop and improve. Key aspects which are central to this include:

- Comprehensive policy development at an early stage for all legislative proposals,
- Early identification and consideration of financial implications;
- Effective stakeholder engagement throughout the legislative process.

Whilst the Welsh Government does not agree with some of the comments made on Government Bills in the report, we of course recognise the importance of all these key aspects and have been happy to consider how we can continue to improve our approach to them. The planning and management of the Government's Legislative Programme must be as robust as possible for the next term.

To this end, we have identified what we believe are some key considerations to take into account on the size and management of the next Welsh Government's Legislative Programme, namely that:

Bae Caerdydd • Cardiff Bay  
Caerdydd • Cardiff  
CF99 1NA

English Enquiry Line 0300 0603300  
Llinell Ymholiadau Cymraeg 0300 0604400  
YP.PrifWeinidog@cymru.gsi.gov.uk • ps.firstminister@wales.gsi.gov.uk

Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

- The Welsh Government should normally introduce no more than 5 or 6 Bills each year, with no Government Bills scheduled for introduction in the final year, i.e. after 30 April 2020;
- The Welsh Government should move to an annual legislative statement and maintain a rolling planning cycle for its Legislative Programme;
- Legislative proposals will continue to be prioritised in the context of the Legislative Programme as a whole – being mindful of how the overall Legislative Programme may affect our delivery partners and the private sector;
- The internal approach to pre-introduction assessment of Bills, ahead of formal Ministerial agreement to introduce, should be refined and strengthened where possible.

Of the 19 recommendations in this report which are wholly or partly for the Welsh Government, we have been able to accept 17 of these in whole, in principle or in part.

I should note that the Welsh Government response does not provide substantive comments at this stage to individual recommendations relating to other organisations, most notably those for the Assembly's Business Committee. However, I would like to highlight that these recommendations may have a significant cumulative impact on the length of the legislative process, on Assembly Members' time and Government Plenary time, and on available resources at a time of financial constraint. We would, therefore, want to consider proposed changes to Standing Orders as a whole.

Again, I thank the Committee for this helpful report. I would also like to take this opportunity to acknowledge the significant contributions of the Committee to scrutinising the legislation considered by the Assembly this term, and to pay tribute to the work of Ministers, Members, and officials (both in Government and in the Assembly Commission) in taking forward primary legislation during this Assembly.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Carwyn Jones', written in a cursive style.

**CARWYN JONES**

## **Written Response by the Welsh Government to the report of the Constitutional and Legislative Affairs Committee entitled Making Laws in Wales**

**3 December 2015**

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**Detailed responses to the report's recommendations are set out below:**

### **Recommendation 1**

The Committee recommends that the Welsh Government:

- (i) undertakes a thorough review and overhaul of its processes for the development and internal co-ordination of its legislative programme;
- (ii) ensures that effective strategic planning, monitoring, delivery and quality control mechanisms are in place to ensure fully thought through and complete Bills are introduced for scrutiny by the Assembly;
- (iii) publishes the revised governance framework for its legislative programme including the lines of accountability and decision-making processes for the preparation and sign-off of its Bills.

### **Response: Accept in part**

The Welsh Government is already in the process of reviewing its approach to managing the Government legislative programme in readiness for the Fifth Assembly. This work is being undertaken in part to evaluate a number of changes that have already been made to the Welsh Government's processes during the Fourth Assembly. Whilst we do not believe that a complete overhaul is needed, we are seeking to ensure that the planning and management of the legislative programme is as robust as possible. Final decisions on the management of the Government legislative programme in the Fifth Assembly, and publication of information relating to it, are for the next Welsh Government. Once completed changes to the process will be reflected in the Welsh Government's Legislation Handbook for Assembly Bills, which will be published. The Welsh Government's processes will continue to be monitored by its Legislative Programme Board and any changes made will subsequently be reflected in the published Handbook.

**Financial Implications** – This work is being taken forward within existing budgets.

### **Recommendation 2**

The Committee recommends that the Welsh Government should:

- (i) adopt more robust policy development criteria based around those highlighted by the Law Commission;
- (ii) commit to providing earlier and appropriate consultation periods to ensure that a sufficient period is allowed to reflect the complexity and scope of each piece of proposed legislation and the need for representative consultees to seek the views of stakeholders;
- (iii) commit to explaining clearly to stakeholders how their feedback has influenced its legislative proposals, including the reasons why their views are or are not being reflected in legislative proposals;

(iv) incorporate points (i) to (iii) above into internal guidance for use across all Welsh Government departments as an integral tool for developing legislative proposals.

**Response: Accept in part**

The Welsh Government's approach to policy development is already consistent with the principles outlined by the Law Commission. Similarly, as a part of our approach to policy development, we consider whether legislation is necessary and, if so, in what form. Similarly the Welsh Government has committed to consulting on legislation at Green Paper, White Paper or Draft Bill stage. Following consultation the Welsh Government will consider consultation responses, and before or when we introduce a Bill we will set out how we have taken account of the views expressed.

The Welsh Government will continue to consider how it can consult as effectively as possible on each legislative proposal.

**Financial Implications** – There are no new financial implications for responding to this recommendation.

**Recommendation 3**

The Committee recommends that there should be a presumption in favour of publishing draft Bills. This recommendation applies to the Welsh Government and Assembly Members given leave to introduce Bills.

**Response: Reject**

The Welsh Government seeks to ensure that consultation takes place at a time when it will enable an effective and meaningful dialogue with stakeholders. Consulting on a draft Bill can be an effective way of engaging with stakeholders. However, there are other effective ways of consulting which may be more appropriate, depending on the specific legislative proposals.

**Financial Implications** – None.

**Recommendation 4**

The Committee recommends that the Business Committee should prepare proposals to amend Standing Order 26.6 to require Explanatory Memoranda to:

- (i) state whether a Bill was published as a draft in full or in part, and if in part, which parts;
- (ii) a detailed synopsis of how a Bill introduced has been amended from a draft Bill, and the reasons for any changes adopted;
- (iii) the reasons, if relevant, for not publishing a Bill in draft.

**Response: Noted**

The Welsh Government notes the recommendation for the Business Committee and will consider proposed changes to Standing Orders when these are brought forward to the Committee.

### **Recommendation 5**

The Committee recommends that a financial memorandum is published alongside all draft Bills, containing information about the costs of the current policy and legislative position and the costs after legislation. This recommendation applies to the Welsh Government and Assembly Members given leave to introduce Bills.

#### **Response: Accept**

The Welsh Government accepts that there are benefits to be gained from publishing an initial assessment of likely benefits and impacts (both financial and wider) alongside draft Bills. The appropriate structure and content of the assessment will be considered as part of the preparation for the next Legislative Programme.

**Financial Implications** – The financial implications will be considered as part of the preparation for the next Legislative Programme.

### **Recommendation 6**

The Committee recommends that the Welsh Government:

- (i) reviews its approach to the balance it adopts between what is contained on the face of a Bill and what is left to subordinate legislation;
- (ii) publishes the outcome of that review, including the principles that it will apply to the future drafting of Bills to ensure that an appropriate balance is struck.

#### **Response: Accept in part**

The Welsh Government gives careful consideration to the balance between primary and subordinate legislation. We will review the factors which have been taken into account in light of the Committee's findings, including whether the development of a set of principles would be appropriate. The Welsh Government will publish the outcome of that Review.

**Financial Implications** – The review will be delivered within existing budgets. The Welsh Government's response to this review, once completed, will need to consider the resource implications.

### **Recommendation 7**

The Committee recommends that the Welsh Government considers the available techniques for making the delegation of powers more acceptable, including the expression on the face of the Bill of the purposes of, and constraints on, delegated powers.

#### **Response: Accept in part**

The Welsh Government already gives consideration to expressing the purposes of, and constraints on, delegated powers in primary legislation. However, we will review our approach to this as part of the review committed to in our response to Recommendation 6.

**Financial Implications** – The review will be delivered within existing budgets. The Welsh Government’s response to this review, once completed, will need to consider the resource implications.

**Recommendation 8**

The Committee recommends that powers to make supplemental or consequential provision should not be included routinely in Bills, and should be reserved for cases where there are special reasons why the Welsh Government needs to deal with minor or consequential issues through delegated legislation. Such reasons must be clearly set out in the Explanatory Memorandum.

**Response: Accept in part**

The Welsh Government will review its approach as part of the review committed to in our response to recommendation 6. The Welsh Government agrees that the reasons for such provisions included in any Bill should be clearly set out in the Explanatory Memorandum.

**Financial Implications** – The review will be delivered within existing budgets. The Welsh Government’s response to this review, once completed, will need to consider the resource implications.

**Recommendation 9**

The Committee recommends that the Welsh Government commits to improving the quality of legislation it introduces by:

- (i) adopting the principles advocated by the Law Commission and highlighted in paragraph 113 of this report;
- (ii) involving the Office of the Legislative Counsel as early in the policy development process as practicable in each case.

**Response: Accept in part**

In terms of the first three suggestions to improve the quality of legislation which were outlined by the Law Commission, the Welsh Government recognises the importance of “*ensuring that instructions to counsel are comprehensive and clear and reflect fully thought out and agreed policy*”; of “*having departments work closely with drafters to ensure that Bills are clear, concise, consistent, unambiguous, and easily intelligible, keeping technical terminology to a minimum*”, and of “*minimising the need for government to table its own amendments to a Bill after it has entered the legislative process*”, as well as the Committee’s recommendation to involve “the Office of the Legislative Counsel as early in the policy development process as practicable”. As part of reviewing how the Welsh Government plans and manages its legislative programme, as outlined at Recommendation 1, we are aiming to ensure that our internal processes support these suggestions as far as is possible.

In terms of the Law Commission’s suggestions of “*making greater use of Keeling Schedules (as part of the Explanatory Notes) to clarify changes that a bill makes to previous enactments*” and “*providing for the clear repeal of any existing enactments that are superseded by the bill*”, the Welsh Government

will need to consider these further in the light of the Law Commission's final report on the form and accessibility of the law in Wales. However, it is important to note that Keeling-type Schedules are only of benefit if substantial substantive amendments are being made to pre-existing legislation, something that the Welsh Government avoids doing where practicable.

**Financial Implications** – Work to review the planning and management of the Welsh Government's legislative programme is being undertaken within existing budgets.

Any financial implications for the Welsh Government in light of the Law Commission report will need to be considered in our response to that report.

### **Recommendation 10**

The Committee recommends that the Welsh Government must introduce Bills that can be reasonably considered to be fully developed at the point of introduction.

### **Response: Accept in part**

The Welsh Government agrees that Bills at introduction should be fully developed, and the work we are undertaking to review the planning and management of the Government's legislative programme referred to in our response to Recommendation 1 should help strengthen the rigour of the system supporting the development of Bills. However, we do not accept some of the comments on Fourth Assembly Government Bills in this respect. There are many reasons why Bills change during scrutiny, and this is an important part of the democratic process.

**Financial Implications** – Work to review the planning and management of the Welsh Government's legislative programme is being undertaken within existing budgets.

### **Recommendation 11**

The Committee recommends that the Welsh Government, in collaboration with the Law Commission, develops a long-term plan for consolidating law in Wales.

### **Response: Accept in part**

The Welsh Government will consider this recommendation in conjunction with the final report from the Law Commission on the form and accessibility of the law in Wales – taking into account also the resource implications.

**Financial Implications** – Any financial implications for the Welsh Government will need to be considered in our response to that report.

### **Recommendation 12**

The Committee recommends that the Business Committee commits to preparing a Standing Order on consolidation Bills, ideally in time for the Fifth Assembly. The aim of the Standing Order should be to provide expedited

passage for Bills which are certified by Legislative Counsel as not involving any substantive change of law.

**Response: Noted**

The Welsh Government notes the recommendation for the Business Committee and will consider proposed changes to Standing Orders when these are brought forward to the Committee. We hope, however, that account will be taken of the Law Commission's report on the form and accessibility of the law in Wales when framing new Standing Orders.

**Recommendation 13**

The Committee recommends that the Business Committee explores the scope for a simplified procedure for law reform Bills implementing Law Commission reports.

**Response: Noted**

The Welsh Government notes the recommendation for the Business Committee and will consider proposed changes to Standing Orders when these are brought forward to the Committee.

**Recommendation 14**

The Committee recommends that the Law Commission takes account of the views of stakeholders who have contributed to our inquiry as part of their project on the form and accessibility of the law applicable in Wales.

**Response: Noted**

This recommendation is for the Law Commission to consider.

**Recommendation 15**

The Committee recommends that the Welsh Government leads on the production of a standard terminology database, working closely with the Welsh Language Commissioner.

**Response: Accept in principle**

The Welsh Government already has a standard terminology database (TermCymru) which is freely available to all on-line. The Welsh Language Commissioner is aware of TermCymru and is in discussions with the Welsh Government and other strategic funders and stakeholders about the co-ordination of terminology management in Wales.

**Financial Implications** – No new financial implications.

**Recommendation 16**

The Committee recommends that the Welsh Government, working closely with the Welsh Language Commissioner:

- (i) puts in place a long term plan for increasing the proportion of Bills that are co-drafted in English and Welsh;
- (ii) identifies criteria for prioritising resources for dual-language drafting to ensure allocation to the Bills most likely to benefit.

**Response: Reject**

While co-drafting may have benefits in some cases, it is not necessarily an appropriate and efficient model for preparing most Bills. High quality bilingual legislation can be developed in a number of ways, and different ways can be adopted in different circumstances. Regardless of internal processes, the Welsh Government will continue to work to ensure that Government Bills are introduced in high-quality English and Welsh versions.

**Financial Implications** – No new financial implications.

**Recommendation 17**

The Committee recommends that the Counsel General works towards producing a separate Welsh interpretation Act and keeps this Committee updated with progress and developments on this work.

**Response: Accept in part**

The Welsh Government will consider this recommendation in conjunction with the final report from the Law Commission on the form and accessibility of the law in Wales. Further consultation in the normal way would also be required if a Bill was proposed.

**Financial Implications** – Any financial implications for the Welsh Government will need to be considered in our response to that report.

**Recommendation 18**

The Committee recommends that the Welsh Government should review its approach to Explanatory Memoranda and publish the outcome of that review in readiness for the Fifth Assembly.

**Response: Accept in part**

A formal review of the approach to Explanatory Memoranda would be premature at this stage given the recommendations elsewhere in this report for Business Committee to consider amending Standing Orders in respect of accompanying documentation. However, the Welsh Government will consider how its approach to Explanatory Memoranda can be improved ahead of the next Assembly Term. As referred to in the Welsh Government's evidence, work has already begun to consider how best to improve our approach to Explanatory Notes.

**Financial Implications** – This consideration will form part of existing work to review the planning and management of the legislative programme. As such it will be taken forward within existing budgets.

**Recommendation 19**

The Committee recommends that the Business Committee reviews the requirements of Standing Order 26.6 before the Fifth Assembly and in particular considers:

- (i) including a requirement that the Member in charge signposts where precisely in the Explanatory Memorandum the Standing Order requirements can be found (for example, by means of an appropriate index);
- (ii) the suggestions made by the Auditor General for Wales about how Standing Order 26.6(vi) could be improved to provide clearer financial information;
- (iii) including a requirement that the Member in charge of a Bill explains how they have taken account of the human rights convention in preparing the Bill;
- (iv) including a requirement that the Member in charge of a Bill provides a table of derivations.

**Response: Noted**

The Welsh Government notes the recommendation for the Business Committee and will consider proposed changes to Standing Orders when these are brought forward to the Committee.

**Recommendation 20**

The Committee recommends that the Business Committee prepares proposals to amend the Assembly's Standing Orders to require Keeling Schedules to accompany a Bill on introduction (where it proposes to amend existing primary legislation).

**Response: Noted**

The Welsh Government notes the recommendation for the Business Committee and will consider proposed changes to Standing Orders when these are brought forward to the Committee.

**Recommendation 21**

The Committee recommends that the Business Committee, following an appropriate period of time in the Fifth Assembly, reviews the need for a minimum period to be included in Standing Orders for the scrutiny of Bills at Stage 1.

**Response: Noted**

The Welsh Government notes the recommendation for the Business Committee and will consider proposed changes to Standing Orders when these are brought forward to the Committee.

**Recommendation 22**

The Committee recommends that, given that the Assembly is a unicameral legislature, the Business Committee prepares proposals to amend the Assembly's Standing Orders to provide a compulsory Report Stage for the scrutiny of every Bill, unless the Assembly, by resolution on a two-thirds majority, decides otherwise.

**Response: Noted**

The Welsh Government notes the recommendation for the Business Committee and will consider proposed changes to Standing Orders when these are brought forward to the Committee.

**Recommendation 23**

The Committee recommends that the Assembly Commission and the Welsh Government explore the feasibility of putting in place arrangements for the secondment of staff from the Office of the Legislative Counsel to the Assembly Commission.

**Response: Accept in part**

The Welsh Government is willing to explore this as a possibility, although consideration will need to be given as to whether there is available capacity in the Office of the Legislative Counsel.

**Financial Implications** – A number of the Committee’s recommendations, if adopted by the Assembly, could have significant resource implications for the Office of the Legislative Counsel. These resource implications would need to be considered together. If any members of staff were seconded, costs would fall to the Assembly Commission; however this would lead to a reduction in the overall staff resource available in the Office of the Legislative Counsel.

**Recommendation 24**

The Committee recommends that further work is undertaken by the Business Committee to inform consideration of amending Standing Orders to require that all amendments tabled to a Bill (including Welsh Government amendments) are accompanied by text that explains their purpose and effect.

**Response: Noted**

The Welsh Government notes the recommendation for the Business Committee and will consider proposed changes to Standing Orders when these are brought forward to the Committee. The Welsh Government has already made available information on the purpose and intended effect of its amendments both in this Assembly term and the previous one.

**Recommendation 25**

The Committee recommends that the Assembly Commission should ensure that it publishes summaries of amending Stages of all Bills within an appropriate period of time after the completion of that Stage’s proceedings.

**Response: Noted**

This recommendation is for the Assembly Commission to consider.

**Recommendation 26**

The Committee recommends that the Business Committee reviews the adequacy of the procedure that permits the by-passing of Stage 1 scrutiny and the procedure that allows the use of Welsh Government Emergency Bills. In particular it should consider:

- (i) a requirement for the Business Committee to publish the reasons for its decision under Standing Order 26.9 to permit a Bill to bypass Stage 1 scrutiny in committee, within 2 working days of making that decision;
- (ii) a requirement that, in tabling a motion proposing that a government Bill be treated as a government Emergency Bill under Standing Order 26.95, the

Member in charge must lay a statement explaining why it should be treated as such and the costs and other consequences of not doing so.

**Response: Noted**

The Welsh Government notes the recommendation for the Business Committee and will consider proposed changes to Standing Orders when these are brought forward to the Committee.

**Recommendation 27**

The Committee recommends that committees aim to:

- (i) incorporate consideration of post-legislative scrutiny into their planning of the scrutiny of individual Bills referred to them by the Business Committee;
- (ii) re-visit their proposed approach after Stage 4 has been completed, taking into account issues raised during scrutiny.

**Response: Noted**

This recommendation is for Assembly Committees to consider.

**Recommendation 28**

The Committee recommends that the Welsh Government and Assembly Commission review their approaches to public engagement on the legislative process and publish the outcome of their respective reviews in readiness for the Fifth Assembly.

**Response: Accept**

The Welsh Government is willing to work with the Assembly Commission to consider how best to engage with the public and stakeholders on the legislative process.

**Financial Implications** – Work to consider this will be met within existing budgets.

**Recommendation 29**

The Committee recommends that the Assembly Commission works closely with the National Archives and the Welsh Government to improve the accessibility of Welsh legislative texts. As part of this process, the Assembly Commission should report to this Committee on the action it is seeking to take before the end of the Fourth Assembly.

**Response: Accept in part**

The Welsh Government is already working with the National Archives to improve the accessibility of Welsh legislative texts. Responsibility for publication and access sits with the executive (in this case the National Archives), rather than the legislature, once a Bill has been passed.

**Financial Implications** – This work is being taken forward within existing budgets.

**Recommendation 30**

The Committee recommends that the Business Committee reviews the process for Member Bills taking account of the evidence we have received from Assembly Members and their suggestions for improving the process.

**Response: Noted**

The Welsh Government notes the recommendation for the Business Committee and will consider proposed changes to Standing Orders when these are brought forward to the Committee.

**Recommendation 31**

The Committee recommends that the Business Committee in considering the committee structure to be adopted in the Fifth Assembly should:

- (i) consider a range of options identifying the pros and cons of each;
- (ii) take account of the practical experiences of Assembly committees;
- (iii) publish a report of its deliberations including its final recommendation.

**Response: Noted**

The Welsh Government notes the recommendation for the Business Committee and will consider proposed changes to Standing Orders when these are brought forward to the Committee.

**Recommendation 32**

The Committee recommends that the Assembly Commission invests resources in capturing data relevant to the operation and function of scrutiny in the Assembly as a means of facilitating the decision-making process and ensuring the efficient use of time and resources in the delivery of services to Assembly Members.

**Response: Noted**

This recommendation is for the Assembly Commission to consider.

**Recommendation 33**

The Committee recommends that the Welsh Government works closely with the legislation software supplier and the Assembly Commission to ensure it finds a solution to the problems it has identified.

**Response: Accept in part**

The Welsh Government will continue to seek a solution to the current problems with legislation software.

**Financial Implications** – The costs are not yet known, as this will depend on the solution identified.

**Recommendation 34**

The Committee recommends that the Welsh Government fully explores the practicalities and feasibility of the establishment of a Queen's Printer for Wales.

**Response: Accept**

This is something that is already under consideration and will be more fully explored.

**Financial Implications** – Discussions will be conducted within existing budgets. Financial implications will be considered at the stage when any decision is taken.

Carwyn Jones AM  
First Minister of Wales



**Wales Office**  
**Swyddfa Cymru**

**Rt Hon Stephen Crabb MP**  
Secretary of State for Wales

Gwydyr House      Tŷ Gwydyr  
London, SW1A      Llundain, SW1A 2NP  
2NP

1 Caspian Point      1 Pwynt Caspian  
Cardiff Bay, CF10      Bae Caerdydd, CF10  
4DQ      4DQ

[www.walesoffice.gov.uk](http://www.walesoffice.gov.uk)

David Rees AM  
Chair, Health and Social Care  
Committee  
National Assembly for Wales  
Cardiff Bay  
Cardiff  
CF99 1NA

Ref: 134SOS 15

01 December 2015

Dear Mr Rees

Thank you for providing me with a copy of your evidence to the Constitutional and Legislative Affairs Committee following Health and Social Care Committee's scrutiny of the draft Wales Bill.

The draft Wales Bill published for pre-legislative scrutiny is a significant step for Wales and one which provides a firm basis for a stronger, lasting Welsh devolution settlement. Of course I am open to ideas on how the Bill can be improved and I look forward to seeing the recommendations made by the Welsh Affairs Committee in addition to those expressed by Committees of the Assembly. I am grateful therefore for your Committee's consideration of the draft Bill, and the new reserved powers model, in respect of the Assembly's powers over health and social care.

A full impact assessment to accompany the Wales Bill will be published alongside its introduction in the New Year.

**Rt Hon Stephen Crabb MP**  
**Secretary of State for Wales**



**Wales Office**  
**Swyddfa Cymru**

**Rt Hon Stephen Crabb MP**  
Secretary of State for Wales

Gwydyr House      Tŷ Gwydyr  
London, SW1A      Llundain, SW1A 2NP  
2NP

1 Caspian Point      1 Pwynt Caspian  
Cardiff Bay, CF10      Bae Caerdydd, CF10  
4DQ      4DQ

[www.walesoffice.gov.uk](http://www.walesoffice.gov.uk)

William Graham AM  
Chair, Enterprise and Business  
Committee  
National Assembly for Wales  
Cardiff Bay  
Cardiff  
CF99 1NA

Ref: 138SOS 15

07 December 2015

Dear William,

Thank you your letter of 16 November and for the Enterprise and Business Committee's consideration of the draft Wales Bill.

The draft Wales Bill, published in October for pre-legislative scrutiny, is a significant step for Wales and one which provides a firm basis for a stronger, lasting Welsh devolution settlement.

I am grateful for your Committee's consideration of the draft Bill, and the new reserved powers model, in respect of the Assembly's powers within your remit. The UK and Welsh Governments are holding frequent discussions on the draft Bill, including the proposed Schedule of reservations. Many of the issues your Committee has raised have also been raised by the Welsh Government in those discussions.

I am open to ideas on how the draft Bill can be modified and improved, and I will consider carefully the recommendations made by the Welsh Affairs Select Committee and the Assembly's Constitutional and Legislative Affairs Committee with this in mind. The issues you raise in Annex A to your letter will be considered in detail as part of this process.

**Rt Hon Stephen Crabb MP**  
Secretary of State for Wales

# THE DRAFT WALES BILL

## Further Submission to the Welsh Affairs Select Committee of Parliament

by

Huw Williams<sup>1</sup>

### INTRODUCTION

1. This paper is supplementary to my previous submission to the Committee. This paper focuses exclusively on the proposed reservation of the compulsory purchase of land and covers in somewhat greater detail the section on CPO in my previous submission. This submission also draws attention to the anomalies surrounding the role of the “appropriate Minister” in relation to compulsory purchases affecting statutory undertakers.

### Reservation of the Compulsory Purchase of Land

2. Compulsory purchase of land<sup>2</sup> is wholly reserved under the Draft Bill. This is a rolling back of the current position where compulsory purchase is a “silent subject” and could be legislated upon under section 108 (5) (b) of the Government of Wales Act 2006, if incidental or consequential to a conferred subject<sup>3</sup>. The proposed reservation, if implemented, will cause unnecessary difficulties across a range of devolved activities which are underpinned by powers of compulsory acquisition of land (or their availability in the background).
3. While CPO was a “silent subject” it appears to have been assumed that the National Assembly certainly has a degree legislative competence when it comes to powers of compulsory purchase. The Welsh Ministers also exercise executive powers to make secondary legislation relating to compulsory purchase, where the Welsh Ministers themselves have CPO

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<sup>1</sup> Lead Partner – Public Law and Vice-chairman of Geldards LLP, a member of the Planning and Environment Law Committee of the Law Society of England and Wales, Chair of Public Law Wales (Wales Public Law and Human Rights Association) and a member of the Welsh Government’s Independent Advisory Group on Planning 2012-13.

<sup>2</sup> New Schedule 7A, section M4 Buildings and development, paragraph 200

<sup>3</sup> For example Schedule 7, Subject 10 (Highways) or Subject 18 (Town and Country Planning).  
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powers or are the confirming authority for CPO's made by other devolved bodies and Welsh local authorities<sup>4</sup>.

4. In addition to highways<sup>5</sup> and planning<sup>6</sup>, there are CPO powers which can be utilised for NHS bodies<sup>7</sup>, for education purposes<sup>8</sup>, housing<sup>9</sup>, for general local government purposes<sup>10</sup> and for economic, social and environmental development<sup>11</sup>. Other, less frequently used, CPO powers cover aerodromes, allotments, caravan sites, cemeteries, animal diseases, fire services, civil defence, markets, parks and recreation grounds, open spaces and slaughterhouses.
5. To fully understand the effect of this reservation, it is necessary to appreciate that the law on compulsory purchase ("CPO") (which is an entirely statutory code) falls into three distinct categories:
  - 5.1 Provisions that confer powers of CPO.
  - 5.2 Legislation that sets out the procedure for making a CPO, making and determining objections, dealing with special categories of land (e.g. open space land) and statutory challenges to the lawfulness of a CPO<sup>12</sup>.
  - 5.3 The rules for vesting title to land, overriding existing rights and determining the compensation to be paid for the compulsory acquisition of land or for the depreciation in the value of land due to the carrying out of public works.<sup>13</sup>
6. The Welsh Ministers' Independent Advisory Group on planning in their report "Towards a Welsh Planning Act: Ensuring the Planning System Delivers" (June 2012)<sup>14</sup> made a number of recommendations in relation to

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<sup>4</sup> See, for example, Compulsory Purchase of Land (Prescribed Forms) (National Assembly for Wales) Regulations 2004/2732

<sup>5</sup> See Highways Act 1980 Part XII.

<sup>6</sup> Principally section 226 of the Town and Country Planning Act 1990

<sup>7</sup> National Health Service (Wales) Act 2006 section 159 and

<sup>8</sup> Education Act 1996 s.530

<sup>9</sup> Housing act 1985 Part II and Part IX

<sup>10</sup> Local Government Act 1972, section 120

<sup>11</sup> Powers of the Welsh Ministers under the Welsh Development Agency Act 1975 ( as successors to the Welsh Development Agency)

<sup>12</sup> The principal statutes here are the Acquisition of Land Act 1981 and the Compulsory Purchase (Vesting Declarations) Act 1981

<sup>13</sup> The principal statutes here are the Land Compensation Act 1961, the Compulsory Purchase Act 1965, the Land Compensation Act 1973, the Planning and Compulsory Purchase Act 2004 and the Land Tribunal Act 1946, although for certain purposes it may be necessary to refer to older statutes as far back as the Lands Clauses Act 1845.

<sup>14</sup> The full report can be found at

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the exercise of “planning” CPO functions<sup>15</sup>. The IAG argued for maintaining a coherent system throughout England and Wales and also recommended certain reforms in relation to the CPO powers available for the promotion of regeneration projects in Wales with a view to creating a single set of land development and regeneration CPO powers for both local authorities and the Welsh Ministers.

7. When the Environment and Sustainability Committee of the National Assembly conducted a pre-legislative inquiry into the Planning (Wales) Bill, they stated, in their letter to the Minister of 10<sup>th</sup> April 2014 setting out their conclusions<sup>16</sup>:

*3.3 We also ask the Welsh Government to look again at the IAG recommendations about Compulsory Purchase. From the evidence we heard the greatest concern is about retaining coherence with the rules that apply in England, given the common system of land law that applies throughout England and Wales. However bringing together compulsory purchase powers from different legislation into a single set of powers for Welsh Ministers and local planning authorities also seems a sensible proposal that should be taken forward.*

8. It is clear that the National Assembly (presumably advised by their legal services) took the view that such a legislative initiative to bring together CPO powers for development and regeneration was within the legislative competence of the National Assembly.
9. Reserving the whole subject of compulsory purchase of land would risk rolling back (or at least creating uncertainty about) powers over the range of legislative competences already noted above. Reform proposals across all these areas which may require adjustments to land acquisition powers will be likely to run into concerns about whether such powers are “ancillary” and “necessary” with the meaning of the proposed new Schedule 7B Part 1 paragraph 2, the problems around which concepts have been extensively commented upon by others. In practical terms a

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<http://gov.wales/topics/planning/planningresearch/publishedresearch/towardsawelshplanningact/?lang=en>

<sup>15</sup> See recommendation 97 and discussion at paragraphs 6.28 to 6.39

<sup>16</sup> See

<http://www.senedd.assembly.wales/documents/s26347/Letter%20to%20the%20Minister%20for%20Housing%20and%20Regeneration.pdf>

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“chilling” effect on legislative initiative seems inevitable, the more so because of the Human Rights aspect of CPO, which engages the rights in relation to property and (on occasion) family life.<sup>17</sup>

10. It is submitted that the key element of CPO legislation that requires coherence across England and Wales is the part of the legislation relating to land compensation, overriding of rights over land and the compulsory transfer of title through statutory vesting. This sits logically with the reservation of land law under the new Schedule 7B Part 1 paragraph 3(2).
11. However, legislative competence over conferring CPO powers and CPO procedure should be within the legislative competence of the Assembly, without the need to test the ancillary or necessary character of the provision. For example, why shouldn't the Assembly be able to modify the Acquisition of Land Act 1981 so that in Wales it should no longer be necessary to advertise a CPO in the press for two successive weeks<sup>18</sup> and replace it with a single advert and a requirement for electronic posting on a website?
12. It is the view of this submission is that the general reservation of compulsory purchase of land should be replaced with a restricted reservation in respect of the land compensation and the statutory vesting of land, to avoid an undesirable and quite possibly unintended restriction on otherwise devolved competencies.

### **Role of the “Appropriate Minister”**

13. There is a related problem arising from the pre-devolution powers of a Minister of the Crown which affects the operation of the law of compulsory purchase. Keith Bush QC in a paper submitted to the Constitutional and Legislative Affairs Committee<sup>19</sup> has already drawn attention to the difficulties that will continue to arise if new schedule 7B paragraph 8 is enacted in its current form which requires ministerial consent where any residual reserved function is affected, even if it relates to an otherwise devolved subject. The paper contrasts this arrangement unfavourably with

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<sup>17</sup> Article 8: Right to respect of personal and family life and Article 1 of the First Protocol: Protection of property, ECHR.

<sup>18</sup> See section 11(1)

<sup>19</sup> See:

<http://www.senedd.assembly.wales/documents/s46038/DWB%203%20-%20Keith%20Bush%20QC.pdf>

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the provision in section 117 of the Scotland Act 1998 which provides for the pre-devolution powers of Ministers of the Crown to pass automatically to the Scottish Ministers within the devolved competencies.

14. Where a CPO is made that affects a statutory undertaker's land then a CPO may only be confirmed in respect of it where the "appropriate Minister" either gives a certificate that the land may be acquired on being satisfied that there is no serious detriment to the statutory undertaking or replacement land is available<sup>20</sup> or (in certain circumstances) where there is no certificate but the CPO is jointly confirmed by the confirming Minister (or in Wales the Welsh Ministers) and the "appropriate Minister"<sup>21</sup>.
15. Under the Acquisition of Land Act 1981 the "appropriate Minister" is the Secretary of State and any questions as to which Minister is the appropriate Minister is to be determined by the Treasury<sup>22</sup>. Under the National Assembly for Wales (Transfer of Functions Order) 1999<sup>23</sup> the "appropriate Minister" in relation to statutory undertakers remains the Secretary of State except in relation to water and sewerage undertakers (The inclusion of sewerage undertakers here appears anomalous given that the devolution of powers over sewerage is only now being proposed; see the Draft Wales Bill clause 7 and reservation C16 of Schedule 1) and National Trust Land.
16. The draft Wales Bill proposes to devolve executive functions in relation to most Welsh ports (with the temporary exception of "Welsh Trust Ports")<sup>24</sup>. However, it is not clear why in that case the Welsh Ministers are not also being made the "appropriate Minister" in relation CPO's affecting statutory port undertakings<sup>25</sup>. This demonstrates the need to check such matters on a case by case basis would not arise if the position in Wales was the same as that in Scotland in relation to pre-devolution Minister of the Crown powers.

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<sup>20</sup> See the Acquisition of Land Act 1981 section 16 (2).

<sup>21</sup> See *ibid* section 31 (2) which applies in the case of CPO's made for planning or regeneration purposes.

<sup>22</sup> See *ibid* section 8 (3) and (4).

<sup>23</sup> SI 1999/672 Schedule 1

<sup>24</sup> See clauses 13, 14 and 15.

<sup>25</sup> And likewise in relation to the powers under section 260 of the Town and Country Planning Act 1990 (which deals with called in planning applications by statutory undertakers and planning appeals by statutory undertakers) highlighted in Keith Bush QC's paper referenced at footnote 19 above..

17. The “appropriate Minister” position in relation to sewerage undertakers has already been noted. Another example of the erratic distribution of “appropriate Minister” powers is in the Highways Act 1980, section 290 (Supplementary provisions as to powers of entry for the purpose of survey). Subsection (7) allows a statutory undertaker to object to the exercise of certain powers to enter land for survey<sup>26</sup> on the grounds of serious detriment unless the “appropriate Minister”<sup>27</sup> gives approval. However, an examination the National Assembly for Wales (Transfer of Functions Order) 1999<sup>28</sup> in relation to the Highways Act 1980 does not reserve to the function of the “appropriate Minister” to the Minister of Transport or the Secretary of State as the case may be<sup>29</sup>. Accordingly the role of “appropriate Minister” in this case has transferred to the Welsh Ministers, although if the surveys are preliminary to a CPO being made and the Acquisition of Land Act 1981 is engaged then the “appropriate Minister” is the Secretary of State except where there has been a transfer of functions.
18. Any overall logic behind this distribution of functions is accordingly elusive.

## Conclusion

19. The purpose of this paper is to further highlight some practical issues that will arise from the proposed scheme of reserved powers and the failure to address the existing anomalies in relation to compulsory purchase and to advance the view that:

19.1 The reservation of powers in relation to compulsory acquisition should be restricted to the compensation code and the compulsory transfer and vesting of land only as these are the areas that are most closely aligned to the private law of land; and that the present general reservation represents a rolling back of the

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<sup>26</sup> See Highways Act 1980 s.298(3).

<sup>27</sup> Defined in s.290 (10) as “(b) in relation to statutory undertakers carrying on any railway, tramway, road transport, dock, harbour or pier undertaking, the Minister of Transport; and (c) in all other cases, the Secretary of State”.

<sup>28</sup> *Ibid* Schedule 1

<sup>29</sup> The transfer provision in full is:

“Highways Act 1980 (c.66) except–

(a) the Treasury function under section 327(4);

(b) functions exercisable by the Secretary of State in pursuance of section 329(5); and

(c) functions exercisable by the Secretary of State in relation to that part of the M4 Motorway in Wales which comprises “the New Toll Plaza area” and “the New Bridge”, as defined in section 39(1) of the Severn Bridges Act 1992 (c.3).”

powers generally understood to be possessed by the National Assembly at present.

- 19.2 The anomalies in relation to the identity of the “appropriate Minister” in relation to devolved subjects should be addressed by arrangements in relation to the pre-1999 powers of Ministers of the Crown based on section 117 of the Scotland Act 1998.

Huw Williams

20<sup>th</sup> December 2015



Cabinet Office

**Philip Rycroft**  
Second Permanent Secretary  
Head of UK Governance Group &

Email: [Philip.rycroft@cabinetoffice.gov.uk](mailto:Philip.rycroft@cabinetoffice.gov.uk)

1 Horse Guards Road  
London  
SW1A 2HQ

Telephone: +44 (0)20 7271 8944  
Web: [www.cabinetoffice.gov.uk](http://www.cabinetoffice.gov.uk)

David Melding AM  
Chair of the Constitutional and Legislative Affairs Committee

By email

17 December 2015

**Re: Draft Wales Bill – invitation to give oral evidence to the Constitutional and Legislative Affairs Committee**

I am writing in response to your letter dated 7th October inviting me to give oral evidence to the National Assembly for Wales' Constitutional and Legislative Affairs Committee, as part of your inquiry into the draft Wales Bill.

Regrettably the letter never arrived in my office. I offer my sincere apologies that you did not receive a reply.

I would of course have been keen to give evidence, and I would be very happy to do so in the future if you so wished.

I read the Committee's report of the inquiry with interest. The Government is listening to views on the draft Wales Bill and we welcome the Committee's contribution to the debate.

Yours sincerely,

Philip Rycroft  
Head of UK Governance Group



President Jean-Claude Juncker  
European Commission  
Rue de la Loi / Wetstraat 200  
1049 Brussels  
Belgium

9 December 2015

Dear President Juncker

1. I am writing in response to the Commission Work Programme for 2016, entitled *No time for business as usual*, published on 27 October 2015. We welcome the overall approach adopted in the Work Programme, and in particular the continued commitment to introducing a reduced number of new proposals, to withdraw a number of existing dossiers or subject them to the REFIT programme. We note with approval the Commission's statement that "we have given priority to the legislative changes which – if agreed quickly – can have a direct impact on jobs and growth, on our environment and social well-being, on our security and the way we engage with an interconnected world."
2. We have considered the Work Programme in detail over the past month, including through consultation with the devolved legislatures in Scotland, Wales and Northern Ireland. In line with the political dialogue, we seek your response to the Committee's observations and questions below.

#### *Mid-term review of the Multiannual Financial Framework*

3. The Committee notes the plan for a mid-term review of the Multiannual Financial Framework (MFF) and will seek to engage with that process toward the end of 2016. We note that the current MFF had a difficult start as a result of the 2014 payments crisis. While we welcome signs that the Commission is taking steps to prevent further crises and to balance the budget over the course of the MFF cycle, we will follow developments closely in seeking to ensure that the EU budget is fit for purpose. What assurance can you give us that the problems of past years will not be repeated?

#### *A New Boost for Jobs, Growth and Investment*

4. The Circular Economy Package is of considerable interest, given the Committee's extensive work on the issue of food waste reduction in the EU. We note the recent publication of the Package, together with an Action Plan to create a single market for the re-use of materials and resources. We encourage the Commission to continue to pay particular attention to our conclusions on food donation and data collection and monitoring and we look forward to examining the dossier in due course.

5. We are also grateful for the Commission's response to the Committee's Green Card proposal on combating food waste, co-signed by 18 national parliament legislators, and are pleased to note that the Circular Economy package proposes action in areas that we drew attention to in the Green Card.

#### *A Connected Digital Single Market*

6. The Work Programme's overall approach to implementing the Digital Single Market appears to be broadly consistent with that advocated by the UK Government. In particular, we note that the Commission has prioritised actions including the harmonisation of consumer and contract law as well as addressing idiosyncrasies of the VAT system, which will remove concrete barriers to trade.
7. Our engagement with industry representatives indicates that there is strong support for EU action in these areas. However, concerns have been expressed that Member States tend to take the view that their own consumer protection and contract law regimes offer the highest standards, and to assume that any harmonisation must represent a deterioration in standards: therefore it might be very difficult in practice to reach a political agreement. How would you respond? Do you agree that we have now reached a point where Member States need to decide whether or not they really wish a Digital Single Market to be put in place?
8. We have recently launched an inquiry on the Commission's online platforms initiative, and have heard evidence in Brussels from Commission officials, the European Data Protection Supervisor, MEPs, as well as representatives of the German Monopolies Commission, the French Digital Council and the French competition authority. We are also grateful to Commission Vice-President Ansip for meeting the Committee in London on 3 December. We will publish our report in spring 2016, and will seek to provide input to the Commission's analysis of whether any form of regulatory change is needed.
9. We note that a large number of actions envisaged under the Digital Single Market Strategy and Single Market Strategy initiatives take the form of REFIT initiatives, including the Telecoms Framework and the Audiovisual Media Services Directive (AVSMD). Although the Digital Single Market Strategy suggests that the AVSMD refit was central to how the directive should be updated in the digital age, we note that one Member State has drafted a Green Card proposal that proposes to replace the Country-of-Origin principle with a Country-of-Destination approach. We believe that to do so would substantially fragment the very successful single market in broadcasting that exists in the EU, and seriously impede the possibility of creating a single market in digital services. What is your view?
10. We note that legislative proposals are imminent in two other significant fields: initiatives dealing with copyright and a review of the Regulation dealing with cooperation in consumer protection. We look forward to considering these matters and in the meantime endorse the UK Government's view that proposals designed to enhance the Single Market ought to have as their aim the removal of trade barriers across Europe, and be evidence-based "while continuing to ensure that creativity is incentivised, rewarded and protected".

*A Resilient Energy Union with a Forward-Looking Climate Change Policy*

11. The Committee will continue to monitor the progress of the Energy Union Package as the Commission publishes the various elements outlined in the roadmap. Of particular interest are the elements relating to EU energy governance. The Committee will shortly publish a report on this subject which will be submitted to the Commission in the context of ongoing political dialogue with national parliaments in mid-December. Can you provide clarification of how agreed governance arrangements will be formally embedded in the future?
12. We welcome the recently published *State of the Energy Union* report and the Member State factsheets which were published alongside it. Regular assessments of progress made will be essential if the ambitious aims of the Energy Union are to be met. We welcome the effort-sharing proposal for sectors outside the Emission Trading Scheme (ETS), such as buildings, agriculture, and the de-carbonisation of transport. Such a proposal shows a broader approach to climate issues and should be commended. We also look forward to receiving the initiatives on a new energy market design, on reaching the 15% electricity interconnection target by 2030, on energy security of supply and on renewables and energy efficiency. We are supportive of the Energy Union Reporting Initiative undergoing the REFIT programme. Administrative burdens on Member States should be reduced wherever possible and this one such example of good practice.

*A Deeper and Fairer Internal Market with a Strengthened Industrial Base*

13. We note that the *Follow-up to Single Market Strategy* is another key Commission initiative. We will scrutinise this document closely in the coming weeks, but our first impressions are positive. The services sector initiatives contained in the Single Market Strategy are particularly encouraging. The poor implementation of the Services Directive has been a longstanding UK concern, and we welcome the Commission's decision to concentrate on removing barriers to the free movement of services. The new emphasis on taking practical steps to improve compliance with and implementation of the Services Directive is also a good example of the Better Regulation agenda in action. We also welcome the 'services passport' proposal, and urge you to take it forward as a matter of priority.
14. Given its political sensitivity, we also intend to carefully scrutinise the Commission's Labour Mobility Strategy. Can you confirm that the Strategy will consist of modest, targeted revisions to existing legislation, including better coordination of social security systems, tackling abuse by means of better enforcement, and targeted revision of the Posting of Workers Directive, rather than fundamental changes to the current system? Can you also explain why the labour mobility package has been delayed until next year?
15. We previously criticised the UK Government's Balance of Competences review of the Free Movement of Persons for a lack of balance, on the grounds that it gave undue weight to evidence that reflected the Government's own position. We are therefore encouraged that Member States have been engaged in a reflective process with the European Commission during the course of which they have set out their positions and produced supporting evidence. We note that the UK Government participated

fully in this process. Can you confirm that any proposal from the Commission will make full use and reference to the supporting evidence base, so that it can be evaluated on this basis?

16. We note that the UK Government has subsidiarity concerns about a number of actions in the 2016 Work Programme, including the New Skills Agenda for Europe, the New Start for Working Parents and Caregivers, as well as the proposed Pillar of Social Rights. While we welcome the aims of these initiatives, which could, over time, address some Members States' concerns about free movement, what assurance can you give us that the principle of subsidiarity will be respected in these cases?
17. Earlier this year we published a report on the Capital Markets Union Green Paper, and a debate in the House of Lords on the issue will take place shortly. We have already examined the Capital Markets Union Action Plan and the proposed Regulation on Securitisation, and look forward to examining other elements of the package, including the REFIT assessments of the Prospectus Directive and the venture capital regulations, as they come forward.
18. We note that there are a number of measures in the CWP relating to taxation. We have closely followed the progress of the Financial Transaction Tax and the Common Consolidated Corporate Tax Base proposals, as well as proposals to streamline the collection of VAT. We note that, as hinted earlier in the year, the original CCCTB proposal will be withdrawn and replaced by a proposal for a non-consolidated but mandatory corporate tax base: we will examine this proposal closely when it emerges. In the meantime, what assurance can you give us that the concerns about subsidiarity in the original CCCTB will be addressed? On VAT, we note that the standardised VAT return will also be withdrawn. Can you provide further details on what alternative plans the Commission has in mind to reduce the administrative burdens of VAT on businesses?
19. We note that the Commission continues to regard the Financial Transaction Tax as a priority, despite its being taken forward through the enhanced cooperation procedure and the fact that progress has so far been slow. We reiterate our concerns that an FTT, as currently designed, could have serious ramifications not only for participating Member States but for non-participants such as the UK. What assurance can you give us that these concerns are being addressed?

#### *A Deeper and Fairer Economic and Monetary Union*

20. We have recently launched an inquiry into Completing Europe's Economic and Monetary Union, based on the proposals in the Five Presidents' Report. In the course of this inquiry we will examine the more detailed proposals set out in the report, such as reform of the European Semester, the European Deposit Insurance Scheme, national Competitiveness Boards, the Advisory European Fiscal Board and others, as they develop.

#### *A Reasonable and Balanced Free Trade Agreement with the US*

21. The Committee supports the Commission's commitment to maintaining a wide reaching free trade agenda, including the negotiation of a range of new FTAs. This is

based on the framework set out in the Commission's trade strategy, *Trade for All*, which the Committee has considered and is supportive of.

22. The Committee remains strongly supportive of the delivery of the TTIP agreement, consistent with the recommendations of our 2014 report, and welcomes the Commission's identification of this agreement as a top priority for 2016. The Committee also welcomes the Commission's consideration of a new approach to investment protection, to avoid the benefits of this important free trade agreement being derailed by opposition to the ISDM. What steps will the Commission take to communicate the benefits of TTIP effectively, an issue raised in our 2014 report?

#### *An Area of Justice and Fundamental Rights Based on Mutual Trust*

23. In relation to the Agenda on Security, we will follow any proposal to revise the Framework Decision on Terrorism and EU legislation on firearms with particular interest. We note that the Commission intends to publish further proposals in 2016. Can you provide any further clarity on the form that such proposals will take?
24. We also look forward to considering the proposed review of the Regulation covering judgments in matrimonial matters, and to continuing our ongoing work in relation to the proposed Regulation creating a European Public Prosecutor's Office and, in the light of the Court of Justice's Opinion, the EU's accession to the European Convention on Human Rights.

#### *Towards a New Policy on Migration*

25. Some of the most significant initiatives proposed in the CWP relate to the European Agenda on Migration. We note in particular the proposed revision of the Dublin system and the proposal for a permanent resettlement scheme. We welcome the priority given by the Commission to addressing and managing the on-going refugee crisis. This continued focus is in line with the views expressed in the Committee's recent reports on *The UK's opt-in to the proposed Council Decision on the relocation of migrants within the EU* and *The EU Action Plan against Migrant Smuggling*. We are concerned by the UK Government's continued resistance to engaging positively with the Commission in this respect.
26. We are disappointed to note that, other than a proposal for a permanent resettlement scheme, the Commission has not proposed further measures to establish safe and legal routes for asylum-seekers to reach the EU, or to strengthen existing measures. How would you respond to the conclusion in our report on *The EU Action Plan against Migrant Smuggling*, that:

“One effective way of addressing the root causes of irregular migration would be to create safe and legal routes for refugees to enter the EU. We welcome the Commission's recognition of this but urge that more be done at EU level to work towards the creation of such routes. It is regrettable that the Action Plan does not set out further details in this regard. We recommend that this be addressed as soon as possible. In particular, we recommend that the Commission should bring forward further initiatives to encourage Member States to create such routes, for example by making use of humanitarian visas.”

27. In the light of the recent terror attacks in Paris, we will closely observe any changes to EU internal security policy. We support evidence-based steps being taken to strengthen existing EU measures, including the Framework Decision on Terrorism. However, we emphasise that any such steps must be fully in line with the EU Charter of Fundamental Rights and should in particular not unduly impede upon the humanitarian approach needed to address the ongoing refugee crisis. What assurance can you give us in this regard?
28. We also note that the Commission has identified five pending proposals which it considers to be a priority for adoption:
- Data Protection Reform Package
  - Europol Regulation
  - Passenger Name Record (PNR) Directive
  - Permanent relocation scheme to amend the Dublin Regulation
  - EU list of safe countries of origin to amend the Asylum Procedures Directive
29. All of the above proposals are politically important and have been or are expected to be the subject of extended and fraught negotiations. We are currently scrutinising all five documents, and are engaged in correspondence with the UK Government, the Commission and the European Parliament on their respective risks and benefits. We will continue to follow developments closely.

#### *A Stronger Global Actor*

30. We consider the development by the High Representative/Vice President of a new foreign and security strategy to be a significant and welcome initiative. The Committee is currently undertaking an inquiry into the new strategy, and is considering the priorities and capabilities of the EU in external affairs. The Committee will publish its report on the strategy in early 2016, in order to contribute to the High Representative/Vice President's process of strategic reflection.
31. The Committee also welcomes the review of the European Neighbourhood Policy (ENP), reflecting changes in the neighbourhood and the need for a tailor-made country-by-country approach. Recent years have highlighted the importance of a secure and stable neighbourhood to the EU's own internal and external security. The Committee will be considering the ENP review closely. The Committee also welcomes the intention of the Commission to make clear the status of accession states. This is particularly significant for Turkey, where the development of a coherent strategy has been lacking.

#### *A Union of Democratic Change*

32. We note the Commission's commitment to ensure that negotiations on a new IIA on Better Regulation are concluded by the end of the year. We have previously written to the UK Government and the Commission setting out our support for many of the principles contained in the draft IIA, but setting out some concerns about the new Regulatory Scrutiny Board and the transparency of the trilogue process.

33. We note that the Commission intends to bring forward a proposal for an IIA on a mandatory transparency register. While we welcome moves towards greater transparency in principle, what steps will you take to ensure that the impact of the new register is not unduly burdensome?
34. Finally, we welcome the Commission's increased engagement and dialogue with national Parliaments. What assurance can you give us that the Commission will be responsive to requests for meetings and exchanges of view from parliamentary committees, thus enhancing our own scrutiny of draft proposals? You state that you plan to take "further steps to ensure that national parliaments have a strong voice in European decision-making". What steps do you have in mind? Will the Commission endorse the Green Card mechanism proposed by this Committee and other national parliaments? What steps are you taking to ensure that the views and opinions of regional parliaments and assemblies are also taken into account?
35. I look forward to your response.
36. I am copying this letter to First Vice-President Frans Timmermans; Danuta Hübner MEP, chair of the European Parliament AFCO Committee; the chairpersons of all European Affairs Committees of national parliaments in the EU; Jacqueline Minor, head of representation for the Commission in the UK; the Rt Hon David Lidington MP, Minister for Europe; and the chairs and convenors of the relevant committees in the Scottish Parliament, the National Assembly for Wales and the Northern Ireland Assembly.

*Yours sincerely,*

*Tim Boswell*

Lord Boswell of Aynho  
Chairman of the House of Lords European Union Committee

Dear colleagues,

The Public Administration and Constitutional Affairs Committee has launched the second phase of its major constitution inquiry (a report on phase one, [EVEL](#), is forthcoming), looking at the way in which the different governments, parliaments and civil servants in the United Kingdom work with one another.

This strand of our inquiry will look at how inter-institutional relations have developed since the advent of devolution and assess what changes are required for the future.

### **Terms of reference**

We invite submissions on the following questions:

#### **Inter-Governmental Relations**

- What are the current inter-governmental arrangements? How have they developed since 1999?
- What kind of relationships between key players already exist? How do they function? Do they work well? How can they be improved?
- How effectively has the existing intergovernmental machinery worked?
- What reforms are required in the field of intergovernmental relations?
- Should intergovernmental relations have a statutory underpinning?

#### **Inter-Parliamentary Relations**

- What are the current inter-parliamentary arrangements? How have they developed since 1999?
- How could the different legislatures cooperate with one another in a more effective manner?
- What kind of relationships between key players already exist? How do they function? Do they work well? How can they be improved?
- What are the arguments for and against stronger inter-parliamentary relations?
- How best could any reform of inter-parliamentary relations fit within the evolving devolution settlements?

#### **The Civil Service**

- How effectively has the Civil Service adapted to devolution?
- How appropriate is the existence of a single Civil Service still appropriate in the light of the evolving devolution settlements?
- How should Civil Servants in Great Britain and Northern Ireland cooperate with one another, post-devolution?
- What reform of the Civil Service is required to reflect the realities of a post-devolution United Kingdom?

### **Deadline for written evidence**

The deadline for submissions is **Monday 29<sup>th</sup> February 2016**. Our first evidence session was in Cardiff, with further evidence sessions taking place in the New Year.

### **Where to submit evidence**

Written submissions should be submitted via the [Inter-Institutional Relations in the UK](#) inquiry page, where further guidance and information can also be found.

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**Dr Adam Evans**, Committee Specialist, Public Administration and Constitutional Affairs Select Committee (PACAC)

Tel: 0207 219 6923 Email: [evansab@parliament.uk](mailto:evansab@parliament.uk)

Twitter: [@CommonsPACAC](#)

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David T.C Davies MP  
Chair, Welsh Affairs Committee  
House of Commons  
London  
SW1A 0AA

19 December 2015

Dear David

Thank you for your letter dated 16 November 2015. We agree that the concurrent meeting was successful. We would hope that our successor committee in the next Assembly would look to build on this approach, if the opportunity arises.

Both our Committee as a whole, and I, in my roles as Committee Chair and Deputy Presiding Officer would strongly welcome the opportunity for Westminster committees to have greater procedural freedom to meet jointly with Assembly committees.

We believe that our Standing Orders allow Assembly committees greater opportunities for joint working which benefit the public we serve. Increasing the opportunity for joint working will also help improve, more generally, inter-parliamentary cooperation between the two legislatures, a point which was the subject of recommendations 54 and 55 of Part II of the Silk Report, Empowerment and Responsibility: Legislative Powers to strengthen Wales. We would be interested to hear of the points you raise.



Additionally, as you are aware we published our report on the draft Wales Bill recently. I have enclosed a hard copy of the report for you. We look forward to reading your report on the draft Bill in due course.

Yours sincerely

A handwritten signature in black ink that reads "David Melding". The signature is written in a cursive style with a long, sweeping tail on the final letter.

**David Melding**

**Chair**

Croesewir gohebiaeth yn Gymraeg neu Saesneg.

We welcome correspondence in Welsh or English.

