

Agenda – Constitutional and Legislative Affairs Committee

Meeting Venue:

Committee Room 1 – Senedd

Meeting date: 9 October 2017

Meeting time: 14.30

For further information contact:

Gareth Williams

Committee Clerk

0300 200 6362

SeneddCLA@assembly.wales

1 Introduction, apologies, substitutions and declarations of interest

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

(Pages 1 – 7)

CLA(5)–23–17 – Paper 1 – Statutory instruments with clear reports

Negative Resolution Instruments

2.1 SL(5)129 – The Valuation Tribunal for Wales (Amendment) Regulations 2017

2.2 SL(5)133 – The Regulated Services (Notifications) (Wales) Regulations 2017

Affirmative Resolution Instruments

2.3 SL(5)131 – The Regulated Services (Registration) (Wales) Regulations 2017

2.4 SL(5)132 – The Regulated Services (Annual Returns) (Wales) Regulations 2017

2.5 SL(5)134 – The Education Workforce Council (Accreditation of Initial Teacher Training) (Additional Functions) (Wales) (Amendment) Order 2017

2.6 SL(5)135 – The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2017



2.7 SL(5)136 – The Official Statistics (Wales) Order 2017

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

Negative Resolution Instruments

3.1 SL(5)127 – The Well-being of Future Generations (Wales) Act 2015
(Assessments of Local Well-being) Regulations 2017

(Pages 8 – 16)

CLA(5)–23–17 – Paper 2 – Regulations

CLA(5)–23–17 – Paper 3 – Explanatory Memorandum

CLA(5)–23–17 – Paper 4 – Report

4 Instruments that raise no reporting issues under Standing Order 21.2 or 21.3 but have implications as a result of the UK exiting the EU

Negative Resolution Instruments

4.1 SL(5)126 – The Natural Mineral Water, Spring Water and Bottled Drinking Water (Wales) (Amendment) Regulations 2017

(Pages 17 – 18)

CLA(5)–23–17 – Paper 5 – Report

5 Papers to Note

(Pages 19 – 21)

CLA(5)–23–17 – Paper 6 – Letter from the Llywydd, EU (Withdrawal) Bill, 2 October 2017

CLA(5)–23–17 – Paper 7 – Letter from the Chair of the Public Administration and Constitutional Affairs Select Committee, EU (Withdrawal) Bill

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

7 Paper to Note

(Pages 22 – 23)

CLA(5)-23-17 – Paper 8 – Letter from the Llywydd to the Secretary of State for Wales – EU Withdrawal Bill

8 Stronger Voice for Wales Inquiry: Draft Report

(Pages 24 – 68)

CLA(5)-23-17 – Paper 9 – Progress on the draft report

CLA(5)-23-17 – Paper 10 – Draft report

9 European Union (Withdrawal) Bill 2017

Statutory Instruments with Clear Reports **Agenda Item 2**

9 October 2017

SL(5)129 – The Valuation Tribunal for Wales (Amendment) Regulations 2017

Procedure: Negative

Regulations 3 to 15 amend the Valuation Tribunal for Wales Regulations 2010. For example, regulations 4, 5 and 6 amend the operation and membership of the Governing Council of the Valuation Tribunal.

Regulations 17 and 18 amend the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005. Regulations 17 and 18 enable appeals under those Regulations to be disposed of without a hearing.

Parent Act: Local Government Finance Act 1988

Date Made: 25 September 2017

Date Laid: 27 September 2017

Coming into force date: 1 December 2017

SL(5)133 – The Regulated Services (Notifications) (Wales) Regulations 2017

Procedure: Negative

Section 39(1) of the Regulation and Inspection of Social Care (Wales) Act 2016 (“the Act”) makes provision about the circumstances under which the Welsh Ministers are required to notify each local authority when certain regulatory decisions are made in respect of the registration of a service provider.

Section 39(1)(g) of the Act empowers the Welsh Ministers to prescribe further circumstances under which the duty to notify local authorities will apply.

Section 39(2) of the Act empowers the Welsh Ministers to make regulations about any further information that is required to be contained in such notifications.



Regulation 3 sets out the information that is required to be contained in all notifications made under section 39(1). Regulation 4 sets out the additional information that is required to be contained in a notification about the cancellation of the registration of a service provider. Regulation 5 sets out the additional information that is required to be contained in a notification about the variation of the registration of a service provider by removing from the registration a regulated service or a place at, from or in relation to which the provider is providing a regulated service. Regulation 6 sets out the additional information that is required to be contained in a notification about the making of an order by a justice of the peace under section 23 of the Act (urgent cancellation or variation by removing a service or place). Regulation 7 sets out the additional information that is required to be contained in a notification about the cancellation of a designation of a responsible individual under section 22 of the Act. Regulation 8 sets out the additional information that is required to be contained in a notification about proceedings brought against a person in respect of an offence under Part 1 of the Act or regulations made under it. Regulation 9 sets out the additional information that is required to be contained in a notification about a penalty notice given under section 52 of the Act.

Regulation 10 sets out the further things prescribed for the purposes of section 39(1)(g) of the Act. Provision is made about appeals made by a service provider in respect of the things set out in section 39(1)(a) to (d) and the outcome of any appeal. Provision is also made about the outcome of proceedings for offences brought by the Welsh Ministers under Part 1 of the Act (or prescribed in regulations made under it).

Parent Act: Social Care (Wales) Act 2016

Date Made: 27 September 2017

Date Laid: 3 October 2017

Coming into force date: 2 April 2018

SL(5)131 – The Regulated Services (Registration) (Wales) Regulations 2017

Procedure: Affirmative

These Regulations are made under sections 6 and 11 of the Regulation and Inspection of Social Care (Wales) Act 2016 (“the Act”) and apply in relation to Wales.



Section 6(1) of the Act sets out the information that must be contained in an application for registration as a service provider of a regulated service. Section 6(1)(d) of the Act enables the Welsh Ministers to prescribe additional information that must be contained in an application for registration. Regulations 3 and 4 specify the additional information that is to be provided by an applicant for registration.

Section 6(2) of the Act provides that the application for registration must be in the prescribed form. Regulation 5 makes provision about the form of an application.

Using powers under section 11 of the Act, regulations 6 to 9 specify the information that is to be provided on an application to vary registration.

Regulations 10 and 11 set out the further information that is required in respect of an application to vary registration. Regulation 12 makes provision about the form of an application for variation.

Section 11(2) of the Act places a duty on the Welsh Ministers to prescribe in regulations a time limit within which an application for variation of a provider's registration must be made in circumstances where there is no responsible individual designated in respect of a place at, from or in relation to which the provider provides a regulated service. Regulation 13 prescribes that time limit as being 28 days.

Parent Act: Regulation and Inspection of Social Care (Wales) Act 2016

Date Made: Not stated

Date Laid: Not stated

Coming into force date: 1 February 2018

SL(5)132 – The Regulated Services (Annual Returns) (Wales) Regulations 2017

Procedure: Affirmative

Section 10(1) of the Regulation and Inspection of [Social Care \(Wales\) Act 2016](#) (“the Act”) requires service providers to submit an annual return to the Welsh Ministers. Section 10(2) of the Act sets out the requirements for the contents of the annual return.



These Regulations are made under section 10(2)(a)(vii), (viii) and (ix), (3) and (4) of the Act, which enables Welsh Ministers to prescribe the information about training and workforce planning and other information which must be contained in the annual return, to prescribe the form of the annual return and to prescribe the time limit within which the annual return must be submitted to Welsh Ministers.

Regulation 3 requires the annual return to contain information about the arrangements for identifying, planning and meeting the training needs of staff.

Regulation 4 requires the annual return to contain information about the arrangements for recruitment and retention of staff.

Regulations 5 and 6 and the Schedule deal with other information about the service provided at each location, which must be contained in the annual return, including information about staffing and about service provision and the specific information required where the service involves the provision of accommodation.

Regulations 7 and 8 require the annual return to contain a declaration of truth by the service provider and the responsible individual. This will provide evidence of the person responsible for making a statement in the annual return in the event of a prosecution for an offence under section 47 of the Act (false statements).

Parent Act: Regulation and Inspection of Social Care (Wales) Act 2016

Date Made: Not stated

Date Laid: Not stated

Coming into force date: 1 November 2017

SL(5)134 – The Education Workforce Council (Accreditation of Initial Teacher Training) (Additional Functions) (Wales) (Amendment) Order 2017

Procedure: Affirmative

The Education Workforce Council (“the Council”) was continued in existence by section 2 of the Education (Wales) Act 2014 (“the 2014 Act”). Section 4 of the 2014 Act sets



out the main functions of the Council. Section 5 of the 2014 Act allows the Welsh Ministers to make an Order conferring or imposing additional functions on the Council.

The Education Workforce Council (Accreditation of Initial Teacher Training) (Additional Functions) (Wales) Order 2017 (“the 2017 Order”) conferred additional functions on the Council relating to the accreditation and withdrawal of accreditation of courses or programmes of study of initial school teacher training (“Accreditation Function”).

This Order amends the 2017 Order so as to confer a further function on the Council which requires it to have regard to the Welsh Ministers’ forecast of demand for newly qualified teachers when exercising its Accreditation Function (article 2).

Parent Act: Education (Wales) Act 2014

Date Made: Not stated

Date Laid: Not stated

Coming into force date: 1 November 2017

SL(5)135 – The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2017

Procedure: Affirmative

These Regulations are made under section 198 of the Social Services and Well-being (Wales) Act 2014 (“the 2014 Act”). They make consequential amendments to primary legislation which are in addition to amendments made in the Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016.

Regulation 2 of these Regulations amends the Children Act 1989 by disapplying section 25C(2) in relation to Wales.

Regulation 3 amends section 2(6)(c) of the Local Government and Housing Act 1989 by replacing the reference to “section 6 of the Local Authority Social Services Act 1970” with “section 144 of the Social Services and Well-being (Wales) Act 2014”.

The Children and Families Act 2014 introduced a “child arrangements order”, replacing residence and contact orders. Regulation 4 amends the 2014 Act by replacing references in sections 76 and 81 to “residence order” with “child arrangements order” to reflect this change.



Parent Act: Social Services and Well-being (Wales) Act 2014

Date Made: Not stated

Date Laid: Not stated

Coming into force date: 1 December 2017

SL(5)136 – The Official Statistics (Wales) Order 2017

Procedure: Affirmative

This Order provides that the statistics produced, or to be produced, by the persons listed in the Schedule are official statistics for the purpose of Part 1 of the Statistics and Registration Service Act 2007 (“the Act”). Part 1 establishes the Statistics Board which is responsible for promoting and safeguarding good practice in gathering and assessing official statistics. “Official statistics” is defined in section 6(1) of the Act and includes, in subsection (1)(b)(iii), statistics as specified by order made by the Welsh Ministers.

Section 6(2) of the Act provides that an order made under subsection (1)(b) may specify a description of statistics produced or the person producing them.

Official statistics produced by persons listed in the Schedule do not include statistics produced by the Statistics Board, government departments, devolved administrations or any other person acting on behalf of the Crown.

Parent Act: Statistics and Registration Service Act 2007

Date Made: Not stated

Date Laid: Not stated

Coming into force: Coming into force in accordance with article 1(2)



Agenda Item 3.1

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

2017 No. 939 (W. 232)

WELL-BEING, WALES

The Well-being of Future
Generations (Wales) Act 2015
(Assessments of Local Well-being)
Regulations 2017

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which apply in relation to Wales, provide that in preparing an assessment of well-being under section 37 of the Well-being of Future Generations (Wales) Act 2015, a public services board must take into account the most recent review of air quality for their local authority area carried out under section 82 of the Environment Act 1995 and the most recent strategic noise maps made under Part 2 of the Environmental Noise (Wales) Regulations 2006 and adopted by the Welsh Ministers.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. 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 these Regulations.

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

2017 No. 939 (W. 232)

WELL-BEING, WALES

The Well-being of Future
Generations (Wales) Act 2015
(Assessments of Local Well-being)
Regulations 2017

Made 19 September 2017

Laid before the National Assembly for Wales
25 September 2017

Coming into force 24 October 2017

The Welsh Ministers, in exercise of the power conferred by section 38(3)(i) of the Well-being of Future Generations (Wales) Act 2015⁽¹⁾, make the following Regulations.

Title and commencement

1.—(1) The title of these Regulations is the Well-being of Future Generations (Wales) Act 2015 (Assessments of Local Well-being) Regulations 2017.

(2) These Regulations come into force on 24 October 2017.

Assessments of local well-being

2. In preparing an assessment under section 37(1) of the Well-being of Future Generations (Wales) Act 2015 a public services board must, in addition to the matters described in section 38(3) of that Act, take into account the matters listed in the Schedule.

Lesley Griffiths
Cabinet Secretary for Environment and Rural Affairs,
one of the Welsh Ministers
19 September 2017

(1) 2015 anaw 2.

SCHEDULE Regulation 2

**Matters to be taken into account in the
preparation of an assessment under
section 37(1) of the Well-being of Future
Generations (Wales) Act 2015**

1. The most recent review of air quality for the local authority area carried out under section 82 of the Environment Act 1995⁽¹⁾.

2. The most recent strategic noise maps made under Part 2 of the Environmental Noise (Wales) Regulations 2006⁽²⁾ and adopted by the Welsh Ministers.

(1) 1995 c. 25.
(2) S.I. 2006/2629 (W. 225).

Explanatory Memorandum to the Well-being of Future Generations (Wales) Act 2015 (Assessments of Local Well-being) Regulations 2017

This Explanatory Memorandum has been prepared by the People and Environment Division of the Welsh Government and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

Cabinet Secretary's Declaration

In my view this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Well-being of Future Generations (Wales) Act 2015 (Assessments of Local Well-being) Regulations 2017.

Lesley Griffiths
Cabinet Secretary for Environment and Rural Affairs
25 September 2017

1. Description

- 1.1 The Well-being of Future Generations (Wales) Act 2015 (Assessments of Local Well-being) Regulations 2017 (“the 2017 Regulations”) require Public Services Boards (“PSBs”), when preparing an assessment of local well-being under section 37 of the Well-being of Future Generations (Wales) Act 2015 (“the WFG Act”), to take into account the most recent review of air quality for their local authority area carried out under section 82 of the Environment Act 1995 (“the 1995 Act”) and the most recent strategic noise maps made under Chapter 2 of the Environmental Noise (Wales) Regulations 2006 (“the 2006 Regulations”) and adopted by the Welsh Ministers.

2. Matters of Special Interest to the Constitutional and Legislative Affairs Committee

- 2.1 None.

3. Legislative Background

- 3.1 The Welsh Ministers make these Regulations in exercise of the powers conferred by section 38(3)(i) of the WFG Act.
- 3.2 Under Chapter 2 of Part 4 of the WFG Act, each PSB must improve the economic, social, environmental and cultural well-being of its area by contributing to the achievement of the well-being goals. It must do this by assessing the state of economic, social, environmental and cultural well-being in its area; by setting objectives designed to maximise the PSB’s contribution within its area to achieving the well-being goals; and by members of the PSB taking all reasonable steps in exercising their functions to meet those objectives.
- 3.3 Section 38(3) of the WFG Act lists statutory reviews and assessments PSBs must take into account in preparing its assessment of local well-being. This list includes, at 38(3)(i), “such other review or assessment in relation to the local authority area as may be prescribed by the Welsh Ministers in regulations (or such other analysis as may be designated in such regulations as a review or assessment for the purposes of this section)”.
- 3.4 The 2017 Regulations are subject to the negative resolution procedure as prescribed in section 54(5) of the WFG Act.

4. Purpose and Intended Effect of the 2017 Regulations

- 4.1 Air pollution is estimated to reduce the average life expectancy of each person living in the UK by several months. In Wales, over a thousand deaths and over 10,000 lost life-years are attributed annually to both nitrogen dioxide and particulate matter, and the financial cost of air pollution in the UK has been estimated at around £20 billion per year¹. In Wales, Local Authorities have declared more than 40 air quality management areas to date, one for particulate matter, the rest associated with nitrogen dioxide from road traffic.
- 4.2 Section 82 of the 1995 Act requires every Local Authority to review, from time to time, the present and likely future air quality within its area. In practice, and in line with statutory guidance² issued by the Welsh Ministers under section 88 of the 1995 Act, this review takes the form of an annual progress report submitted in draft to the Welsh Government by 30 September each year and, once finalised, published on the Local Authority's website. The Welsh Government encourages regional working and the joint submission of annual progress reports covering more than one Local Authority.
- 4.3 Noise emitted by sources of air pollution affects people primarily through sleep disturbance and annoyance, but also through an increased risk of hypertension-related health conditions and impacts on productivity and learning, with a cost to the UK valued conservatively at around £10 billion per year³. According to the national noise maps produced in 2012, the homes of more than 200,000 people in Wales are exposed to levels of road traffic noise exceeding World Health Organisation (WHO) night noise guidelines.
- 4.4 Part 2 of the 2006 Regulations requires the Welsh Ministers and airport operators to produce strategic noise maps for major roads, major railways, major airports and agglomerations in Wales. Part 8 of the 2006 Regulations requires these maps to be published. The maps must be reviewed and, if necessary, revised whenever a major development occurs affecting the existing noise situation, or at least every five years. There are currently no airports in Wales requiring strategic noise maps under the 2006 Regulations. The latest noise maps for major roads, major railways and environmental noise sources in agglomerations may be viewed on-line and downloaded at <http://lle.gov.wales/map/airbornepollution>. Following a review carried out in 2015, new noise maps for major roads across Wales and industry in agglomerations are due to be published on this website by the end of 2017.
- 4.5 Public exposure to air and noise pollution is an important determinant of social and environmental well-being. However, consideration of air quality and noise evidence in the first round of draft assessments of local well-being was found to be inconsistent across Wales. The purpose and intended effect of these Regulations is to ensure it is given due consideration by all PSBs in future rounds.

¹ <https://www.rcplondon.ac.uk/projects/outputs/every-breath-we-take-lifelong-impact-air-pollution>

² <http://gov.wales/topics/environmentcountryside/epq/airqualitypollution/airquality/guidance/policy-guidance>

³ <https://www.gov.uk/noise-pollution-economic-analysis>

- 4.6 Ensuring assessments of air and noise pollution are taken into account in each assessment of local well-being supports existing Welsh Government policy on local air quality and noise management, as well as contributing to the breaking down of policy silos by considering issues relating to air and noise pollution alongside other aspects of well-being such as sustainable transport and improving public health generally.

5. Regulatory Impact Assessment

- 5.1 No impact assessment has been produced in relation to these Regulations as no impact on the private, voluntary or public sectors is foreseen.

6. Consultation

- 6.1 The Welsh Government ran a 12-week public consultation on local air quality and noise management from 13 September 2016 to 6 December 2016⁴. One of the proposals put forward in the consultation was as follows:

The Welsh Government proposes to add, through regulations, Local Authorities' annual progress reports on air quality and national noise maps to the list in section 38(3) of the WFG Act of things to be taken into account by PSBs when preparing assessments of local well-being.

- 6.2 The responses received in relation to this proposal were all favourable. In publishing its summary of the consultation in March 2017, the Welsh Government stated it would therefore “add the reviews and assessments of air quality required under section 82 of the Environment Act 1995 and the strategic noise maps required under Part 2 of the Environmental Noise (Wales) Regulations 2006 to the list in section 38(3) of the WFG Act of things to be taken into account by PSBs when preparing assessments of local well-being.”

7. Competition Analysis

- 7.1 These Regulations will not affect business, charities and/or the voluntary sector in ways which raise issues relating to competition.

8. Post-implementation Review

- 8.1 The second round of draft assessments of local-well-being is due in 2022. Welsh Government officials will evaluate the assessments submitted by PSBs and advise Ministers on the need for any further intervention.

⁴ <https://consultations.gov.wales/consultations/air-quality-and-noise-management-wales>

SL(5)127 - The Well-being of Future Generations (Wales) Act 2015 (Assessments of Local Well-being) Regulations 2017

Background and Purpose

These **Regulations** provide that in preparing an assessment of well-being under section 37 of the **Well-being of Future Generations (Wales) Act 2015**, a public services board must take into account the most recent review of air quality for their local authority area carried out under section 82 of the **Environment Act 1995** and the most recent strategic noise maps made under Part 2 of the **Environmental Noise (Wales) Regulations 2006** and adopted by the Welsh Ministers.

Procedure

Negative

Technical Scrutiny

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

Merits Scrutiny

One point is identified for reporting under Standing Order 21.3 in respect of this instrument, in that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Assembly (Standing Order 21.3(ii)).

- These Regulations require public services boards, when preparing assessments of well-being, to take account of the most recent strategic noise map made under the Environmental Noise (Wales) Regulations 2006 and adopted by the Welsh Ministers.
- The timetable set out in legislation provides that the latest map should have been adopted by the Welsh Ministers by the end of June 2017. However, the link provided in the Explanatory Memorandum to the "latest" map links to a map from 2012.
- The Explanatory Memorandum states that new noise maps are due to be published online by the end of 2017. But, as noted above, the latest maps should have been adopted by the end of June 2017.

Implications arising from exiting the European Union

None.

Government Response

The Environmental Noise Directive, and the Environmental Noise (Wales) Regulations 2006 which transpose the Directive into Welsh law, both require strategic noise maps "showing the situation in the preceding calendar year" to be made and adopted by 30 June 2017. They also require the strategic noise maps to be published. They do not specify a date by which publication must occur. However, the Directive requires the strategic noise maps to be reported to the European Commission within six months of the date specified for their making and adoption, i.e. by the end of December 2017. As stated in the explanatory memorandum, the Welsh Government aims to publish the revised noise maps for Wales on the Lle website by this same date.



The legislation requires strategic maps to show the situation in the preceding calendar year, i.e. 2016. The Welsh Government reviewed the strategic noise maps which had been made in 2012 (showing the situation in 2011) and concluded that the maps for major roads and for industry in agglomerations were no longer representative and would therefore need to be re-made in 2017. Department for Transport traffic flow data for a given year only becomes available for use in noise calculations shortly before or around June the following year. If strategic noise maps were to be published by the end of June 2017, they would have to rely upon traffic flow data for the year 2015, and so would not be truly representative of the preceding calendar year. The Welsh Government considers that delaying the publication of the new noise maps to shortly before the December reporting deadline specified in the Directive is justified as it enables the maps that are published and reported to both be calculated from 2016 traffic flow data and also take into account more recent changes to road layouts and the residential population than would have been possible had the noise mapping process ceased in June. As a consequence, the noise action planning priority areas that will be identified in the 2018 revision of the noise action plan for Wales will be informed by traffic flow data from 2016 rather than 2015, and more up-to-date road layouts and residential population statistics than would otherwise be the case.

Legal Advisers
Constitutional and Legislative Affairs Committee
29 September 2017



Agenda Item 4.1

126 The Natural Mineral Water, Spring Water and Bottled Drinking Water (Wales) (Amendment) Regulations 2017

Background and Purpose

These **Regulations** amend the **Natural Mineral Water, Spring Water and Bottled Drinking Water (Wales) Regulations 2015** (S.I. 2015/1867 (W. 274)) (“the 2015 Regulations”).

The amendments—

- (a) implement the amended monitoring requirements for spring and bottled water provided for by Commission Directive (EU) 2015/1787. The amendments remove the requirement for food authorities to conduct check and audit monitoring of spring water and bottled drinking water (*regulations 8 and 14*);
- (b) provide that natural mineral water and spring water that has been subjected to fluoride removal treatment or ozone-enriched air treatment in a non-EEA State may be sold in Wales. Such water may only be sold if those treatments have been authorised by the responsible authority in that non-EEA State and the Food Standards Agency or responsible authority in another part of the UK or EEA has determined that the procedure for authorising the treatment in that State is equivalent to the requirements under Articles 1 to 3 of Regulation (EU) 115/2010 (*regulations 3, 9 and 10*);
- (c) clarify that natural mineral water and spring water extracted outside Wales can be sold in Wales if it complies with the requirements of the 2015 Regulations in relation to exploitation (in the case of natural mineral water), treatments and additions, and bottling and labelling requirements (*regulations 4 and 7*);
- (d) clarify that the rules on treatments and additions do not prevent spring water from being used in the manufacture of soft drinks (*regulation 5*);
- (e) prohibit the advertising of spring water in a way that is liable to cause the water to be confused with a natural mineral water, and prohibiting the use of “mineral water”, “dŵr mwynol”, or its equivalent in any other language, in the advertising of spring water (*regulation 6*);
- (f) correct two errors in the Welsh language text of the 2015 Regulations (*regulations 11 and 12(b)*);
- (g) correct various other errors in the 2015 Regulations (*regulations 12(a) and 13*); and
- (h) clarify that the exemption period from monitoring for certain radiological substances lasts 5 years (*regulation 15*).

Procedure

Negative

Technical Scrutiny

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



Merits Scrutiny

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

Implications arising from exiting the European Union

These Regulations form part of "EU-derived domestic legislation" under clause 2 of the European Union (Withdrawal) Bill ("the Bill") as introduced, therefore these Regulations will be retained as domestic law and will continue to have effect in Wales after exit day.

The Bill gives the Welsh Ministers power to modify these Regulations in order to deal with deficiencies arising from withdrawal, subject to certain limitations (for example, the Welsh Ministers will not be able to use this power to do something that is inconsistent with modifications to "retained direct EU legislation" made by UK Ministers under the Bill).

The Bill will not give the Welsh Ministers (or the National Assembly for Wales) power to modify any retained direct EU legislation. Power to modify all retained direct EU legislation is given to UK Ministers; this includes the power to modify retained direct EU legislation in devolved areas without the need for the consent of the National Assembly for Wales or the Welsh Ministers.

Therefore, if UK Ministers use their powers to modify retained direct EU legislation, the power of the Welsh Ministers to modify these Regulations will be limited so that the Welsh Ministers cannot do anything that is inconsistent with the modification made by UK Ministers.

Government Response

No government response is required.

Legal Advisers
Constitutional and Legislative Affairs Committee
3 October 2017





Agenda Item 5

Elin Jones AM, Llywydd
Cynulliad Cenedlaethol Cymru

Elin Jones AM, Presiding Officer

National Assembly for Wales

Huw Irranca-Davies AM
Chair
Constitutional and Legislative Affairs Committee
National Assembly for Wales
Cardiff Bay
CF99 1NA

2 October 2017

Dear Chair

Thank you for your letter regarding the Constitutional and Legislative Affairs Committee's consideration of the EU (Withdrawal) Bill. As you are aware, the chair of the External Affairs and Additional Legislation Committee has also written to me in similar terms.

I brought both letters to the attention of the Business Committee at its meeting of 26 September. The committee unanimously agreed with your assertion that that the National Assembly should be responsible for determining the procedure to be applied to the making of subordinate legislation by the Welsh Ministers under the Bill, and would be supportive of any moves to amend the Bill accordingly.

Business Managers also noted the chair of the External Affairs and Additional Legislation Committee's view that it is possible that the Assembly will need to contemplate some administrative and procedural changes to ensure appropriate scrutiny of the subordinate legislation that eventually flows from powers proposed in the Bill. Business Managers welcomed the intention to consider this issue in greater detail, and look forward to receiving your conclusions and recommendations in due course. The Committee believes that in determining the appropriate procedure it will be important to be mindful of the practicalities and capacity of the Assembly, given the anticipated volume of subordinate legislation flowing from the EUW Bill, while at the same time ensuring that appropriate scrutiny can take place.

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

Cynulliad Cenedlaethol Cymru

Bae Caerdydd, Caerdydd, CF99 1NA

Llywydd@cynulliad.cymru

www.cynulliad.cymru

0300 200 7403

National Assembly for Wales

Cardiff Bay, Cardiff, CF99 1NA

Llywydd@assembly.wales

www.assembly.wales

0300 200 7403

Pack Page 18



Elin Jones AC, Llywydd

Cynulliad Cenedlaethol Cymru

Elin Jones AM, Presiding Officer

National Assembly for Wales

I look forward to continuing to work with you on these issues over the coming period.

Yours sincerely

Elin Jones AM

Llywydd and Chair of the Business Committee



Public Administration and Constitutional Affairs
Select Committee (PACAC)

Tel 020 7219 3284 Fax 020 7219 2681 Email pacac@parliament.uk
House of Commons, London, SW1A 0AA www.parliament.uk/pacac

21st September 2017

Huw Irranca-Davis AM
Chair
Constitutional and Legal Affairs Committee
National Assembly for Wales

Dear Huw

European Union (Withdrawal) Bill

I am writing in response to your letter to David Davis of 31 July setting out your Committee's initial response to the European Union (Withdrawal) Bill. Thank you for copying me your letter, and I apologise for the delay in responding.

As you are no doubt aware the Public Administration and Constitutional Affairs Committee (PACAC) considered the implications of the result of the EU referendum for inter-governmental relations in its report *[The Future of the Union, part two: Inter-institutional relations in the UK](#)* during the last Parliament. It launched a specific inquiry into 'Brexit and Devolution' in March this year, however this was closed owing to the General Election. The terms of reference are available on the Committee's [website](#) and reflected many of the issues identified in your letter.

I would therefore welcome the opportunity to discuss the questions raised by the European Union (Withdrawal) Bill for devolution and inter-governmental relations, and how our two committees may co-operate on this and other issues with you in the near future. If that would be of interest to you please ask your office to liaise with my mine to fix a discussion.

Yours ever
Bernard Jenkin

Bernard Jenkin
Chair

Public Administration and Constitutional Affairs Committee

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