



Paul Davies MS
Chair
Economy, Trade and Rural Affairs Committee

SeneddEconomy@senedd.wales

26th May 2023

Dear Paul

I am writing to inform you of my approval being granted for a Statutory Instrument being made by the UK Government which contains elements within the competence of Welsh Ministers.

The Agriculture and Horticulture Development Board (Amendment) Order 2023 (2023 Order) will make amendments to the Agriculture and Horticulture Development Board Order 2008 (2008 Order), a UK wide SI, following a UK wide targeted consultation with industry and stakeholders.

I am agreeing, in this case, to give approval to Lord Beynon, Minister for Biosecurity, Marine and Rural Affairs to make amendments to the 2008 Order. The Agriculture and Horticulture Development Board (AHDB) was established by the 2008 Order under powers contained in the Natural Environment and Rural Communities Act 2006 (the NERC Act).

The 2023 Order amends the 2008 Order and is made by the Secretary of State under powers conferred by sections 87, 88 and 97(1) of, and paragraph 6(a) of Schedule 8 and paragraphs 5 and 8 of Schedule 10 to, the NERC Act with the approval of Welsh Ministers.

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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.

Section 87 of the NERC Act provides the “appropriate authority” with the power to make an Order which establishes a body for a purpose or purposes falling within section 88 (permissible purposes of boards) and to assign to it a function or functions falling within section 89 (permissible functions of boards).

An “appropriate authority” is defined in section 96(1) of the NERC Act as including, in relation to matters concerning Wales only, the National Assembly for Wales (transferred to the Welsh Ministers by paragraph 30(2) to Schedule 10 of GOWA). Section 96(1)(e) sets out that the SoS (acting with the approval of the devolved governments) can be the “appropriate authority” in relation to matters referred to in section 96(2). These include exercising other powers in relation to a cross-border function of a board. ‘Cross-border functions’ are defined as functions relating to England, Wales, Scotland and Northern Ireland.

The 2008 Order was made by the SoS (with the approval of Devolved Governments). For current purposes, the amendments made by the 2023 Order is considered to fall within “exercising other powers in relation to a cross-border function of a board”.

The period for which I am giving approval is limited to the passage of the 2023 Order.

Under Section 96(1) of the NERC Act, the Welsh Ministers are an “appropriate authority” and have the power to legislate in relation to matters concerning Wales. However, as the proposed amendments will affect the cross-border functions of AHDB, the SoS (with the approval of the Devolved Governments) is the appropriate authority.

Wales’ interests remain protected with the passage of the 2023 Order which requires the approval of Welsh Ministers.

Welsh Government officials discussed and refined the 2023 Order with counterparts in DEFRA, the Scottish Government and DAERA, including the development of the consultation document and the responses which have shaped the content of the Order. The UK Government continues to recognise the areas in which the 2023 Order applies to Wales as within the competence of Welsh Ministers. DEFRA officials have been aware of the need to seek the approval of Welsh Ministers for the 2023 Order and have fully engaged with officials as the Order has been drafted and reflected comments within the Order.

I am copying this letter to the Chair of Legislation, Justice and Constitution Committee for information.

Regards,

A handwritten signature in cursive script, reading 'Lesley Griffiths'.

Lesley Griffiths AS/MS

Y Gweinidog Materion Gwledig a Gogledd Cymru, a'r Trefnydd
Minister for Rural Affairs and North Wales, and Trefnydd