

SL(5)376 – The Local Government Finance (Amendment) (Wales) (EU Exit) Regulations 2019

Background and Purpose

These Regulations are made by Welsh Ministers pursuant to section 11 of, and paragraph 1(1) of Schedule 2 to, the European Union (Withdrawal) Act 2018.

These Regulations make minor and consequential amendments to the following legislation in the area of local government finance:

1. The Central Rating List (Wales) Regulations 2005 (“the **2005 Regulations**”); and
2. The Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (Wales) Regulations 2013.

The Regulations correct deficiencies resulting from the UK’s withdrawal from the EU.

Procedure

Negative.

Technical Scrutiny

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

1. Standing Order 21.2(v) – that for any particular reason its form or meaning needs further explanation

Regulation 3(2) amends the definition of “licence exempt operator” and “licence holder” in Regulation 7 of the 2005 Regulations to (in part) reflect amended terminology proposed to be inserted into the Railway (Licensing of Railway Undertakings) Regulations 2005 by the Railway (Licensing of Railway Undertakings) (Amendment etc.) (EU Exit) Regulations 2019 (“the **2019 Regulations**”). As at the date of this report, the 2019 Regulations have been laid before the UK Parliament for approval but have not yet been made.

The amendments made by the subject Regulations, and the amendments proposed to be made by the 2019 Regulations, both come into force on exit day. However, should the 2019 Regulation not be approved by the UK Parliament, the amendments made by the subject Regulations would cause ambiguity in the 2005 Regulations in that the above definitions would refer to a “railway undertaking licence”, which will not be a term appearing in the Railway (Licensing of Railway Undertakings) Regulations 2005 until the 2019 Regulations have been made.

2. Standing Order 21.2 (vi) – that its drafting appears to be defective or it fails to fulfil statutory requirements

Regulation 3(2) amends the definition of “licence exempt operator” and “licence holder” in Regulation 7 of the 2005 Regulations. However, in Regulation 7(3) of the 2005 Regulations there is a definition of “EEA State” which is now redundant as a result of the amendment made by Regulation 3(2) of the subject Regulations, but which has not been omitted by these Regulations.



Merits Scrutiny

Two points are identified for reporting under Standing Order 21.3 in respect of this instrument.

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

A draft of these Regulations was laid before the Assembly for sifting in accordance with paragraph 4 of Schedule 7 to the European Union (Withdrawal) Act 2018. The Committee agreed that the negative procedure was the appropriate procedure for these Regulations.

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

The explanatory memorandum accompanying these Regulations, in Part 2 of the Annex, contains statements made by the Minister for Finance and Trefnydd in accordance with the European Union (Withdrawal) Act 2018 relating to the "Service Charges (Consultation Requirements) (Wales) (Amendment) (EU Exit) Regulations 2019", as opposed to the subject Regulations.

Implications arising from exiting the European Union

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

Government Response

Technical Points

Standing Order 21.2(v) – that for any particular reason its form or meaning needs further explanation

The technical point is noted. In the event that the 2019 Regulations are not approved by Parliament and made, the Welsh Government will bring forward legislation to amend the definitions of "licence exempt operator" and "licence holder".

Standing Order 21.2 (vi)- that its drafting appear to be defective or it fails to fulfil statutory requirements

The technical point is noted. However, the term "EEA State" will be redundant for the purpose of Regulation 7 as a result of the amendment made to Regulation 3(2). The Welsh Government will bring forward legislation to remove the reference to "EEA State" when it is expedient to do so.

Merits point

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

The Welsh Government has noted the errors and the Explanatory Memorandum will be withdrawn and corrected before re-laying.

Committee Consideration

The Committee considered the instrument along with the Government response at its meeting on 18 March 2019 and reports to the Assembly in line with the reporting points above.

