

## **Explanatory Memorandum to the Legislation (Wales) Act 2019 (Amendment of Schedule 1) Regulations 2020**

This Explanatory Memorandum has been prepared by the Office of the First Minister and is laid before Senedd Cymru in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1

### **Minister Declaration**

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Legislation (Wales) Act 2019 (Amendment of Schedule 1) Regulations 2020.

**Mark Drakeford MS**  
**First Minister of Wales**

3 November 2020

## **1. Description**

These Regulations amend Schedule 1 to the Legislation (Wales) Act 2019 (“the 2019 Act”), which sets out general definitions that apply to terms used in Acts of Senedd Cymru and Welsh subordinate instruments.

The Regulations make amendments to Schedule 1 that are consequential on the Sentencing Act 2020, and insert definitions that relate to the names by which legislation may refer to certain statutory bodies.

## **2. Matters of special interest to the Legislation, Justice and Constitution Committee**

None.

## **3. Legislative background**

Part 2 of the 2019 Act makes provision about the interpretation and operation of Acts of Senedd Cymru and of Welsh subordinate instruments. It applies to Acts and instruments enacted on or after 1 January 2020. “Welsh subordinate instrument” is defined in section 3(2) of the 2019 Act to include virtually all subordinate legislation made by the Welsh Ministers and other devolved Welsh authorities.

Part 2 of the 2019 Act includes section 6, which provides that where an Act of Senedd Cymru or Welsh subordinate instrument uses a word or expression defined in Schedule 1 to the 2019 Act, it must be interpreted in accordance with that Schedule. However, by virtue of section 4 of the 2019 Act, the definitions will not apply if express provision is made to the contrary or the context requires otherwise.

Section 6(2) of the 2019 Act confers a power on the Welsh Ministers to amend Schedule 1 by inserting, removing or amending definitions. Regulations under section 6(2) are subject to the affirmative procedure by virtue of section 43(2).

Schedule 1 contains definitions of various terms that may be used in Welsh legislation. They include several definitions of terms relating to criminal offences, including the “standard scale” of fines. There are also definitions relating to courts and public bodies which make clear that legislation can use the names by which they are generally known, rather than their full legal titles. (For example, the Charity Commission for England and Wales may simply be referred to as “the Charity Commission”.)

The Sentencing Act 2020 consolidates legislation on sentencing in England and Wales, including the provision which sets out the “standard scale,” in a new Sentencing Code. It amends the general definition of the “standard scale” in the Interpretation Act 1978 and inserts a definition of “the Sentencing Code”. These Regulations make corresponding amendments to Schedule 1 to the 2019 Act.

The Regulations also amend Schedule 1 to insert definitions of the “Equality and Human Rights Commission,” the “National Trust” and the “Public Accounts Committee” (of Senedd Cymru). Welsh legislation occasionally refers to these entities.

The definitions reflect the names by which they are usually known, which differ from the names specified in the legislation establishing them.

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

The purpose of these Regulations is to make Schedule 1 to the 2019 Act reflect the changes made by the Sentencing Act 2020. This will ensure that Welsh legislation that refers to the “standard scale” continues to operate correctly. It will also enable Welsh legislation to refer to “the Sentencing Code”. The Sentencing Act 2020 amends several existing Acts of Senedd Cymru to insert references to the Code, and it is likely that future Acts may need to refer to it.

The Regulations also make clear that Welsh legislation can refer to the Equality and Human Rights Commission, the National Trust and the Public Accounts Committee by those names. The definitions will avoid any need for individual Acts of Senedd Cymru or Welsh subordinate instruments to define these commonly used names.

#### **5. Consultation**

There has been no external consultation on these Regulations as they make only minor and technical amendments.

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

A regulatory impact assessment has not been prepared for these Regulations as they make minor and technical amendments that will not affect costs for businesses, charities, voluntary bodies or the public sector.