

# Report on the Statutory Instrument Consent Memorandum for The Direct Payments to Farmers (Legislative Continuity) Act 2020 (Consequential Amendments) Regulations 2020

June 2020

## 1. Background

1. The Direct Payments to Farmers (Legislative Continuity) Act 2020 (Consequential Amendments) Regulations 2020 (the Regulations)<sup>1</sup> were made by the UK Government on 27 April 2020 and laid before the UK Parliament on 28 April 2020. The Regulations came into force on 30 April 2020.
2. Standing Order 30A states that a member of the government must lay a Statutory Instrument Consent Memorandum in relation to any relevant statutory instrument laid before the UK Parliament by UK Ministers, if a UK statutory instrument makes provision in relation to Wales to amend primary legislation within the legislative competence of the Senedd.
3. On 4 May 2020 Lesley Griffiths MS, the Minister for Environment, Energy and Rural Affairs (the Minister), laid before the Senedd a Statutory Instrument Consent Memorandum (the Memorandum)<sup>2</sup> for the Regulations, in accordance with Standing Order 30A. The same day, the Minister wrote to notify us of the Memorandum.<sup>3</sup>

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<sup>1</sup> [The Direct Payments to Farmers \(Legislative Continuity\) Act 2020 \(Consequential Amendments\) Regulations 2020](#)

<sup>2</sup> [Welsh Government Statutory Instrument Consent Memorandum: The Direct Payments to Farmers \(Legislative Continuity\) Act 2020 \(Consequential Amendments\) Regulations 2020](#)

<sup>3</sup> [Letter from the Minister for Environment, Energy and Rural Affairs, 4 May 2020](#)



## 2. The Statutory Instrument Consent Memorandum

4. The Memorandum states that:

“These Regulations makes consequential amendments required as a result of the Direct Payments to Farmers (Legislative Continuity) Act 2020 (“2020 Act”).

The 2020 Act incorporated the EU Direct Payments legislation into domestic law on exit day – and not at the end of the Implementation Period. These Regulations will ensure that the retained EU Direct Payments legislation is treated in the same way as legislation under the European Union (Withdrawal) Act 2018 (the “2018 Act”).”<sup>4</sup>

5. The Memorandum also explains that the Regulations “vary in territorial extent and application”. It states:

“The amendments relating to the Interpretation Act 1978, the Statutory Instruments Act 1946 extend and apply to England and Wales only. In terms of the amendment relating to the Legislation (Wales) Act 2019, Regulation 4 extends and applies to Wales only.”<sup>5</sup>

6. Paragraphs 8 and 9 of the Memorandum set out the provisions to be made by the Regulations for which consent is sought.

7. Regulations 2, 3 and 4 make consequential amendments to:

- the Interpretation Act 1978,
- the Statutory Instruments Act 1946;
- the Legislation (Wales) Act 2019.

8. The Memorandum states that those provisions “relate to subject matter that is within the legislative competence of the Senedd.”<sup>6</sup>

9. Paragraphs 10 and 11 of the Memorandum set out why, in the view of the Welsh Government, it is appropriate for the Regulations to make those provisions.

10. The Memorandum states:

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<sup>4</sup> Statutory Instrument Consent Memorandum, paragraphs 3-4

<sup>5</sup> Statutory Instrument Consent Memorandum, paragraph 6

<sup>6</sup> Statutory Instrument Consent Memorandum, paragraph 9

“It is the view of the Welsh Government that it is appropriate and proportionate to deal with the amendments in these Regulations due to the territorial extent of the enactments being amended. Furthermore, making the necessary consequential amendments in one instrument helps to promote the accessibility of the law during this period of change.”<sup>7</sup>

### 3. Consideration

**11.** We considered the Memorandum at our meeting on 18 May 2020.<sup>8</sup>

### 4. Conclusion

**12.** We are content with the Memorandum.

**13.** We note the Minister’s comments in her letter to us of 4 May 2020.

**14.** We note that the Minister’s letter does not confirm whether the Welsh Government will table a motion for debate in relation to this Memorandum. However, it is our understanding that this is the Minister’s intention, which we welcome.

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<sup>7</sup> Statutory Instrument Consent Memorandum, paragraph 11

<sup>8</sup> Legislation, Justice and Constitution Committee, 18 May 2020