

## **STATUTORY INSTRUMENT CONSENT MEMORANDUM**

### **The Environment, Food and Rural Affairs (Miscellaneous Amendments and Revocations) Regulations 2018**

1. This Statutory Instrument Consent Memorandum is laid under Standing Order (“SO”) 30A.2. SO 30A prescribes that a Statutory Instrument Consent Memorandum must be laid and a Statutory Instrument Consent Motion may be tabled before the National Assembly for Wales (“Assembly”) if a UK Statutory Instrument makes provision in relation to Wales amending primary legislation within the legislative competence of the Assembly.
2. The Environment, Food and Rural Affairs (Miscellaneous Amendments and Revocations) Regulations 2018 were laid before Parliament on 23 August 2018. The Regulations can be found at:

<http://www.legislation.gov.uk/uksi/2018/942/contents/made>

#### **Summary of the Regulations and their objective**

3. The objective of the Regulations, in the main, is to correct out-of-date references relating to European law in domestic primary and secondary legislation. For instance, where European Directives and Regulations have been amended or replaced, but updated references to them have not been carried through into domestic legislation.
4. The amendments cover a wide range of legislation in the fields of agriculture, animal health, environmental information and protection, food, forestry, marine management, pesticides, plant breeders’ rights, sea fisheries, spirit drinks, waste and water.
5. The amendments are being made to ensure the accuracy of the statute book ahead of the UK’s exit from the European Union. This is because out-of date references to legislation are not necessarily interpreted as references to the correct (updated) legislation; and there is therefore a risk that the statute book would not work properly as a result.
6. The Regulations to which this SICM relates have the territorial extent of the UK; but the extent to which each provision applies varies.
7. The SI to which this Statutory Instrument Consent Memorandum relates has been laid in the UK Parliament under the negative procedure, which will automatically become law unless there is an objection from a member of either House of Parliament. If there is no such objection, the provisions that amend the primary legislation referenced in this Memorandum would come into force on 17 September 2018.

## **Provisions to be made by the Regulations for which consent is sought**

8. Regulations 4, 6 and 29 make amendments to the Pollution Prevention and Control Act 1999, the Marine and Coastal Access Act 2009 and the Water Resources Act 1991 respectively. All of the referenced amendments are minor and technical in nature; and rectify out of date references to EU legislation.
9. It is the view of the Welsh Government that the provisions described in paragraph 9 above fall within the legislative competence of the National Assembly for Wales in so far as they relate to environmental protection, including pollution, nuisances and hazardous substances; countryside and open spaces; protection of natural habitats, coast and marine environment; and water resources management; of which none are listed as specific reservations under Part 2 of Schedule 7A to the Government of Wales Act 2006, as amended by the Wales Act 2017.

## **Why is it appropriate for the Regulations to make this provision**

10. As set out under paragraph 3, there is a need to make a number of amendments to correct out of date references to European law within domestic legislation, prior to the UK's exit from the EU, to ensure the statute book in these areas remains functional.
11. It is the view of the Welsh Government that it is appropriate and proportionate to deal with these amendments in these Regulations due to the territorial extent of the enactments being amended. Making these technical amendments separately, could not only cause drafting complications, but could also result in the law potentially not working effectively.

## **Financial implications**

12. There are no anticipated financial implications for the Welsh Government associated with these Regulations.

**Lesley Griffiths AM**  
**Cabinet Secretary for Energy, Planning and Rural Affairs**

September 2018