

Agenda – Constitutional and Legislative Affairs Committee

Meeting Venue:

Committee Room 1 – The Senedd

Meeting date: 9 July 2018

Meeting time: 14.30

For further information contact:

Gareth Williams

Committee Clerk

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1 Introduction, apologies, substitutions and declarations of interest

2 Instruments that raise no reporting issues under Standing Order 21.2 or 21.3

(Pages 1 – 4)

CLA(5)–20–18 – Paper 1 – Statutory instruments with clear reports

Negative Resolution Instruments

2.1 SL(5)233 – The Proceeds of Crime Act 2002 (References to Welsh Revenue Authority Financial Investigators) (Amendment) Order 2018

2.2 SL(5)234 – The Tax Collection and Management (Wales) Act 2016 (Supplemental Provision) Regulations 2018

2.3 SL(5)235 – The Plant Health (Export Certification) (Wales) (Amendment) Order 2018

2.4 SL(5)236 – The Education (Amendments Relating to Teacher Assessment Information) (Wales) Regulations 2018

3 Papers to note



3.1 Welsh Government Written Statement: Concordat between the Ministry of Justice and the Welsh Government

(Page 5)

CLA(5)-20-18 – Paper 2 – Welsh Government Written Statement

3.2 Correspondence relating to the EU (Withdrawal) Bill and the Inter-Governmental Agreement

(Pages 6 – 7)

CLA(5)-20-18 – Paper 3 – Letter from the Cabinet Secretary for Finance, 5 July 2018

4 Motion under Standing Order 17.42 to resolve to exclude the public from the meeting for the following business:

5 Forward Work Programme

(Pages 8 – 35)

CLA(5)-20-18 – Paper 4 – Forward Work Programme

Statutory Instruments with Clear Reports

09 July 2018

SL(5)233 – The Proceeds of Crime Act 2002 (References to Welsh Revenue Authority Financial Investigators) (Amendment) Order 2018

Procedure: Negative

This Order amends the Proceeds of Crime Act 2002 (References to Welsh Revenue Authority Financial Investigators) Order 2018 (S.I. 2018/196 (W. 45)) (“the Principal Order”). The amendments are required as a result of amendments made to the Proceeds of Crime Act 2002 (POCA) by the Criminal Finances Act 2017 (CFA).

Powers have been introduced into POCA by the CFA to seize, detain and forfeit certain listed items of property, and to freeze and forfeit money in bank and building society accounts (“the new forfeiture powers”). Two new categories of investigation have been created in Part 8 of POCA, the detained property investigation and frozen funds investigations (“the new investigations”).

This Order amends the Principal Order to enable Welsh Revenue Authority accredited financial investigators (“AFIs”) to have access to the new forfeiture powers and the new investigations. The amendments also specify which AFIs are senior officers for the purposes of those provisions. In addition, this Order makes provision in respect of the access to search powers in sections 352 and 353 of POCA. The scope of the provision in the Principal Order is extended to include the new investigations.

The CFA inserts provisions into Part 7 of POCA which allow AFIs who are senior officers to make an application to the magistrates’ court for an order under section 336A of POCA to extend the moratorium period. This is a period of 31 days which arises when suspicions of money laundering have



been disclosed, and during which law enforcement cannot be assumed to consent to a particular transaction proceeding.

This Order also inserts provision into the Principal Order to specify which AFIs are senior officers for the purposes of an order under section 336A of POCA.

Parent Act: Proceeds of Crime Act 2002; Criminal Finances Act 2017

Date Made: 24 June 2018

Date Laid: 28 June 2018

Coming into force date: 20 July 2018

SL(5)234 – The Tax Collection and Management (Wales) Act 2016 (Supplemental Provision) Regulations 2018

Procedure: Negative

These Regulations are made under section 188 of the Tax Collection and Management (Wales) Act 2016 (“the 2016 Act”).

Regulation 2 amends the Proceeds of Crime Act 2002 (POCA 2002) in order to make supplemental provision in connection with section 186 (proceeds of crime) of the 2016 Act and the exercise of the powers contained in the 2016 Act by the Welsh Revenue Authority’s accredited financial investigators.

These Regulations ensure the full suite of POCA 2002 powers set out in the Schedule to the Proceeds of Crime Act 2002 (References to Welsh Revenue Authority Financial Investigators) Order 2018 can be exercised by specified WRA accredited financial investigators, by inserting “or the Welsh Ministers” after “Secretary of State” in various sections of POCA 2002.

Parent Act: Tax Collection and Management (Wales) Act 2016

Date Made: 24 June 2018

Date Laid: 28 June 2018

Coming into force date: 20 July 2018



SL(5)235 – The Plant Health (Export Certification) (Wales) (Amendment) Order 2018

Procedure: Negative

This Order amends the Plant Health (Export Certification) (Wales) Order 2006 to provide for increases in the fees payable for services in respect of applications for phytosanitary certificates (including phytosanitary certificates for re-export) and related pre-export services.

Parent Act: Plant Health Act 1967

Date Made: 27 June 2018

Date Laid: 29 June 2018

Coming into force date: 25 July 2018

SL(5)236 – The Education (Amendments Relating to Teacher Assessment Information) (Wales) Regulations 2018

Procedure: Negative

These Regulations amend a number of pieces of subordinate legislation, and make changes to the curriculum in Wales in line with the recommendations of Professor Graham Donaldson's Independent Review of Curriculum and Assessment Arrangements in Wales, otherwise known as *Successful Futures*.

Parent Act: Education Act 1996; Education Act 1997; Education Act 2002; Education (Wales) Measure 2011; School Standards and Organisation (Wales) Act 2013

Date Made: 26 June 2018

Date Laid: 29 June 2018

Coming into force date: 31 July 2018



**WRITTEN STATEMENT
BY
THE WELSH GOVERNMENT**

TITLE	Concordat between the Ministry of Justice and the Welsh Government
DATE	02 July 2018
BY	Alun Davies, Cabinet Secretary for Local Government and Public Services

I am pleased to announce that we have agreed a Concordat between the Welsh Government and the Ministry of Justice setting out the working arrangements between the two organisations.

The Concordat is not limited to, but seeks to ensure that:

- The Ministry of Justice considers the interests and responsibilities of the Welsh Government when designing and implementing UK Justice policy and activities likely to have an impact in Wales;
- The Welsh Government considers the interests and responsibilities of the Ministry of Justice when exercising devolved functions; and
- There is clarity and accountability, enabling productive working relationships and improving outcomes for English and Welsh Justice.

The Concordat represents an important step forward for improved working practices, intergovernmental relations, and justice outcomes for both administrations.

It must be noted that it is essential for both governments to observe the spirit and letter of the Concordat particularly in respect of timely consultation on matters affecting each administration.

<https://gov.wales/about/organisationexplained/intergovernmental/concordindex/ministry-of-justice/?lang=en>

Agenda Item 3.2

Mark Drakeford AM/AC

Ysgrifennydd y Cabinet dros Gyllid
Cabinet Secretary for Finance



Llywodraeth Cymru
Welsh Government

Mick Antoniw AM
Chair, Constitutional and Legislative Affairs Committee
National Assembly for Wales
Cardiff Bay
CF99 1NA

5 July 2018

Dear Mick,

I am writing in response to your letter of 21 June about the Letwin amendment to the EU (Withdrawal) Bill which is now Section 16 of the EU (Withdrawal) Act.

You are of course right that if the UK Government were to introduce a Bill which related only to England but dealt with matters which were both otherwise devolved and were subject to section 12 regulations, then this would be a violation of the Intergovernmental Agreement (IGA). To clarify therefore, my letter did not seek to suggest that the single fact that a UK Bill was to relate only to England is a reason why there would be no potential breach of the IGA. That is plainly not the case.

But at the root of your question is, I believe, a misunderstanding of the terms of the IGA, in particular in relation to the list of policy areas annexed to the IGA. These are policy areas, which both Governments agree, require further work and analysis to identify if, and where, legislative frameworks, and therefore section 12 regulations may be required. They are therefore not areas over which section 12 regulations will apply, but areas within which section 12 regulations may be brought forward. Further work may in fact indicate that no legislative underpinning is required at all and therefore no section 12 regulations will be required at all in respect of some of the policy areas.

The discussion of frameworks which is underway between the UK Government and the devolved administrations in each of these areas is a process of narrowing down within these areas to identify those elements where frameworks will need legislative underpinning, if any are required at all. Only in respect of these elements will section 12 regulations be required. We do not believe the likely scope of the draft Bill, insofar as it applies only to England but in areas of devolved competence, is likely to be 'caught' by any potential section 12 regulations in respect of environmental quality.

Bae Caerdydd • Cardiff Bay
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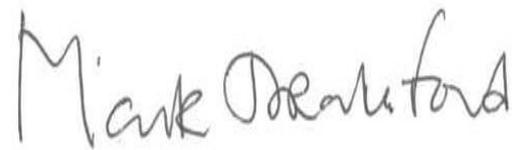
Gohebiaeth.Mark.Drakeford@llyw.cymru
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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

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.

I hope this clarifies matters.

Yours sincerely

A handwritten signature in black ink that reads "Mark Drakeford". The signature is written in a cursive, slightly slanted style.

Mark Drakeford AM/AC

Ysgrifennydd y Cabinet dros Gyllid
Cabinet Secretary for Finance

Agenda Item 5

By virtue of paragraph(s) vi of Standing Order 17.42

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