

STATUTORY INSTRUMENT CONSENT MEMORANDUM

The Retained EU Law (Revocation and Reform) Act 2023 (Consequential Amendment) Regulations 2023

1. This Statutory Instrument Consent Memorandum is laid under Standing Order (“SO”) 30A.2. SO30A prescribes that a Statutory Instrument Consent Memorandum must be laid, and a Statutory Instrument Consent Motion may be tabled before Senedd Cymru if a UK Statutory Instrument makes provision in relation to Wales amending primary legislation within the legislative competence of the Senedd.
2. The Retained EU Law (Revocation and Reform) Act 2023 (Consequential Amendment) Regulations 2023 is subject to the affirmative procedure and was laid in draft before the UK Parliament on 16 October 2023 and can be found at:

<https://www.legislation.gov.uk/ukdsi/2023/9780348252415>
3. The Regulations are due to come into force on 1 January 2024.
4. Copies of the Regulations and associated documentation have today been laid before the Senedd alongside this memorandum.
5. The Statutory Instrument contains a number of provisions that fall within the legislative competence of the Senedd and therefore require Senedd consent, as set out in paragraph 8 below.
6. This memorandum has been laid outside the normal three-day SO30A deadline due to the need to check the complexity and detailed wording in the instrument. It has been considered the Regulations are a “relevant Statutory instrument” for the purposes of SO30A in respect of many of its provisions, as set out below.

Summary of the Instrument and its objective (SO30A.4(i) requirement)

7. The objective of the Statutory Instrument is to update references in existing primary legislation made at Westminster from “retained EU law” to “assimilated law”. This reflects section 5 of the Retained EU Law (Revocation and Reform) Act 2023 (“REUL Act”), which provides that retained EU law (“REUL”) (and related terms) that remains in force will be known as “assimilated law” (and related terms), at all times, after the end of 2023.

8. The Statutory Instrument also removes references to rights recognised and available in domestic law by virtue of section 4 of the European Union (Withdrawal) Act 2018, and terms such as “retained general principles of EU law”, because of the changes made by the REUL Act to remove the EU law interpretive features applied to REUL, after the end of 2023.
9. The territorial extent of the Statutory Instrument is as follows:
 - a. The amendment or repeal of an enactment or provision of an enactment has the same extent as the enactment or provision of an enactment amended or repealed, unless otherwise specified.
 - b. The remainder of the instrument extends UK-wide.
10. The Welsh Government plans to lay a similar instrument for approval by the Senedd to changes references, in existing legislation made by the Senedd, to “retained EU law” to “assimilated law”.

Provisions to be made by the Instrument for which consent is sought

11. The Statutory Instrument makes relevant provision amending various pieces of legislation that apply to Wales and that are within devolved areas. For example, this includes:
 - a. Research and innovation (including provisions relating to the function of the Advanced Research and Invention Agency), as evidenced by the amendments to the advanced Research and Invention Agency Act 2022
 - b. The regulation of professions and implementation of international obligations in respect of devolved professions, as evidenced by the amendments to the Professional Qualifications Act 2022
 - c. Fisheries, as evidenced by the amendments to the Fisheries Act 2020
 - d. Agriculture, as evidenced by the amendments to the Agriculture Act 1970; Agricultural Holdings Act 1986; the Agriculture Act 2020; and the Direct Payments to Farmers (Legislative Continuity) Act 2020
 - e. Health and the observance and implementation of international obligations relating to healthcare, as evidenced by the amendments to the Healthcare (International Arrangements) Act 2019
 - f. Waste and the environment, as evidenced by the amendments to the Environmental Protection Act 1990
 - g. Animal welfare, as evidenced by the amendments to the Animal Welfare Act 2006

12. It is the view of the Welsh Government that the provisions described in paragraph 10 above are examples of how this Statutory Instrument makes provision in relation to Wales by amending provisions in primary legislation that are wholly or partially within the legislative competence of the Senedd.

Why is it appropriate for the Statutory Instrument to make this provision

13. It is my view that it is appropriate to deal with these provisions in this Statutory Instrument as, whilst it is normally the policy of the Welsh Government to legislate for Wales in matters of devolved competence, in certain circumstances there are benefits in working collaboratively with the UK Government and other Devolved Governments where there is a clear rationale for doing so. The amendments are mostly minor operational and consequential changes flowing from terminology changes as set out in paragraph 6. Therefore, it is my view that it is appropriate to deal with these provisions in this Instrument as it represents the most practicable and proportionate legislative vehicle to enable these provisions to apply in Wales.

Financial implications

14. There are no financial implications in Wales in consenting to the provisions in the Statutory Instrument.

Lesley Griffiths MS

Minister for Rural Affairs, North Wales and Trefnydd

October 2023