

**Explanatory Memorandum to the Environment and Rural Affairs
(Miscellaneous Revocations) Order 2018.**

This Explanatory Memorandum has been prepared by the Department for Economy, Skills and Natural Resources and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

Cabinet Secretary's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Environment and Rural Affairs (Miscellaneous Revocations) Order 2018.

LESLEY GRIFFITHS AM
Cabinet Secretary for Energy, Planning and Rural Affairs

20 June 2018

1. Description

This Order revokes eight pieces of legislation related to the environment or rural affairs in Wales which are now redundant or have been superseded.

2. Matters of special interest to the Constitutional and Legislative Affairs Committee

The Order has been made on a composite basis to maintain the clarity, accessibility and transparency of the statute book for those required to comply with its provisions through the legislation being revoked in Wales and England.

3. Legislative background

The Welsh Ministers make the Environment and Rural Affairs (Miscellaneous Revocations) Order 2018, in relation to Wales, pursuant to powers conferred by sections 1 and 10 of the Animal Health Act 1981, paragraph 6 of Schedule 1 to the Agriculture Act 1986 and section 61E(1) of the Land Drainage Act 1991, now vested in them, and after consulting in accordance with section 61E(4) of that Act.

The relevant functions under sections 1 and 10 of the Animal Health Act 1981 so far as exercisable in relation to Wales and exercisable by the Secretary of State for Wales were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (SI 1999/672). The functions of the Secretary of State in those sections, so far as exercisable in relation to Wales, were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 2004 (SI 2004/3044). The functions transferred to the National Assembly for Wales were further transferred to the Welsh Ministers by virtue of the Government of Wales Act 2006 (c. 32), Schedule 11, paragraphs 30 and 32.

The relevant functions under paragraph 6 of Schedule 1 to the Agriculture Act 1986 and section 61E of the 1991 Act so far as exercisable in relation to Wales, were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (SI 1999/672). The functions transferred to the National Assembly for Wales were further transferred to the Welsh Ministers by virtue of the Government of Wales Act 2006 (c. 32), Schedule 11, paragraphs 30 and 32.

The Environment and Rural Affairs (Miscellaneous Revocations) Order 2018 follows the negative procedure.

4. Purpose & intended effect of the legislation

As part of the UK Government's "Red Tape Challenge", DEFRA has developed a programme to revoke redundant legislation. The purpose of the exercise is to reduce the number of statutory rules and regulations in force, especially those which are redundant or obsolete. Some of the legislation that DEFRA proposes to revoke was made prior to devolution. The legislation therefore applies to Wales and the powers to make, amend, or revoke it in relation to Wales has, in many cases, transferred to the Welsh Ministers.

Following the “Working Smarter” report in Wales, the Welsh Ministers agreed to provide a measured and appropriate regulatory framework for farmers in Wales and this included a red tape review of existing legislation. As part of this, the Welsh Ministers agreed to work with DEFRA to revoke, where appropriate, legislation with cross territorial application to Wales and England where that legislation has become redundant or otherwise obsolete.

The Environment and Rural Affairs (Miscellaneous Revocations) Order 2018 will revoke six instruments relating to milk quotas, one instrument relating to agricultural wages committees but in relation to England only, and one instrument relating to the importation of hay and straw, all of which are now redundant or have been superseded. In addition, the Order will revoke one instrument relating to flood defence procedures which is no longer required. A full list of the legislation to be revoked, in relation to Wales by the Order is set out below:

Title	Description	Reason for revocation
The Milk Quota (Calculation of Standard Quota) Order 1986	Prescribes the quota per hectare and the average yield per hectare to be taken into account in determining the “standard quota” for the purposes of calculating the payment to which the tenant is entitled, in certain circumstances, by Schedule 1 to the Agriculture Act 1986, to obtain from their landlord in respect of milk quota on the termination of the tenancy of the land.	These regulations ceased to have effect on 1 April 2015 following the final day of operation of the EU Milk Quota regime.
The Milk Quota (Calculation of Standard Quota) (Amendment) Order 1987	Amends the Milk Quota (Calculation of Standard Quota) Order 1986 by substituting for the Schedule to the 1986 Order, a new Schedule in which the quota per hectare prescribed by article 3 of that order is revised.	These regulations ceased to have effect on 1 April 2015 following the final day of operation of the EU Milk Quota regime. .
The Milk Quota (Calculation of Standard Quota) (Amendment) Order 1988	Amends the Milk Quota (Calculation of Standard Quota) Order 1986 by substituting for the Schedule to the 1986 Order, a new Schedule in which the quota per hectare prescribed by article 3 of that order is revised.	These regulations ceased to have effect on 1 April 2015 following the final day of operation of the EU Milk Quota regime.

The Milk Quota (Calculation of Standard Quota) (Amendment) Order 1990	This Order further amends the Milk Quota (Calculation of Standard Quota) Order 1986, by substituting for the Schedule to that Order a new Schedule, in which the quota per hectare prescribed by article 3 of that Order is revised.	These regulations ceased to have effect on 1 April 2015 following the final day of operation of the EU Milk Quota regime.
The Milk Quota (Calculation of Standard Quota) (Amendment) Order 1991	Amends the Milk Quota (Calculation of Standard Quota) Order 1986, by substituting for the Schedule to that Order a new Schedule, in which the quota per hectare prescribed by article 3 of that Order is revised (article 2).	These regulations ceased to have effect on 1 April 2015 following the final day of operation of the EU Milk Quota regime.
The Milk Quota (Calculation of Standard Quota) (Amendment) Order 1992	Amends the Milk Quota (Calculation of Standard Quota) Order 1986 by substituting for the Schedule to that Order a new Schedule, in which the figures for quota per hectare prescribed by article 3 of that Order are revised, and amending article 2 of the 1986 Order to take account of the making of the Hill Livestock (Compensatory Allowances) Regulations 1992.	These regulations ceased to have effect on 1 April 2015 following the final day of operation of the EU Milk Quota regime.
The Importation of Hay and Straw Order 1979	Prohibits the landing in Great Britain of the hay and straw from a place outside Great Britain except under the authority of a licence.	This order is now redundant as it has been superseded by the Trade in Animals and Related Products (Wales) Regulations 2011.
The Code of Practice on Environmental Procedures for Flood Defence Operating Authorities (Internal Drainage Boards and Local Authorities) Approval Order 1996	Approves the code of practice issued by the Secretary of State and the Minister of Agriculture, Fisheries and Food entitled "Code of Practice on Environmental Procedures for Flood Defence Operating Authorities".	The code of practice is now embedded in good practice.

5. Consultation

There is a statutory duty to consult with a list of relevant bodies before the power in section 61E of the Land Drainage Act 1991 is exercised. Natural

Resources Wales (NRW) is the relevant body in relation to Wales. NRW was consulted and did not raise any issues.

6. Regulatory Impact Assessment (RIA)

An RIA has not been conducted because the subordinate legislation imposes no costs or no savings. There is no impact on business, charities or voluntary bodies and there is no impact on the public sector.