EXPLANATORY MEMORANDUM TO

THE GOVERNMENT OF WALES ACT 2006 (DEVOLVED WELSH AUTHORITIES) (AMENDMENT) ORDER 2024

2024 No. 1206

1. Introduction

1.1 This explanatory memorandum has been prepared by Wales Office and is laid before Parliament by Command of His Majesty.

2. Declaration

2.1 The Rt Hon David T.C. Davies MP, Secretary of State at the Wales Office confirms that this Explanatory Memorandum meets the required standard.

2.2 Geth Williams, Deputy Director for Union, at the Wales Office confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 David Harries at the Wales Office Telephone: 07840 009179 or email: David.Harries@ukgovwales.gov.uk can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 The Order updates the list of devolved Welsh authorities in Schedule 9A (Devolved Welsh Authorities) to the Government of Wales Act 2006 ("GoWA") by removing the reference to "The Higher Education Funding Council for Wales or Cyngor Cyllido Addysg Uwch Cymru" and replacing it with "The Commission for Tertiary Education and Research or Comisiwn Addysg Drydyddol ac Ymchwil".

Where does the legislation extend to, and apply?

4.2 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales, Scotland, and Northern Ireland.

4.3 The territorial application of this instrument (that is, where the instrument produces a practical effect) is largely confined to Wales.

5. Policy Context

What is being done and why?

5.1 Section 157A of GoWA defines "devolved Welsh authority" for the purposes of that Act. This includes a public authority whose functions are:

- exercisable only in relation to Wales, and
- wholly or mainly functions that do not relate to reserved matters.

5.2 Public authorities are also devolved Welsh authorities by virtue of being named in Schedule 9A to GoWA which performs a partly confirmatory role to increase

transparency by naming authorities which meet the conditions outlined above. Schedule 9A currently includes reference to the "The Higher Education Funding Council for Wales or Cyngor Cyllido Addysg Uwch Cymru".

5.3 Section 1 of the Tertiary Education and Research (Wales) Act 2022 ("the 2022 Act") establishes the Commission for Tertiary Education and Research ("the Commission"), with section 23 of that Act dissolving the Higher Education Funding Council for Wales ("HEFCW"). The Commission takes on the functions formerly performed by HEFCW and this Order is required to update the list of devolved Welsh authorities accordingly. Section 23 of the 2022 Act is intended to come into force on 1 August 2024.

What was the previous policy, how is this different?

5.4 Previously HEFCW was listed in Schedule 9A to GoWA as a devolved Welsh authority, but is being dissolved and replaced by the Commission. This Order amends Schedule 9A to reflect that fact.

6. Legislative and Legal Context

How has the law changed?

6.1 This Order removes the reference in Schedule 9A to GoWA to "The Higher Education Funding Council for Wales or Cyngor Cyllido Addysg Uwch Cymru" and replaces it with a reference to "The Commission for Tertiary Education and Research or Comisiwn Addysg Drydyddol ac Ymchwil", in consequence of the changes being made by the 2022 Act.

Why was this approach taken to change the law?

6.2 This Order follows the procedure for amendments to Schedule 9A of GoWA set out in section 157A(5) and (6) of that Act.

7. Consultation

Summary of consultation outcome and methodology

7.1 As the Order makes a consequential amendment to update a list of devolved Welsh authorities and therefore makes no further changes to Welsh Government's policy, a formal public consultation did not take place.

8. Applicable Guidance

8.1 No guidance is required in relation to this instrument.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument because this Order updates the list of devolved Welsh authorities in Schedule 9A to GoWA, reflecting earlier changes brought about by sections 1 and 23 of the 2022 Act, the amendment does not alter the policy or its impact in any significant way.

Impact on businesses, charities and voluntary bodies

9.2 There is no, or no significant, impact on business, charities or voluntary bodies because the consequential provisions in the Order make technical amendment which change the wording of the law rather than its purpose or effect.

9.3 The legislation does not impact small or micro businesses.

9.4 There is no, or no significant, impact on the public sector because the consequential provisions in the Order make technical amendment which will update the wording of the law to reflect the change of public bodies made by the 2022 Act.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The Government will continue to review the list of bodies in Schedule 9A and bring forward similar orders in future should further updates be necessary.

10.2 The instrument does not include a statutory review clause.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None.

12. European Convention on Human Rights

12.1 The Secretary of State for Wales has made the following statement regarding Human Rights:

"In my view the provisions of the Government of Wales Act 2006 (Devolved Welsh Authorities) (Amendment) Order 2024 are compatible with the Convention rights."

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").