

## **STATUTORY INSTRUMENT CONSENT MEMORANDUM**

### **The Electronic Commerce Directive (Adoption and Children) (Amendment etc) (EU Exit) Regulations 2019**

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 (“the Assembly”) if a UK Statutory Instrument (SI) makes provision in relation to Wales amending primary legislation within the legislative competence of the Assembly.
2. The Electronic Commerce Directive (Adoption and Children) (Amendment etc) (EU Exit) Regulations 2019 was laid before Parliament on 25 June 2019 and is now being laid before the Assembly. The order can be found at:

<https://www.gov.uk/eu-withdrawal-act-2018-statutory-instruments/the-electronic-commerce-directive-adoption-and-children-amendment-etc-eu-exit-regulations-2019-revised>

#### **Summary of the Statutory Instrument and its objective**

3. The objective of the SI is to correct deficiencies in legislation arising from the UK leaving the European Union. This SI removes references to the Country of Origin principle, and to the EU and EU State, from Schedule 11B of the Education Act 2002 and from the Electronic Commerce Directive (Adoption and Children Act 2002) Regulations 2005.
4. These corrections are required to ensure that the statute book will continue to operate after exit.

#### **Relevant provision to be made by the SI**

5. These Regulations amend the Education Act 2002 (c. 32) (“the 2002 Act”) and the Electronic Commerce Directive (Adoption and Children Act 2002) Regulations 2005 (S.I. 2005/3222) (“the 2005 Regulations”). Together, the amendments provide for the disapplication of the “country of origin” principle in respect of certain matters under the 2002 Act and the 2005 Regulations respectively.
6. The amendments to the 2002 Act relate to provision in Schedule 11B to that Act (in relation to publishing a matter in breach of restrictions on reporting alleged offences by teachers; those provisions extend to England and Wales). The effect of the amendments is to disapply the country of origin principle in respect of information society services which have potentially breached the reporting restrictions under section 141F of the 2002 Act.

7. The amendments to the 2005 Regulations provide for the disapplication of the country of origin principle in relation to information society services in the application of sections 92 and 93 of the Adoption and Children Act 2002 (c. 38) (restriction on arranging adoptions) and sections 123 and 124 of that Act (restriction on advertising adoptions).
8. It is the view of the Welsh Government that the provisions described in paragraphs 5 to 7 above fall within the legislative competence of the National Assembly for Wales in so far as they relate to services and facilities relating to adoption and to Education.

**Why it is appropriate for the SI to make this provision**

9. There is no divergence between the Welsh Government and the UK Government on the policy for the correction. Therefore, making separate SIs in Wales and England would lead to duplication, and unnecessary complication of the statute book. Consenting to an England and Wales wide SI ensures that there is a single legislative framework across England and Wales, which promotes clarity and accessibility during this period of change. In these exceptional circumstances, the Welsh Government considers it appropriate that the UK Government legislates on our behalf in this instance.

**Julie Morgan AM**  
**Deputy Minister for Health and Social Services**  
**25 June 2019**