

ISLE OF ANGLESEY COUNTY COUNCIL	
Report to	<b>THE EXECUTIVE AND FULL COUNCIL</b>
Date	<b>21.05.2018 / 25.09.2018</b>
Subject	<b>For the Council to adopt the powers listed in Enclosure 1 and for such powers to be delegated to the Head of Service (Regulation and Economic Development)</b>
Portfolio Holder(s)	<b>Councillor Richard Dew Councillor Dafydd Rhys Thomas</b>
Head of Service	<b>Dylan Williams – Head of Service (Regulation and Economic Development) Lynn Ball – Head of Service (Council Business) / Monitoring Officer</b>
Report Author: Tel: E-mail:	<b>Mared Wyn Yaxley – Solicitor: Corporate Governance Ext. 2566 <a href="mailto:mwyys@ynysmon.gov.uk">mwyys@ynysmon.gov.uk</a></b>

<b>A – Recommendation/s and reason/s</b>
<p>1. That Council:</p> <p>1.1 Adopt the powers listed in Section A of <b>Enclosure 1</b>;</p> <p>1.2 Amend the Scheme of Delegation in the Constitution to delegate the exercise of the powers noted in Section A of <b>Enclosure 1</b>, to the Head of Service (Regulation and Economic Development);</p> <p>1.3 Remove the powers listed in Section B of <b>Enclosure 1</b>, from the Scheme of Delegation in the Constitution, which delegates these Powers to the Head of Service (Regulation and Economic Development);</p> <p>1.4 Authorise the Council's Head of Function (Council Business) / Monitoring Officer to make the necessary changes to the Scheme of Delegation, and any consequential amendments, to reflect the adoption, delegation and removal of the said powers;</p> <p>1.5 Authorise the Council's Head of Function (Council Business) / Monitoring Officer to make any future changes to the Constitution, without requiring Executive or full Council approval, where those changes are as a result of legislative changes where additional/ revised delegation to officers is required in order to execute additional powers or rights granted to the Council by amended or new legislation.</p> <p>1.6 Amend the Scheme of Delegation in the Constitution to delegate to the Head of Function (Council Business) / Monitoring Officer:</p> <p>“To review and update the Council's Constitution from time to time, to include any changes arising from amended, substituted or new legislation; any restructure of the organisation already authorised as required and to include</p>

new delegations to officers, namely the Head of Service with responsibility for the relevant service, to have full delegated authority to discharge the function on the Council's behalf, unless it is a matter reserved to the Council, Executive or a Committee".

**B – What other options did you consider and why did you reject them and / or opt for this option?**

The Council has the option of refusing to adopt the powers at Section A **Enclosure 1** but adopting (and delegating) the powers will enable the Council to operate a wider range of solutions. Details of the purpose for which each power may be used is explained at **Enclosure 2**.

Removing the legislation listed in Section B **Enclosure 1**, is a good house-keeping exercise to remove references to legislation which no longer serves purpose as part of the Council's operational requirements.

At present, any changes to the Constitution require Executive and full Council approval. There is a request in this report for some constitutional changes, such as the one detailed in this report, to be delegated to the Head of Function (Council Business) / Monitoring Officer, rather than for a report to be prepared to Executive and full Council. It will remain that politically significant and local choice changes to the Constitution will be a matter for full Council, but the Head of Function (Council Business) / Monitoring Officer will be given delegated power to make those constitutional changes which arise due to new, amended or revoked legislation, and this will include adding or removing reference to that legislation to or from the relevant Head of Service's list of delegated matters. This would assist workloads for officers and the Executive / full Council. To include such reference in the Constitution is not a new concept; it is known to be included in the constitutions of other councils for the purpose of streamlining processes and ensuring that technical changes are implemented as smoothly and quickly as possible.

**C – Why is this a decision for the Executive?**

As the report proposes to amend the Scheme of Delegation, which is part of the Constitution, then this report must be considered by the Executive before a final decision is made by Council

**CH – is this decision consistent with policy approved by the full Council?**

Yes, where relevant

**D – Is this decision within the budget approved by the Council?**

The cost of exercising these new/additional powers will fall within the operational budget of the Service.

Potential costs will be one of the considerations taken into account before the powers are engaged; on a case by case basis.

<b>D – Who did you consult?</b>		<b>What did they say?</b>
<b>1</b>	<b>Chief Executive / Senior Leadership Team (SLT)</b> (mandatory)	Report discussed 08.05.2018 – proposal supported
<b>2</b>	<b>Finance / Section 51</b> (mandatory)	Part of 1 above
<b>3</b>	<b>Legal / Monitoring Officer</b> (mandatory)	Report by the Legal Section/Monitoring Officer – proposal supported
<b>4</b>	<b>Human Resources (HR)</b>	Not relevant
<b>5</b>	<b>Property</b>	Not relevant
<b>6</b>	<b>Information Communication Technology (ICT)</b>	Not relevant
<b>7</b>	<b>Procurement</b>	Not relevant
<b>8</b>	<b>Scrutiny</b>	Not relevant
<b>9</b>	<b>Local Members</b>	Not relevant
<b>10</b>	<b>Any external bodies / other/s</b>	Portfolio Holders/Shadow Portfolio Holders

<b>E – Risks and any mitigation (if relevant)</b>		
<b>1</b>	<b>Economic</b>	Not relevant
<b>2</b>	<b>Anti-poverty</b>	Exercise of the powers based on the merit of the circumstances may benefit deprived areas
<b>3</b>	<b>Crime and Disorder</b>	Some of the legislation included at <b>Enclosure 1</b> is aimed at addressing issues of crime / illegal activity
<b>4</b>	<b>Environmental</b>	Exercise of some of the powers to be delegated to the Head of Service (Regulation and Economic Development) will seek to address certain environmental matters including food hygiene and animal welfare etc.
<b>5</b>	<b>Equalities</b>	Not relevant
<b>6</b>	<b>Outcome Agreements</b>	Not relevant
<b>7</b>	<b>Other</b>	Not relevant

<b>F – Appendices:</b>
<p><b>Enclosure 1:-</b> Section A lists the additional powers which may be adopted by the Council, and under which the Head of Service (Regulation and Economic Development), may exercise his delegated authority. Section B lists the legislation which is no longer required to form part of the Head of Service (Regulation and Economic Development)'s delegated authority. It is therefore good house-keeping to remove reference to these in the Constitution.</p> <p><b>Enclosure 2:-</b> A table summarising the reasons for the additional delegated powers.</p>

<b>FF – Background papers (please contact the author of the Report for any further information):</b>
None

## **ENCLOSURE 1**

### **Section A:- Additional Legislation to be added to the Scheme of Delegation to the Head of Service (Regulation and Economic Development):-**

Criminal Justice Act 1988 – section 141A  
The Biofuel (Labelling) Regulations 2004  
The Financial Services (Distance Marketing) Regulations 2004  
The Cat and Dog Fur (Control of Import, Export and Placing on the Market) Regulations 2008  
The REACH Enforcement Regulations 2008  
Pigs (Records, Identification and Movement) (Wales) Order 2011  
The Beef and Veal Labelling (Wales) Regulations 2011  
Children and Families Act 2014 – section 91  
The Diseases of Swine Regulations 2014  
The Explosives Regulations 2014  
The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015  
Fluorinated Greenhouse Gases Regulations 2015  
Pyrotechnic Articles (Safety) Regulations 2015  
Measuring Instruments Regulations 2016  
Non-automatic Weighing Instruments Regulations 2016  
Renting Homes (Wales) Act 2016  
The Food for Specific Groups (Information and Compositional Requirements) (Wales) Regulations 2016  
The Food Hygiene (Wales) (Amendment) Regulations 2016  
The Caseins and Caseinates (Wales) Regulations 2016  
Public Health (Wales) Act 2017  
The Novel Foods (Wales) Regulations 2017  
The Radio Equipment Regulations 2017  
The Natural Mineral Water, Spring Water and Bottled Drinking Water (Wales) (Amendment) Regulations 2017  
The Marketing of Fruit Plant and Propagating Material (Wales) Regulations 2017  
The Disease Control (Wales) (Amendment) (Amendment) Order 2017  
The Bathing Water (Amendment) (Wales) Regulations 2017  
The Private Water Supplies (Wales) Regulations 2017  
The Aerosol Dispensers (Amendment) Regulations 2018  
The Animal Feed (Basic Safety Standards) (Wales) Regulations 2018  
The Fluorinated Greenhouse Gases (Amendment) Regulations 2018  
The Enterprise Act 2002 (Part 9 Restrictions on Disclosure of Information) (Specification) Order 2018  
The Condensed Milk and Dried Milk (Wales) Regulations 2018  
The Jam and Similar Products (Wales) Regulations 2018  
Mobile Homes (Wales) Act 2013

**Section B:- Legislation to be removed from the Scheme of Delegation to the Head of Service (Regulation and Economic Development):-**

The Animal Byproducts (Wales) Regulations 2006  
The Animal By-Products (Enforcement) (No.2) (Wales) Regulations 2011  
The Cattle Database Regulations 1998  
The Pigs (Records, identification & Movement) (Wales) Order 2008  
The Sheep and Goats (Records, Identification and Movement) (Wales) Order 2009  
The Swine Vesicular Disease (Wales) Regulations 2009  
The Non-automatic Weighing Instruments (EEC Requirements) Regulations 1995  
The Beef and Veal Labelling Regulations 2010  
The Chemical (Hazard, Information and Packaging for Supply) Regulations 1994  
Merchant Shipping Act 1979 in respect of :-  
Merchant Shipping (Weighing of Goods Vehicles and other Cargo) Regulations 1988  
Petroleum (Regulation) Acts 1928 and 1936  
Private Water Supplies Amendment Regulations 2016

## **ENCLOSURE 2**

<b>Name of Legislation</b>	<b>Effect of Legislation</b>
Criminal Justice Act 1988 – section 141A	Sale of knives and certain articles with blade or point to persons under sixteen
The Biofuel (Labelling) Regulations 2004	They provide a mechanism through which the labelling requirements for biofuels can be enforced by weights and measures authorities.
The Financial Services (Distance Marketing) Regulations 2004	The protection of consumers who purchase products and services 'at a distance'
The Cat and Dog Fur (Control of Import, Export and Placing on the Market) Regulations 2008	Banning the placing on the market and the import to, or export from, the EU of cat and dog fur, and products containing such fur.
The REACH (Registration, Evaluation, Authorisation and restrictions of Chemicals) Enforcement Regulations 2008	Creates an enforcement regime for the European Regulation concerning the Registration, Evaluation, Authorisation and restriction of Chemicals (REACH)
Pigs (Records, Identification and Movement) (Wales) Order 2011	Updates the previous regulations
The Beef and Veal Labelling (Wales) Regulations 2011	Updates the previous regulations
Children and Families Act 2014 – section 91	A person aged 18 or over who buys or attempts to buy tobacco or cigarette papers on behalf of an individual aged under 18 commits an offence
The Diseases of Swine Regulations 2014	Provisions for the control of swine vesicular disease
The Explosives Regulations 2014	Updated legislation governing the issuing of licences which authorise the storage of explosives
The Energy Efficiency (Private Rented Property)	These Regulations introduce measures to improve the energy efficiency of certain private rented property in England and Wales

(England and Wales) Regulations 2015	
Fluorinated Greenhouse Gases Regulations 2015	<p>The Regulations address the use of fluorinated greenhouse gases (F gas) and impact anyone who:</p> <ul style="list-style-type: none"> <li>• manufactures, sells, uses or services equipment that contains F gas, like refrigeration and air conditioning systems, solvents or aerosols,</li> <li>• produces or sells F gas, and</li> <li>• imports or exports F gas, or equipment containing F gas, to or from the EU</li> </ul>
Pyrotechnic Articles (Safety) Regulations 2015	They bring in new provisions introducing new requirements to improve the traceability of pyrotechnic articles.
Measuring Instruments Regulations 2016	Updates existing legislation
Non-automatic Weighing Instruments Regulations 2016	Updates existing legislation
Renting Homes (Wales) Act 2016	Make provision about tenancies and licences which confer the right to occupy a dwelling as a home, including provision establishing two kinds of contract for the purpose of renting homes
The Food for Specific Groups (Information and Compositional Requirements) (Wales) Regulations 2016	Updating existing legislation
The Food Hygiene (Wales) (Amendment) Regulations 2016	Updating existing legislation
The Caseins and Caseinates (Wales) Regulations 2016	Updating existing legislation
Public Health (Wales) Act 2017	<p>Public Health provisions including:</p> <p><b>Smoking</b></p>



	<ul style="list-style-type: none"> <li>• makes it a crime to smoke in specified places and vehicles, including many outdoor settings, with local authorities designated as enforcement authorities</li> <li>• provides for a mandatory register of retailers of tobacco and nicotine products, making it an offence for anyone to sell nicotine or tobacco products unless on the register</li> <li>• creates an offence of handing over tobacco, cigarette papers or nicotine products to persons under 18</li> </ul> <p><b>Acupuncture, body piercing, electrolysis and tattooing</b></p> <p>Requires any person performing any of these activities in the course of business to be licensed.</p> <p><b>Intimate piercing</b></p> <p>Makes it an offence to perform or make arrangements to perform an intimate piercing on a person under the age of 18 in Wales.</p>
The Natural Mineral Water, Spring Water and Bottled Drinking Water (Wales) (Amendment) Regulations 2017	Updates existing legislation
The Marketing of Fruit Plant and Propagating Material (Wales) Regulations 2017	Updates existing legislation
The Disease Control (Wales) (Amendment) (Amendment) Order 2017	Updates existing legislation
The Bathing Water (Amendment) (Wales) Regulations 2017	Updates existing legislation
The Private Water Supplies (Wales) Regulations 2017	Updates existing legislation
The Novel Foods (Wales) Regulations 2017	<p>The Regulations come into force on 1 January 2018 and provide for the execution and enforcement of EU Regulation 2015/2283 of 25 November 2015 on novel foods.</p> <p>Regulation 3 makes food authorities responsible for the enforcement of the Regulations.</p>

	<p>Regulation 6 revokes The Novel Foods and Novel Food Ingredients Regulations 1997 (1997:1335), The Novel Foods and Novel Food Ingredients (Fees) Regulations 1997 (1997:1336) and The Food Enzymes (Wales) Regulations 2009 (2009:3377).</p>
The Radio Equipment Regulations 2017	<p>These Regulations come into force on 26th December 2017 and transpose Directive 2014/53/EU of the European Parliament and of the Council of 16 April 2014 on the harmonisation of the laws of the Member States relating to the making available on the market of radio equipment and repealing Directive 1999/5/EC (OJ L 153, 22.5.2014, p.62).</p> <p>The Directive repeals and replaces Directive 1999/5/EC of the European Parliament and of the Council of 9 March 1999 on radio equipment and telecommunications terminal equipment and the mutual recognition of their conformity (OJ L 91, 7.4.1999, p.10) which was implemented in the United Kingdom by the Radio Equipment and Telecommunications Terminal Equipment Regulations 2000 (2000:730). <b>These Regulations revoke and replace S.I. 2000:730, and all powers etc remain under the Consumer Protection Act 1987</b></p> <p>Regulation 55 designates a 'weights and measures authority' as the market surveillance authority and provides that it must make adequate arrangements for market surveillance under these Regulations and RAMS (in its application to radio equipment). Regulation 56 imposes a <b><i>duty of enforcement on the weights and measures authority</i></b>.</p>
The Aerosol Dispensers (Amendment) Regulations 2018	<p>These Regulations come into force on 12 February 2018 and amend the Aerosol Dispensers Regulations 2009 (SI 2009:2824).</p> <p>The 2009 Regulations transposed Council Directive 75/324/EEC and that Directive has been amended by Commission Directive (EU) 2016/2037. These amendments increase the maximum allowable pressure of certain aerosol dispensers, and align the labelling requirements for aerosol dispensers with the requirements in Regulation (EC) No 1272/2008 on the classification, labelling and packaging of substances and mixtures.</p>

	<p>The 2009 Regulations were made under the Consumer Protection Act 1987 which places <b><u>a duty of enforcement</u></b> upon local Weights and Measures authorities.</p>
<p>The Animal Feed (Basic Safety Standards) (Wales) Regulations 2018</p>	<p>These regulations come into force on 6 February 2018</p> <p>The Regulations transpose in Wales, in relation to animal feed, Article 21 of Council Directive 2013/59/Euratom laying down basic safety standards for protection against the dangers arising from exposure to ionising radiation, and repealing Directives 89/618/Euratom, 90/641/Euratom, 96/29/Euratom, 97/43/Euratom and 2003/122/Euratom.</p> <p>The regulations also make amendments to the Animal Feed (Hygiene, Sampling etc. and Enforcement) (Wales) Regulations 2016 (SI 2016:387) and the Official Feed and Food Controls (Wales) Regulations 2009 SI 2009:3376) in relation to improvement notices and prohibition notices.</p>
<p>The Fluorinated Greenhouse Gases (Amendment) Regulations 2018</p>	<p>These Regulations come into force on 22 February 2018, but with some exceptions which are on 1 April 2018. The Regulations make substantial amendments to The Fluorinated Greenhouse Gases Regulations 2015 (S.I. 2015:310 which are enforced by local authorities.</p> <p>They update the 2015 Regulations to include references to a number of Commission Implementing Regulations adopted since the 2015 Regulations came into force. In particular, new Schedules 4 and 5 are inserted which provide mechanisms for civil penalties which can be imposed by enforcement authorities.</p>
<p>The Enterprise Act 2002 (Part 9 Restrictions on Disclosure of Information) (Specification) Order 2018</p>	<p>This Order comes into force on 6 April 2018 and adds to the List in Schedule 15 of the Enterprise Act 2002.</p> <p>Specified information may be disclosed to enforcers of legislation listed in that Schedule. This Order relates to two sets of Regulations enforced by OFGEM.</p>
<p>The Condensed Milk and Dried Milk (Wales) Regulations 2018</p>	<p>Updates existing legislation</p>
<p>The Jam and Similar Products (Wales) Regulations 2018</p>	<p>Updates existing legislation</p>

Mobile Homes (Wales) Act 2013	It relates to permanent residential caravans. The Act allows the local authority to improve regulation within the industry, to improve conditions on mobile home sites and to ensure that the rights of residents are better protected.
-------------------------------	---