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WELSH STATUTORY INSTRUMENTS

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**2001 No. 2193**

**The Common Agricultural Policy  
(Wine) (Wales) Regulations 2001**

**PART I**

**TITLE, COMMENCEMENT, INTERPRETATION AND REVOCATION**

**Title, application and commencement**

1. These Regulations may be cited as the Common Agricultural Policy (Wine) (Wales) Regulations 2001, and shall come into force on 1st August 2001.

**Interpretation and revocation**

2.—(1) In these Regulations, unless the context otherwise requires—

“analysis” (“*dadansoddi*”) includes microbiological assay and any technique for establishing the composition of food;

“appropriate enforcement authority” (“*awdurdod gorfodi priodol*”), in relation to any part of Wales, means an enforcement authority in relation to that part;

“authorised officer” (“*swyddog awdurdodedig*”) means any person (whether or not an officer of that authority) who is authorised for the purposes of these Regulations by an appropriate enforcement authority or in relation to any particular provision of these Regulations, any person who is authorised by an appropriate enforcement authority for the purposes of that provision;

“the Commissioners” (“*y Comisiynwyr*”) means the Commissioners of Customs and Excise;

“Community provision” (“*darpariaeth Gymunedol*”) means any provision of any Regulation, Decision or Act of the European Communities which is referred to in Schedule 1, or of the Treaties relating to the accession to the European Communities, respectively, of the Hellenic Republic signed at Athens on 28th May 1979<sup>(1)</sup>, of the Kingdom of Spain and the Portuguese Republic signed, respectively, at Madrid and Lisbon on 12th June 1985<sup>(2)</sup>, and of the Kingdom of Sweden, the Republic of Austria and the Republic of Finland signed respectively at Stockholm, Vienna and Helsinki on 24th June 1994<sup>(3)</sup>, and where any such provision has been adapted by the European Economic Area Agreement, includes the adaptation to it effected thereby;

“controlled wine-sector product” (“*cynnyrch sector gwin a reolir*”) means any wine-sector product the movement of which is for the time being prohibited pursuant to regulation 8;

“enforcement authority” (“*awdurdod gorfodi*”) means—

- (a) the Commissioners or the Wine Standards Board;
- (b) the National Assembly;

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<sup>(1)</sup> OJNo. L291, 19.11.79, p.17.

<sup>(2)</sup> OJ No. L302, 15.11.85, p.23.

<sup>(3)</sup> OJ No. C241, 29.8.94, p.1; the amendments made by Council Decision 95/1 are not relevant to these Regulations.

- (c) in relation to the area of a local authority, the local authority;
- “the European Economic Area Agreement” (“*Cytundeb yr Ardal Economaidd Ewropeaidd*”) has the same meaning as has “the Agreement” in section 6(1) of the European Economic Area Act 1993(4);
- “examination” (“*archwilio*”) has the same meaning as in section 28(2) of the Food Safety Act(5);
- “food analyst” (“*dadansoddydd bwyd*”) and “food examiner” (“*archwilydd bwyd*”) means, in relation to Wales, a person who is a food analyst and a food examiner, as the case may be, for the purposes of section 30 of the Food Safety Act 1990;
- “local authority” (“*awdurdod lleol*”) means in respect of a county or county borough, the council of that county or county borough;
- “manufacturing” (“*gweithgynhyrchu*”) means using wine or other wine-sector products, for the purpose of a trade or business (other than a catering business), in the composition, manufacture or preparation of any product;
- “National Assembly” (“*Cynulliad Cenedlaethol*”) means the National Assembly for Wales;
- “quality wines psr” (“*gwinoedd o safon psr*”) has the meaning assigned to it by Article 54 of Council Regulation (EC) 1493/1999 on the common organisation of the market in wine(6);
- “relevant Community provision” (“*darpariaeth Gymunedol berthnasol*”) means any Community provision referred to in column 1 or column 2 of Schedule 2 to these Regulations, the subject matter of which is described in column 3 thereof;
- “retail sale” (“*manwerthu*”) means any sale to a person buying otherwise than for the purpose of resale but does not include a sale to a caterer in the course of his or her catering business or to a manufacturer in the course of his or her manufacturing business;
- “specified regions” (“*rhanbarthau penodedig*”) means the regions as defined in regulation 13;
- “third country” (“*trydedd wlad*”) means any country or territory not forming part of the United Kingdom;
- “the Wine Standards Board” (“*y Bwrdd Safonau Gwin*”) means the Wine Standards Board of The Vintners' Company.

(2) Other expressions used in these Regulations have, in so far as the context admits, the same meanings as in Council Regulation (EC) 1493/1999 and, in relation to aromatized wines, in Council Regulation (EEC) 1601/91, as amended, laying down general rules on the description and presentation of aromatized wines, aromatized wine-based drinks and aromatized wine-product cocktails(7).

(3) In these Regulations any reference to a numbered regulation or Schedule shall be construed as a reference to the regulation or Schedule so numbered in these Regulations.

(4) The Common Agricultural Policy (Wine) Regulations 1996(8), the Common Agricultural Policy (Wine) (Amendment) Regulations 1997(9), the Common Agricultural Policy (Wine) (Amendment) Regulations 1998(10), and the Common Agricultural Policy (Wine) (Amendment) Regulations 1999(11) are hereby revoked in so far as they apply to Wales.

(4) 1993, c. 51.

(5) 1990, c. 16.

(6) OJ No. L179, 14.7.1999, p.1.

(7) OJ No. L149, 14.6.91, p.1.

(8) S.I.1996/696.

(9) S.I. 1997/542.

(10) S.I. 1998/453.

(11) S.I. 1999/482.

(5) In the application of Part III of these Regulations, Schedule 3 (in so far as it relates to vine varieties for providing quality wines psr), and Schedules 4 and 5, that Part and those Schedules shall be read in relation to any wine produced—

- (a) from grapes harvested before 1st September 1993, as if their contents were identical to those of the corresponding Part of, and Schedules to, the Common Agricultural Policy (Wine) Regulations 1993<sup>(12)</sup>;
- (b) from grapes harvested on or after 1st September 1993 and before 1st September 1994, as if their contents were identical to those of the corresponding Part of, and Schedules to, the Common Agricultural Policy (Wine) Regulations 1994<sup>(13)</sup>;
- (c) from grapes harvested on or after 1st September 1994 and before 1st September 1995, as if their contents were identical to those of the corresponding Part of, and Schedules to, the Common Agricultural Policy (Wine) Regulations 1995<sup>(14)</sup>;
- (d) from grapes harvested on or after 1st September 1995 and before 1st September 1999, as if their contents were identical to those of the corresponding Part of, and Schedules to, the Common Agricultural Policy (Wine) Regulations 1996.

## PART II

### GENERAL PROVISIONS

#### Official functions and enforcement

3.—(1) Subject to the provisions of this regulation, local authorities, the National Assembly, the Commissioners and the Wine Standards Board are hereby designated as the authorities responsible for ensuring compliance with the Community provisions.

(2) Each local authority shall secure the enforcement and execution of the relevant Community provisions in so far as they relate to the retail sale of products within its area.

(3) The National Assembly, the Commissioners and the Wine Standards Board shall secure the enforcement and execution of the relevant Community provisions in so far as they relate to the importation and exportation of any wine-sector product into Wales from a third country or from Wales to a third country.

(4) The National Assembly and the Wine Standards Board shall secure the enforcement and execution of the relevant Community provisions in so far as they relate to any matter not mentioned in paragraphs (2) or (3) above.

(5) Nothing in this regulation shall be taken as authorising the Wine Standards Board or the Commissioners to institute proceedings for an offence.

#### Definition of medium dry

4. For the purposes of Article 14(7)(b) of Commission Regulation (EEC) 3201/90, as amended, laying down detailed rules for the description and presentation of wines and grape musts<sup>(15)</sup>, wine may be labelled and described as “medium dry” if it has a residual sugar content not exceeding 18 grams per litre where the total acidity content of that wine expressed as grams of tartaric acid per litre is not more than 10 grams per litre below its residual sugar content.

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<sup>(12)</sup> S.I. 1993/517, amended by S.I. 1993/3071 and revoked by S.I. 1994/674.

<sup>(13)</sup> S.I. 1994/674, revoked by S.I. 1995/615.

<sup>(14)</sup> S.I. 1995/615 revoked by S.I. 1996/696.

<sup>(15)</sup> OJ No. L309, 8.11.90, p.1, as last amended by Commission Regulation (EC) 2770/98 (OJ No. L346, 22.12.98, p.25); the amendments are not relevant to Article 14(7)(b) of the Regulation.

### Vine varieties

5. For the purposes of Article 19(1) and (2) of Council Regulation (EC) 1493/1999 and Article 20 of Commission Regulation (EC) 1227/2000 laying down detailed rules for the application of Council Regulation 1493/1999 on the common organisation of the market in wine, as regards production potential<sup>(16)</sup>, the vine varieties classified for the production of wine in Wales are those specified in Schedule 3, amongst which those that are not permitted for the production of quality wines psr in the specified regions are indicated by an asterisk.

### Geographical indications for table wine

6.—(1) In pursuance of Article 51(3) of Council Regulation (EC) 1493/1999, the use of a geographical indication for the designation of table wine produced in any part of Wales is prohibited unless that table wine is produced—

- (a) wholly from one or more of the varieties of vine specified in Schedule 3, and
- (b) exclusively from grapes harvested in the geographical unit the name of which is used for the designation of that table wine.

(2) Notwithstanding paragraph (1)(b) above, a geographical indication may be used to designate a table wine obtained by the coupage of wines as permitted by Article 51(2) of the said Council Regulation (EC) 1493/1999.

(3) In paragraph (1)(b) above “geographical unit” means a precisely demarcated area which—

- (a) is a part of Wales; and
- (b) falls within the definition of a “geographical unit which is smaller than the Member State” in Article 51(1) of the said Council Regulation (EC) 1493/1999.

(4) Subject to Point A, paragraph 2 of Annex VII to the said Council Regulation (EC) 1493/1999 no geographical indication other than the name of a geographical unit as specified in this regulation shall be used on the labelling or advertising of a table wine produced in any part of Wales.

### Powers of authorised officers

7.—(1) An authorised officer may, on producing, if so required, some duly authenticated document showing his or her authority, at any reasonable time enter any land or vehicle (other than any land or a vehicle used solely as a dwelling), for the purpose of ascertaining whether any offence under these Regulations has been or is being committed or whether any offence under the Common Agricultural Policy (Wine) Regulations 1993, 1994, 1995 or 1996 has been committed.

(2) An authorised officer who has entered any land or vehicle in accordance with paragraph (1) above may, for the purpose specified in that paragraph or for the purpose of securing evidence of any such offence which he or she has reason to believe is or may be being, or has been or may have been, committed—

- (a) inspect any materials or articles found in or on that land or vehicle;
- (b) subject to paragraph (5) below, examine any register, record or appropriate document—
  - (i) which any person is required to keep under any relevant Community provision, or
  - (ii) which is in the possession or under the control of any person,

and may take copies of any such register, record or document, or of any entry in any such register, record or document and where any such register, record or document is kept by means of a computer, have access to, and inspect the operation of, any computer and any associated apparatus or material which is or has been in use in connection with that register,

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(16) OJ No. L143, 16.6.2000, p.1.

record or document and require such register, record, document or entry to be produced in a form in which it may be taken away;

- (c) subject to paragraph (5) below, seize and retain any such register, record, document or entry which he or she has reason to believe may be required as evidence in proceedings under these Regulations;
- (d) undertake an inventory of products and of anything which may be used in the preparation of products; and
- (e) purchase or take samples of any product and of anything which may be used for the preparation of any product.

(3) An authorised officer who has procured a sample of any product may analyse or examine that sample or have that sample analysed or examined.

(4) An authorised officer entering any land or vehicle by virtue of this regulation may take with him or her such other persons as he or she considers necessary.

(5) An authorised officer shall not be entitled under paragraph (2)(b) or (c) above to examine, copy, seize or retain any record or document so far as it comprises—

- (a) an item subject to legal privilege within the meaning of section 10 of the Police and Criminal Evidence Act 1984<sup>(17)</sup>,
- (b) excluded material within the meaning of section 11 of that Act, or
- (c) special procedure material within the meaning of section 14 of that Act.

### **Control on movement**

**8.—**(1) Where an authorised officer inspects any wine-sector product he or she may prohibit its being moved if he or she has reason to believe that an offence has been, is being or is likely to be committed in respect of it by contravention of, or failure to comply with, any relevant Community provision referred to in columns 1 or 2 of Part I, II, III, V or IX of Schedule 2 and that there is or is likely to be a risk to public health in relation to that product or there has been or is likely to be any fraudulent treatment of that product.

(2) An officer who exercises the power conferred by paragraph (1) above shall, without delay, give to the person who appears to him or her to be in charge of the wine-sector product concerned notice in writing—

- (a) specifying the wine-sector product in relation to which the power has been exercised;
- (b) stating that the wine-sector product may not be moved without the written consent of an authorised officer;
- (c) specifying the Community provision in respect of which he or she has reason to believe that an offence has been, is being or is likely to be committed; and
- (d) specifying whether he or she considers that it would be practicable for steps to be taken to persuade him or her that he or she no longer has reason for that belief and, if so, what those steps should be.

(3) Where a notice described in paragraph (2) above is given by an authorised officer of the Wine Standards Board that notice shall also contain information of the recipient's right, conferred by regulation 10, to have the giving of that notice reviewed, and as to how that right may be exercised, and of the effect of exercising that right.

(4) If the person to whom the officer gives the notice does not appear to him or her to be the owner of the wine-sector product concerned or an agent, contractor or employee of the owner, the

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(17) 1984 c. 60.

officer shall use his or her best endeavours to bring the contents of the notice additionally to the attention of such a person as soon as possible.

(5) An authorised officer may affix to any wine-sector product in relation to which the power conferred by paragraph (1) above has been exercised, or to any container in which the wine-sector product is packed, labels warning of the exercise of the power.

(6) An authorised officer who is satisfied that the steps specified in the notice under paragraph 2(d) above have been taken shall thereupon remove the prohibition on movement imposed pursuant to paragraph (1) above.

### **Consent to movement**

9.—(1) An authorised officer may, at any time, give written consent to the movement of a controlled wine-sector product.

(2) An authorised officer shall, upon request, give written consent to the movement of a controlled wine-sector product if he or she, or another authorised officer, has been given a written undertaking to the effect that—

- (a) the wine-sector product will be moved to a place approved by an authorised officer; and
- (b) the wine-sector product will not be moved from that place without the written consent of an authorised officer.

(3) A consent given by an authorised officer under this regulation shall—

- (a) specify the wine-sector product to which it relates; and
- (b) state that the wine-sector product continues to be controlled.

(4) An authorised officer of the Wine Standards Board who has been requested to give a consent under this regulation, and who refuses to do so, shall communicate that refusal in writing together with written notice of the right, conferred by regulation 10, to have that refusal reviewed, and an explanation as to how that right may be exercised and the effect of exercising that right.

### **Review of notices and refusals on movement of wine-sector products**

10.—(1) This regulation applies where an authorised officer of the Wine Standards Board—

- (a) has given to a person who appears to him or her to be in charge of a wine-sector product a notice under regulation 8(2); or
- (b) has refused to give consent to the movement of a controlled wine-sector product under regulation 9.

(2) A person to whom the notice or refusal has been given may make a written request to the Chief Executive of the Wine Standards Board for him or her to review the giving of the notice or refusal.

(3) Where a request for the review of a notice or refusal is received by the Chief Executive of the Wine Standards Board he or she shall review the notice or refusal and communicate his or her decision on the review within fourteen days from receipt of the request.

(4) Where a person is dissatisfied with the decision of the Chief Executive of the Wine Standards Board on a review he or she may make a written request to the Chairman of the Wine Standards Board for a further review by the Wine Standards Board of the giving of the notice or refusal.

(5) On such a request the Wine Standards Board shall, if satisfied that the decision of the authorised officer to give the notice or refuse consent was not justified, cause the notice to be withdrawn or, as the case may be, give consent to the movement of the controlled wine-sector product concerned.

(6) The procedure and quorum for a meeting of the Wine Standards Board considering a request under this regulation shall be such as it determines.

### **Authorised officer acting in good faith**

**11.**—(1) An authorised officer shall not be personally liable in respect of any act done in the execution or purported execution of these Regulations and within the scope of his or her employment, if—

- (a) in relation to an act done by him or her, he or she did that act in the honest belief that these Regulations required or empowered him or her to do it, and
- (b) in relation to an act of a person accompanying him or her and acting under his or her instructions, he or she honestly believed that these Regulations empowered him or her to instruct that person to do it.

(2) A person accompanying an authorised officer shall not be personally liable in respect of any act done by him or her in the execution or purported execution of these Regulations, if—

- (a) he or she did that act on the instructions of the authorised officer, and
- (b) he or she honestly believed that these Regulations empowered the authorised officer to give him or her those instructions.

(3) Nothing in paragraph (1) above shall be construed as relieving an enforcement authority from any liability in respect of the acts of its authorised officers.

(4) Where an action has been brought against an authorised officer in respect of an act done by him or her in the execution or purported execution of these Regulations and the circumstances are such that he or she is not legally entitled to require the enforcement authority to indemnify him or her, the authority may, nevertheless, indemnify him or her against the whole or part of any damages and costs, if that authority is satisfied that he or she honestly believed the act complained of was within the scope of his or her employment and that his duty under these Regulations required or entitled him or her to do it.

### **Power to require analysis or examination**

**12.**—(1) The court before which any proceedings are brought for an offence under these Regulations may, if it thinks fit for the purposes of the proceedings, cause any article which is the subject of the proceedings, and, if it has already been analysed or examined, is capable of being further analysed or examined, to be sent to a food analyst or food examiner, who shall make such analysis or examination as is appropriate and transmit to the court a certificate of the result thereof, and the costs of the analysis or examination shall be paid by the prosecutor or the person charged as the court may order.

(2) If in a case in which an appeal is brought no action has been taken under paragraph (1) of this regulation as respects a particular article, the provisions thereof shall apply as respects that article in relation to the court by which the appeal is heard.

(3) Any certificate of the results of an analysis or examination, which, in the course of proceedings is transmitted by a food analyst or food examiner under this regulation, shall be signed by that food analyst or food examiner, but the analysis or examination may be made by any person acting under the direction of the person by whom the certificate is signed.

(4) In any proceedings under these Regulations, the transmission to the court under this regulation or production by one of the parties—

- (a) of a document purporting to be a certificate given by a food analyst or food examiner; or
- (b) of a document supplied to him or her by the other party as being a copy of such a certificate, shall be sufficient evidence of the facts stated in it unless any party to the proceedings requires that the person by whom the certificate is signed be called as a witness.

## PART III

### QUALITY WINES PRODUCED IN SPECIFIED REGIONS

#### Specified regions

13.—(1) Subject to paragraph (2) below, the specified regions in Wales for the purposes of Point A of Annex VI to Council Regulation (EC) 1493/1999 are the regions described in Schedule 4.

(2) There shall be excluded from the areas described in Schedule 4 any land situated at an altitude of more than 220 metres above sea level.

#### Minimum natural alcoholic strength

14. The minimum natural alcoholic strength for quality wines psr produced in the specified regions shall be 6%.

#### Authorisation under Point D, paragraph 3, of Annex VI to Regulation 1493/1999

15. Notwithstanding the provisions of Point D, paragraph 1(b), of Annex VI to Council Regulation (EC) 1493/1999, which requires the processing of grapes into must and the processing of that must into wine as well as the production of such wine within the specified region where the grapes used were harvested, a quality wine psr may be produced in an area in immediate proximity to a specified region.

#### Maximum yield

16. For the purposes of Point I, paragraph 1, of Annex VI to Regulation 1493/1999, the maximum yield for each hectare of land cultivated with vines for producing quality wines psr in the specified regions shall be 100 hectolitres.

#### Analytical test

17. For the purposes of Point J, paragraph 1(a), of Annex VI to Council Regulation (EC) 1493/1999—

- (a) the analytical test to establish whether any wine is eligible for designation as quality wine psr shall comprise a measurement of each of the factors specified in Schedule 5 in relation to that wine; and
- (b) wine shall be so eligible only where it meets each standard specified in that Schedule.

#### Designation of competent body

18. For the purposes of Article 56 of Council Regulation (EC) 1493/1999, as read with Articles 10 and 12 of Commission Regulation (EC) 1607/2000 laying down detailed rules for implementing Council Regulation (EC) 1493/1999 on the common organisation of the market in wine, in particular the Title relating to quality wine produced in specified regions(18), the Wine Standards Board is hereby designated as the competent body referred to in those Articles.

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(18) OJ No. L185, 25.7.2000, p.17.



## **PART IV**

### **OFFENCES AND PENALTIES**

#### **Offences and penalties**

**19.**—(1) If any person contravenes, or fails to comply with, regulation 6 or any obligation contained in any of the relevant Community provisions referred to in column 1 or 2 of Parts I, II, III, V or IX of Schedule 2, he or she shall be guilty of an offence and liable—

- (a) on summary conviction, to a fine not exceeding level 5 on the standard scale; or
- (b) on conviction on indictment, to a fine.

(2) If any person—

- (a) contravenes, or fails to comply with, any obligation or condition contained in any of the relevant Community provisions referred to in column 1 or 2 of Parts IV, VI, VII or VIII of Schedule 2, or
- (b) discloses to any other person any information obtained by him or her in pursuance of his or her duties under these Regulations, unless the disclosure is made in, or for the purposes of, the performance by him or her or any other person of any functions under these Regulations, or in pursuance of a Community obligation, he or she shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

#### **Movement of a controlled wine-sector product**

**20.**—(1) Any person who, knowing a wine-sector product to be a controlled wine-sector product—

- (a) moves it, or
- (b) causes it to be moved, without the written consent of an authorised officer shall be guilty of an offence.

(2) Any person who, knowing a wine-sector product to be a controlled wine-sector product—

- (a) removes from it, or
- (b) causes to be removed from it, a label which has been affixed under regulation 8(5) shall be guilty of an offence.

(3) Any person who fails to comply with an undertaking given by him or her for the purposes of regulation 9(2) shall be guilty of an offence.

(4) It shall be a defence for a person charged with any offence under this regulation to prove that—

- (a) when the power conferred by regulation 8(1) was exercised, no offence had been, was being or was likely to be committed in respect of the wine-sector product concerned; and
- (b) there was a reasonable excuse for the act or omission in respect of which that person has been charged.

(5) A person guilty of an offence under this regulation shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

#### **Obstruction**

**21.** Any person who—

- (a) intentionally obstructs an authorised officer acting in the execution of these Regulations, or

- (b) fails to give to any such officer any assistance or information or to provide any facilities which that officer may reasonably require of him or her for the purposes of his or her functions under these Regulations, shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

#### **Offences by officers of bodies corporate**

**22.**—(1) Where an offence under these Regulations which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or be attributable to any neglect on the part of, any director, manager, secretary or a similar officer of the body corporate, or any person who was purporting to act in any such capacity, he or she as well as the body corporate shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, the provisions of paragraph (1) above shall apply in relation to the acts and defaults of a member in connection with his or her functions of management as if he or she were a director of the body corporate.

#### **Defence of due diligence**

**23.** In any proceedings for an offence under regulation 19 or 21(b) it shall be a defence for the person charged to prove that he or she took all reasonable precautions and exercised all due diligence to avoid the commission of the offence by himself or by a person under his or her control.

#### **Offences under the Common Agricultural Policy (Wine) Regulations 1993, 1994, 1995 or 1996**

**24.** Where an offence under any of the Common Agricultural Policy (Wine) Regulations 1993, 1994, 1995 or 1996 has been committed, it shall, notwithstanding the revocation of those Regulations, be punishable in accordance with the terms of those Regulations.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(19).

12th June 2001

*D. Elis Thomas*  
The Presiding Officer of the National Assembly  
for Wales