

Agenda Supplement – Legislation, Justice and Constitution Committee

Meeting Venue:	For further information contact:
Virtual – Video conference via Zoom	P Gareth Williams
Meeting date: 27 November 2023	Committee Clerk
Meeting time: 13.30	0300 200 6565
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Remote – Supplementary Pack

Please note the documents below are in addition to those published in the main Agenda and Reports pack for this Meeting

3 Instruments that raise issues to be reported to the Senedd under Standing Order 21.2 or 21.3

(13.35 – 13.40)

3.2 SL(6)415 – The Renting Homes (Miscellaneous Amendments) (Wales) Regulations 2023

(Page 1)

Attached Documents:

LJC(6)–33–23 – Paper 19 – Welsh Government Response

4 Instruments that raise issues to be reported to the Senedd under Standing Order 21.2 or 21.3 – previously considered

(13.40 – 13.45)

4.2 SL(6)405 – The Waste Separation Requirements (Wales) Regulations 2023

(Pages 2 – 7)

Attached Documents:

LJC(6)–33–23 – Paper 20 – Report

LJC(6)–33–23 – Paper 21 – Welsh Government response



4.3 SL(6)406 – The Prohibition on the Incineration, or the Deposit in Landfill, of Specified Waste (Wales) Regulations 2023

(Pages 8 – 14)

Attached Documents:

LJC(6)–33–23 – Paper 22 – Report

LJC(6)–33–23 – Paper 23 – Welsh Government response

4.4 SL(6)407 – The Prohibition on Disposal of Food Waste to Sewer (Civil Sanctions) (Wales) Order 2023

(Pages 15 – 18)

Attached Documents:

LJC(6)–33–23 – Paper 24 – Report

LJC(6)–33–23 – Paper 25 – Welsh Government response

4.5 SL(6)410 – The Regulated Services (Special School Residential Services) (Wales) Regulations 2023

(Pages 19 – 21)

Attached Documents:

LJC(6)–33–23 – Paper 26 – Report

LJC(6)–33–23 – Paper 27 – Welsh Government response

5 Inter–Institutional Relations Agreement

(13.45 – 13.50)

5.1 Correspondence from the Minister for Economy: Inter–Ministerial Group for Trade

(Page 22)

Attached Documents:

LJC(6)–33–23 – Paper 28 – Letter from the Minister for Economy, 24 November 2023

10 Draft principles for legislating via UK Bills

(14.10 – 14.40)

(Pages 23 – 26)

Attached Documents:

LJC(6)-33-23 – Paper 29 – Letter from the Secretary of State for Wales to the
Llywydd, 13 November 2023

Agenda Item 3.2

Government Response: The Renting Homes (Miscellaneous Amendments) (Wales) Regulations 2023

Technical Scrutiny point 1: The Welsh Government take the view that the location of the existing text in form RHW17 for amendment is clearly identifiable in the Welsh text. The opening words of regulation 4 contains wording which is descriptive in nature as opposed to wording which quotes a heading. Further, paragraphs (a) and (b) of regulation 4 precisely identify the location of the existing Welsh text for amendment by quoting headings and sub-headings under which that text is located.

Technical Scrutiny point 2 a): The Welsh Government take the view that the words “oherwydd mae’r” are grammatically correct in this context. Where ‘oherwydd’ is followed by a positive verb it is considered a coordinating conjunction as opposed to a subordinating conjunction.

Technical Scrutiny point 2 b): The Welsh Government acknowledge the date of the Act is missing. Whilst this is regrettable, the Welsh Government take the view that it has no impact on the operation of the Renting Homes (Prescribed Forms) (Wales) Regulations 2022 (S.I. 2022/244 (W. 72)).

Agenda Item 4.2

SL(6)405 – The Waste Separation Requirements (Wales) Regulations 2023

Background and Purpose

These Regulations set out waste separation requirements in Wales (for the purposes of section 45AA of the Environmental Protection Act 1990 (c. 43) (the “1990 Act”)) with the aim of ensuring that waste is managed in a manner that promotes high quality recycling. The separation requirements apply in respect of all premises other than domestic properties and caravans. However, hospitals are not required to present waste separately for collection until 6 April 2026.

Separation requirements are specified in relation to the presentation of waste for collection (regulation 3), the collection of waste (regulation 4) and the handling of waste that has been collected (regulation 5).

“Recyclable waste streams” is defined in regulation 2 as meaning:

- (a) glass;
- (b) cartons and similar, metal and plastic;
- (c) paper and card;
- (d) food waste;
- (e) unsold small waste electrical and electronic equipment; and
- (f) unsold textiles.

Regulation 3 requires each recyclable waste stream to be presented separately for collection. Those collecting such waste must collect the recyclable waste streams separately (regulation 4). Those who subsequently handle the waste must not mix it with any other recyclable waste stream or with other types of waste or other substances or articles (regulation 5). Where an occupier of premises takes controlled waste to a centralised collection point (for example, a waste recycling centre) this constitutes “presenting for collection” under the Regulations.

These Regulations amend sections 46 (receptacles for household waste) and 47 (receptacles for commercial or industrial waste) of the 1990 Act to clarify the relationship between a requirement imposed by a waste collection authority in Wales by notice under those sections, and the requirements set out in section 45AA and these Regulations.

These Regulations also amend the Waste (England and Wales) Regulations 2011 (S.I. 2011/988) to restrict the application, in relation to Wales, of regulations 13 (duties in relation to collection of waste) and 14 (duty in relation to collected waste) of those Regulations to domestic properties and caravans.

The offences in respect of breaches of the separation requirements are contained in section 45AA(8) of the 1990 Act.



A civil sanctions regime is introduced to enable the regulator (the Natural Resources Body for Wales ("NRW")) to impose fixed monetary penalties, variable monetary penalties and non-compliance penalties.

These Regulations make provision for the procedure relating to the civil sanctions, including appeals. Appeals are to be made to the First-tier Tribunal.

Schedule 2 provides that guidance relating to the use of civil sanctions must be published by NRW. Guidance must also be published relating to the use of non-compliance penalties and enforcement cost recovery notices. Before any guidance is published, the regulator is required to consult. The Regulations also provide for the publication of information on enforcement action taken by the regulator. The regulator is able to recover certain costs of enforcement in the case of variable monetary penalties. The regulator is able to recover any fixed monetary penalty, variable monetary penalty or non-compliance penalty imposed by the regulator under the Regulations together with any financial penalty for late payment.

Procedure

Draft Affirmative.

The Welsh Ministers have laid a draft of the Regulations before the Senedd. The Welsh Ministers cannot make the Regulations unless the Senedd approves the draft Regulations.

Technical Scrutiny

The following six points are identified for reporting under Standing Order 21.2 in respect of this instrument.

1. Standing Order 21.2(vii) – that there appear to be inconsistencies between the meaning of its English and Welsh texts

In regulation 2, there is a difference between the English and Welsh text. In the Welsh text, in the list of definitions, there is an additional definition that isn't found in the English text, namely "person acting in the course of a business". This definition appears correctly later in both language texts in regulation 5(2) and that is the only regulation where the term is used in these Regulations.

2. Standing Order 21.2(v) – that for any particular reason its form or meaning needs further explanation

In the headings of Part 4 and of regulation 7, the title of " the Environmental Protection Act 1990" is repeated in full rather than using the defined term "the 1990 Act" which is actually used in the body of regulation 7.

3. Standing Order 21.2(vii) – that there appear to be inconsistencies between the meaning of its English and Welsh texts



In Schedule 1, there is a difference between the English and Welsh text. The English text refers to “Rigid **paper** containers” under the heading “Cartons and similar” but the Welsh text has translated the meaning as “Rigid **plastic** containers”.

4. Standing Order 21.2(vii) – that there appear to be inconsistencies between the meaning of its English and Welsh texts

In Schedule 2, in paragraph 11(1), in the Welsh text, “determine” has been translated as “ganfyddir”. The term “canfod” is noted in the Legislative Translation Unit’s Glossary as the preferred term when conveying the meaning of “determine” in the context of ascertaining, establishing or discovering something. But it does appear to be incorrect in the context of paragraph 11(1) where the determine refers to specifying the amount of the financial penalty to be paid to the regulator.

The term “pennu” is also noted in the Legislative Translation Unit’s Glossary as the preferred term when conveying the meaning of “determine” in the different context of specifying, setting or fixing an amount etc. Therefore, it would appear that “determine” should have been translated as “bennir” rather than “ganfyddir” to correctly convey the meaning of that term in the context of paragraph 11(1) of Schedule 2 to these Regulations.

5. Standing Order 21.2(vi) – that its drafting appears to be defective or it fails to fulfil statutory requirements

In Schedule 2, in paragraph 25(2) and (3) there are references that are incorrectly described as “paragraph (1)(b)” but they should be described as “sub-paragraph (1)(b)”. A similar error occurs in paragraph 28(2) where there is a reference that is incorrectly described as “paragraph (1)(a)” but it should be described as “sub-paragraph (1)(a)” – see [Writing laws for Wales](#) 6.16 about composite references.

6. Standing Order 21.2(vii) – that there appear to be inconsistencies between the meaning of its English and Welsh texts

In Schedule 2, in paragraph 25(3)(c), in the English text, the phrase “determining the amount” has been used in relation to the amount of the penalty. However, in the following paragraph 26(c), a slightly different phrase, “establishing the amount”, has been used in relation to the non-compliance penalties and enforcement cost recovery notices.

In the Welsh text, both “determining” and “establishing” have been translated using the same word “bennu” which conveys the meaning of specifying or setting/fixing an amount to be paid in this context. It suggests to the reader of the Welsh text that both “determining the amount” and “establishing the amount” bear the same meaning in those paragraphs. If there is a difference in meaning, it would have been more appropriate to use a different term in the Welsh text of paragraph 26(c), such as “gadarnhau” which is already used in paragraph 11(4) for “establishing the amount”. This would have conveyed the meaning of “establishing” in the sense of ascertaining or discovering the amount involved.



Therefore, the translation of paragraphs 25(3)(c) and 26(c) in the Welsh text of Schedule 2 does not convey the potential different meanings of the English text (if there is an intended difference) in the context of those paragraphs. In addition, it means that the translation of paragraphs 25(3)(c) and 26(c) in the Welsh text of Schedule 2 to these Regulations is different from that found in the corresponding paragraphs in the Schedule to the Prohibition on the Incineration, or the Deposit in Landfill, of Specified Waste (Wales) Regulations 2023, although the English text is identical. But it is also unclear whether the difference in the drafting of the English text by using “determining” and “establishing” is deliberate due to an intended difference in their meaning or an inconsistency in the drafting.

Merits Scrutiny

No points are identified for reporting under Standing Order 21.3 in respect of this instrument.

Welsh Government response

A Welsh Government response is required.

Committee Consideration

The Committee considered the instrument at its meeting on 20 November 2023 and reports to the Senedd in line with the reporting points above.



Government Response: The Waste Separation Requirements (Wales) Regulations 2023

Technical Scrutiny point 1: The point is noted. This is an error in the Welsh text and we will ensure that the definition is deleted from regulation 2 of the Welsh text prior to making the Regulations, as set out in the table below.

Technical Scrutiny point 2: The point is noted. We will ensure that the Regulations are amended prior to making as set out in the table below, to ensure that the defined term is used throughout.

Technical Scrutiny point 3: The point is noted. This is an error in the Welsh text and we will ensure that the definition is amended in the Welsh text prior to making the Regulations, as set out in the table below, so that it reads “Rigid paper containers”.

Technical Scrutiny point 4: The point is noted, however we are satisfied that the translation is appropriate and that no amendment is required.

Technical Scrutiny point 5: The point is noted. We will ensure that the Regulations are amended prior to making as set out in the table below.

Technical Scrutiny point 6: The point is noted, however we are satisfied that the word “bennu” is the correct translation of both “determining” and “establishing”. We do not consider that “gadarnhau” is required.

Technical drafting corrections to be made prior to the making of the Regulations

CORRECTIONS MADE TO THE WELSH TEXT PRIOR TO MAKING	CORRECTIONS MADE TO THE ENGLISH TEXT PRIOR TO MAKING
<p align="center">Rheoliadau Gofynion Gwahanu Gwastraff (Cymru) 2023</p>	<p align="center">The Waste Separation Requirements (Wales) Regulations 2023</p>
<p>In the Welsh text only the definition of “person sy’n gweithredu yng nghwrs busnes” as set out below will be deleted from regulation 2</p>	

<p>“ystyr “person sy’n gweithredu yng nghwrs busnes” (“<i>person acting in the course of a business</i>”) yw person—</p> <p>(a) sy’n cynnal unrhyw fusnes neu ymgymeriad, pa un ai er elw ai peidio, neu</p> <p>(b) sy’n arfer unrhyw swyddogaethau o natur gyhoeddus;”</p>	
<p>In the first heading of Part 4 the reference to “Ddeddf Diogelu’r Amgylchedd 1990” will be replaced with “Ddeddf 1990”.</p> <p>In the headings of Regulation 7 the references to “Deddf Diogelu’r Amgylchedd 1990” will be replaced with “Deddf 1990”.</p>	<p>In both headings of Part 4 the references to “the Environmental Protection Act 1990” will be replaced with “the 1990 Act”.</p>
<p>In the Welsh text only, in Schedule 1, “Cynwysyddion plastig anhyblyg” will be replaced by “Cynwysyddion papur anhyblyg”.</p>	
<p>In the Schedule, in paragraphs 25(2) and (3) “ym mharagraff” will be replaced with “yn is-baragraff”.</p> <p>In the Schedule, in paragraph 28(2) “Ym mharagraff” will be replaced with “Yn is-baragraff”.</p>	<p>In Schedule 2, in paragraphs 25(2) and (3) and 28(2) “paragraph” will be replaced with “sub-paragraph”.</p>
<p>Minor issues such as formatting, minor changes to the explanatory note and footnotes and correcting typographical errors will also be corrected prior to making</p>	

Agenda Item 4.3

SL(6)406 – The Prohibition on the Incineration, or the Deposit in Landfill, of Specified Waste (Wales) Regulations 2023

Background and Purpose

These Regulations prohibit the incineration, or the deposit in landfill, of specified types of separately collected recyclable waste. The Welsh Government explains in the Explanatory Memorandum that *“this will ensure that waste that is presented and collected separately in accordance with the [Waste Separation Requirements (Wales) Regulations 2023] is recycled as intended.”*

The types of waste are:

- Food;
- Small waste electrical and electronic equipment;
- Card;
- Cartons; and
- Certain textiles (unsold textiles will be prohibited from incineration, whilst all textiles will be prohibited from landfill).

In addition, these Regulations prohibit the deposit in landfill of any wood waste, whether or not separately collected.

These Regulations expand on the changes implemented by the Waste (Circular Economy) (Amendment) Regulations 2020, which amended the Environmental Permitting (England and Wales) Regulations 2016 (“the Environmental Permitting Regulations”), to ban certain separately collected materials from incineration and landfill (glass; plastic; metal; and paper).

This new prohibition is achieved by adding the additional specified types of waste to provisions in the Environmental Permitting Regulations under which conditions are deemed to be contained in every environmental permit, which authorises a landfill, small waste incineration plant, waste co-incineration plant or waste incineration plant.

The relevant condition is that the operator of such a facility must not accept specified types of waste for incineration or landfill if that waste has been separately collected for the purpose of preparing for re-use or recycling.

Procedure

Draft Affirmative.

The Welsh Ministers have laid a draft of the Regulations before the Senedd. The Welsh Ministers cannot make the Regulations unless the Senedd approves the draft Regulations.



Technical Scrutiny

The following 7 points are identified for reporting under Standing Order 21.2 in respect of this instrument.

1. Standing Order 21.2(v) – that for any particular reason its form or meaning needs further explanation

In the preamble to these Regulations, section 55a of the Regulatory Enforcement and Sanctions Act 2008 is cited, along with a number of other provisions, as an enabling power for the making of these Regulations. However, the 2008 Act does not contain a section 55a. An explanation is required as to the inclusion of section 55a of the 2008 Act as an enabling power.

2. Standing Order 21.2(v) – that for any particular reason its form or meaning needs further explanation

In regulation 3, the Environmental Permitting (England and Wales) Regulations 2016 are defined as *“the 2016 Regulations”*. But in the headings of Part 3 and of regulation 4, and also in the body of the text of regulation 4(1), those Regulations are referred to by their full title rather than by that defined term.

3. Standing Order 21.2(vii) – that there appear to be inconsistencies between the meaning of its English and Welsh texts

In the Schedule, in paragraphs 6(c), 16(c), 19(4)(c) and 22(3)(c), in the English text, the phrase *“how payment **may** be made”* occurs in a similar context. But in the Welsh text, the translation has used a different term to convey the meaning of *“may”* in paragraphs 6(c) and 16(c), when compared with paragraphs 19(4)(c) and 22(3)(c) of the Schedule.

In paragraphs 6(c) and 16(c), the translation has used *“gellir”* which is normally used for *“may”* when conveying possibility or *“can”*, so that the phrase would be understood as meaning *“how payment **can** be made”*. In paragraphs 19(4)(c) and 22(3)(c), the translation has used *“caniateir”* which is the standardised term found in the Legislative Translative Unit’s Drafting Guidance for *“may”* when conveying being given discretionary power to do something, *“permitted”* or *“is allowed”*, so that the phrase would be understood as meaning *“how payment **is permitted/ allowed** to be made”*.

The difference in the choice of terms in the translation suggests to the reader of the Welsh text that there is a difference in meaning when the phrase *“how payment may be made”* is used in paragraphs 6(c) and 16(c) compared with paragraphs 19(4)(c) and 22(3)(c) although no such difference of meaning is found in the English text.

In addition, in the corresponding paragraphs of the Schedule to the Prohibition on Disposal of Food Waste to Sewer (Civil Sanctions) (Wales) Order 2023, the Welsh text has consistently used *“caniateir”* on each occasion in the same phrase.



4. Standing Order 21.2(vii) – that there appear to be inconsistencies between the meaning of its English and Welsh texts

In paragraph 11(1) of the Schedule to these Regulations, in the Welsh text, two alternative words are used next to each other in the relevant sentence to convey the word “determine” (which is used in the English text), namely “ganfyddir bennir”. As a result, the sentence in the Welsh text does not make sense. The use of “bennir” would appear to be correct in this context.

5. Standing Order 21.2(vii) – that there appear to be inconsistencies between the meaning of its English and Welsh texts

In the opening words of paragraph 25(1) of the Schedule to these Regulations, the translation is ambiguous and could suggest to the reader of the Welsh text that it means “Where power is conferred on the regulator **in these Regulations** to impose a civil sanction”, rather than “Where **these Regulations** confer power on the regulator to impose a civil sanction”. The meaning of the Welsh text would be clearer if it had followed the syntax used in the translation of paragraph 25(1) of the Schedule to the Prohibition on Disposal of Food Waste to Sewer (Civil Sanctions) (Wales) Order 2023. It would then be translated as “Pan fo’r **Rheoliadau hyn** yn rhoi pŵer i’r rheoleiddiwr i osod sancsiwn sifil” rather than “Pan fo pŵer yn cael ei roi i’r rheoleiddiwr **yn y Rheoliadau hyn** i osod sancsiwn sifil”.

6. Standing Order 21.2(vi) – that its drafting appears to be defective or it fails to fulfil statutory requirements

In the opening words to paragraph 25(2) and (3) of the Schedule to these Regulations, the references to “**paragraph** (1)(b)” should instead be described as “**sub-paragraph** (1)(b)” (emphasis added). A similar issue occurs in paragraph 28(2) of the Schedule, where the reference to “**paragraph** (1)(a)” should be described as “**sub-paragraph** (1)(a)” (emphasis added). See Writing Laws for Wales 6.16 about composite references.

7. Standing Order 21.2(vii) – that there appear to be inconsistencies between the meaning of its English and Welsh texts

In paragraph 25(3)(c) of the Schedule to these Regulations, in the English text, the phrase “**determining** the amount” (emphasis added) has been used in relation to the amount of the relevant penalty. However, in paragraph 26(c) of the Schedule, “**establishing** the amount” (emphasis added) has been used in relation to non-compliance penalties and enforcement cost recovery notices.

In the Welsh text, different words have been used in the corresponding places to maintain a difference of meaning. However, neither of the words used in the Welsh text appear to convey the different meanings of the English text (assuming there is an intended difference between “determining” and “establishing” in the relevant paragraphs) in the context of those paragraphs.

In paragraph 25(3)(c) of the Schedule, “ganfod” has been used. However, the context would suggest that “bennu” may be the more appropriate choice if “determining” is being used as



meaning to specify or set/fix the amount of penalty to be paid. It is noted that *"bennu"* has been used in the corresponding paragraph 25(3)(c) of the Schedule to the Prohibition on Disposal of Food Waste to Sewer (Civil Sanctions) (Wales) Order 2023.

In paragraph 26(c) of the Schedule to these Regulations, *"nodi'r"* has been used. However, the context would suggest that *"gadarnhau"* may be the more appropriate choice of word if *"establishing"* is being used as meaning ascertaining or discovering the amount. However, if the intention of the English text is to convey the same meaning as *"determine"* in paragraph 25(3)(c), then *"bennu'r"* would be the more appropriate choice of word in the Welsh text. It is noted that in the corresponding paragraph 26(c) of the Schedule to the Prohibition on Disposal of Food Waste to Sewer (Civil Sanctions) (Wales) Order 2023, and of Schedule 2 to the Waste Separation Requirements (Wales) Regulations 2023, the Welsh text has used *"bennu'r"* where the English text uses *"establishing"* in this context.

These inconsistencies between the Welsh and English texts leave it unclear as to whether there is a deliberate difference in the drafting between paragraphs 25(3)(c) and 26(c) of the Schedule to these Regulations, in terms of using *"determining"* and *"establishing"* respectively.

Merits Scrutiny

The following point is identified for reporting under Standing Order 21.3 in respect of this instrument.

8. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd

These Regulations operate by deeming that all environmental permits issued under the Environmental Permitting Regulations, which authorise a landfill or incineration plant, contain a condition prohibiting the landfill or incineration (as applicable) of the specified separately collected waste materials. This condition will apply to all environmental permits including those issued prior to the making of these Regulations.

As a result, these Regulations will have retrospective effect to the extent that they affect past events or transactions. That is, they modify the terms of environmental permits issued before these Regulations come into force, albeit offences associated with the new permit conditions can only be committed after these Regulations have come into force.

Welsh Government response

A Welsh Government response is required except in relation to reporting point 8.

Committee Consideration

The Committee considered the instrument at its meeting on 20 November 2023 and reports to the Senedd in line with the reporting points above.



Government Response: The Prohibition on the Incineration, or the Deposit in Landfill, of Specified Waste (Wales) Regulations 2023

Technical Scrutiny point 1: The point is noted. This a typographical error and should read “55” and not “55a”. We will ensure that the Regulations are amended prior to making as set out in the table below.

Technical Scrutiny point 2: The point is noted. We will ensure that the Regulations are amended as set out below prior to making, to ensure that the defined term is used throughout.

Technical Scrutiny point 3: The point is noted. We will ensure that the Regulations are amended prior to making, as set out in the table below to address this.

Technical Scrutiny point 4: The point is noted. We will ensure that the Regulations are amended prior to making, as set out in the table below.

Technical Scrutiny point 5: The point is noted, however we do not accept that the translation is ambiguous. Although the structure of this sentence could have been written as suggested, we do not accept that the original version is flawed.

Technical Scrutiny point 6: The point is noted. We will ensure that the Regulations are amended prior to making, as set out in the table below.

Technical Scrutiny point 7: The point is noted, however we are satisfied that the word “bennu” is the correct translation of both “determining” and “establishing”. We do not consider that “gadarnhau” is required.

Technical drafting corrections to be made prior to the making of the Regulations

CORRECTIONS MADE TO THE WELSH TEXT PRIOR TO MAKING	CORRECTIONS MADE TO THE ENGLISH TEXT PRIOR TO MAKING
<p>Rheoliadau Gwahardd Llosgi Gwastraff Penodedig, neu ei Ddodi ar Safle Tirlenwi (Cymru) 2023</p>	<p>The Prohibition on the Incineration, or the Deposit in Landfill, of Specified Waste (Wales) Regulations 2023</p>
<p>The reference to “55a” in the preamble to the Regulations will be replaced with “55”</p>	<p>The reference to “55a” in the preamble to the Regulations will be replaced with “55”</p>
<p>In the headings of Part 3 and of regulation 4, the references to “Reoliadau Trwyddedu Amgylcheddol (Cymru a Lloegr) 2016” will be replaced with “Reoliadau 2016”.</p> <p>In the body of the text of regulation 4(1), the references to “Rheoliadau Trwyddedu Amgylcheddol (Cymru a Lloegr) 2016” will be replaced with “Rheoliadau 2016”.</p>	<p>In the headings of Part 3 and of regulation 4, and also in the body of the text of regulation 4(1) the references to “the Environmental Permitting (England and Wales) Regulations 2016” will be replaced with “the 2016 Regulations”.</p>
<p>In the Schedule, in paragraphs 6(c) and 16(c) “gellir” will be replaced with “caniateir”</p>	
<p>In the Schedule, in paragraph 11(1) “ganfyddir” will be deleted</p>	
<p>In the Schedule, in paragraphs 25(2) and (3) “ym mharagraff” will be replaced with “yn is-baragraff”.</p> <p>In the Schedule, in paragraph 28(2) “Ym mharagraff” will be replaced with “Yn is-baragraff”.</p>	<p>In the Schedule, in paragraphs 25(2) and (3) and 28(2) “paragraph” will be replaced with “sub-paragraph”.</p>
<p>Minor issues such as formatting, minor changes to the explanatory note and footnotes and correcting typographical errors will also be corrected prior to making</p>	

SL(6)407 – The Prohibition on Disposal of Food Waste to Sewer) (Civil Sanctions) (Wales) Order 2023

Background and Purpose

This Order makes provision in relation to the prohibition on the disposal of food waste to sewer under section 34D of the Environmental Protection Act 1990 (as inserted by section 66 of the Environment (Wales) Act 2016). Breach of this prohibition is an offence under section 34D of the Environmental Protection Act 1990.

A civil sanctions regime is introduced to enable the regulator to impose fixed monetary penalties, variable monetary penalties and non-compliance penalties. The regulator, for the purposes of this Order, is the local authority for the area in which the premises are situated.

This Order makes provision for the procedure relating to the civil sanctions, including appeals. Appeals under this Order are to the First-tier Tribunal.

The Schedule to this Order provides that guidance relating to the use of civil sanctions must be published. Guidance must also be published relating to the use of non-compliance penalties and enforcement cost recovery notices. Before any guidance is published, the regulator is required to consult. This Order also provides for the publication of information on enforcement action taken by the regulator. The regulator is able to recover certain costs of enforcement in the case of variable monetary penalties.

The regulator is able to recover any fixed monetary penalty, variable monetary penalty or non-compliance penalty imposed by the regulator under this Order together with any financial penalty for late payment.

Article 6 gives enforcement officers powers of investigation in relation to potential offences, including powers of entry and seizure.

Procedure

Draft Affirmative

The Welsh Ministers have laid a draft of the Regulations before the Senedd. The Welsh Ministers cannot make the Regulations unless the Senedd approves the draft Regulations.

Technical Scrutiny

The following points are identified for reporting under Standing Order 21.2 in respect of this instrument.

- 1. Standing Order 21.2(vi) – that its drafting appears to be defective or it fails to fulfil statutory requirements.**



In article 3, the provision refers to an “offence under section **34D** of the 1990 Act”. But on every other occasion in this Order the provisions always refer to an offence under “section **34D(3)**” of the 1990 Act (see articles 5, 6(1) and (3), and paragraphs 1(1) and 11(1) of the Schedule). In this regard, section 34D(3) is the specific provision that creates an offence under section 34D of the 1990 Act. Therefore, it would have been more precise to cite “section **34D(3)**” of the 1990 Act in article 3 of this Order, and also more consistent with the other provisions of the Order.

2. Standing Order 21.2(vii) – that there appear to be inconsistencies between the meaning of its English and Welsh texts.

In the Schedule, in paragraph 11(1), in the Welsh text, “determine” has been translated as “ganfyddir”. The term “canfod” is noted in the Legislative Translation Unit’s Glossary as the preferred term when conveying the meaning of “determine” in the context of ascertaining, establishing or discovering something. But it does appear to be incorrect in the context of paragraph 11(1) where the determine refers to specifying the amount of the financial penalty to be paid to the regulator, and hasn’t been used elsewhere in this Order.

The term “pennu” is also noted in the Legislative Translation Unit’s Glossary as the preferred term when conveying the meaning of “determine” in the different context of specifying, setting or fixing an amount etc. In this regard, “pennu” is the term that has been used as the translation of “determine” elsewhere in this Order in the same context as paragraph 11(1) – see paragraphs 19(2) and (3), and 25(3)(c) of the Schedule. In addition, “determine” has been translated as “pennu” in similar provisions that are found in other Welsh SIs such as paragraphs 1(1)(a) and 24(2) and (3) of the Schedule to SI 2018/760 (W. 151).

Therefore, it would appear that “determine” should have been translated as “bennir” rather than “ganfyddir” to correctly convey the meaning of that term in the context of paragraph 11(1) of the Schedule to this Order.

There is also some confusion in relation to the translation of this term in the corresponding numbered paragraph of the Schedule to the Prohibition on the Incineration, or the Deposit in Landfill, of Specified Waste (Wales) Regulations 2023 where “ganfyddir bennir” has been used in the Welsh text.

3. Standing Order 21.2(vi) – that its drafting appears to be defective or it fails to fulfil statutory requirements.

In the Schedule, in paragraph 25(2) and (3), there are references that are incorrectly described as “**paragraph** (1)(b)” but they should be described as “**sub-paragraph** (1)(b)” – see Writing LW 6.16(2) about composite references. In addition, in paragraph 28(2) of the Schedule, there is a similar reference which is incorrectly described as “**paragraph** (1)(a)” which should be described as “**sub-paragraph** (1)(a)”.

4. Standing Order 21.2(vii) – that there appear to be inconsistencies between the meaning of its English and Welsh texts



In the Schedule, in paragraph 25(3)(c), in the English text, the phrase “**determining** the amount” has been used in relation to the amount of the penalty. However, in the following paragraph 26(c), a slightly different phrase, “**establishing** the amount”, has been used in relation to the non-compliance penalties and enforcement cost recovery notices.

In the Welsh text, both “determining” and “establishing” have been translated using the same word “bennu” which conveys the meaning of specifying or setting/fixing an amount to be paid in this context. It suggests to the reader of the Welsh text that both “determining the amount” and “establishing the amount” bear the same meaning in those paragraphs. If there is a difference in meaning, it would have been more appropriate to use a different term in the Welsh text of paragraph 26(c), such as “**gadarnhau**”. This would have conveyed the meaning of “establishing” in the sense of ascertaining or discovering the amount involved.

Therefore, the translation of paragraphs 25(3)(c) and 26(c) in the Welsh text of the Schedule does not convey the potential different meanings of the English text (if there is an intended difference) in the context of those paragraphs. In addition, it means that the translation of paragraphs 25(3)(c) and 26(c) in the Welsh text of the Schedule to this Order is different from that found in the corresponding paragraphs in the Schedule to the Prohibition on the Incineration, or the Deposit in Landfill, of Specified Waste (Wales) Regulations 2023, although the English text is identical. But it is also unclear whether the difference in the drafting of the English text by using “determining” and “establishing” is deliberate due to an intended difference in their meaning or an inconsistency in the drafting.

Merits Scrutiny

No points are identified for reporting under Standing Order 21.3 in respect of this instrument.

Welsh Government response

A Welsh Government response is required for each of the reporting points.

Committee Consideration

The Committee considered the instrument at its meeting on 20 November 2023 and reports to the Senedd in line with the reporting points above.



Government Response: The Prohibition on Disposal of Food Waste to Sewer (Civil Sanctions) (Wales) Order 2023

Technical Scrutiny point 1: The point is noted. We will ensure that the Order is amended prior to making as set out in the table below.

Technical Scrutiny point 2: The point is noted, however we are satisfied that the translation is appropriate and that no amendment is required.

Technical Scrutiny point 3: The point is noted. We will ensure that the Order is amended prior to making as set out in the table below.

Technical Scrutiny point 4: The point is noted, however we are satisfied that the word “bennu” is the correct translation of both “determining” and “establishing”. We do not consider that “gadarnhau” is required.

Technical drafting corrections to be made prior to the making of the Order

CORRECTIONS MADE TO THE WELSH TEXT PRIOR TO MAKING	CORRECTIONS MADE TO THE ENGLISH TEXT PRIOR TO MAKING
<p align="center">Gorchymyn Gwahardd Gwaredu Gwastraff Bwyd i Garthffos (Sanctsiynau Sifil) (Cymru) 2023</p>	<p align="center">The Prohibition on Disposal of Food Waste to Sewer (Civil Sanctions) (Wales) Order 2023</p>
<p>In article 3, “34D” will be replaced with “34D(3)”.</p>	<p>In article 3, “34D” will be replaced with “34D(3)”.</p>
<p>In the Schedule, in paragraphs 25(2) and (3) “ym mharagraff” will be replaced with “yn is-baragraff”.</p> <p>In the Schedule, in paragraph 28(2) “Ym mharagraff” will be replaced with “Yn is-baragraff”.</p>	<p>In the Schedule, in paragraphs 25(2) and (3) and 28(2) “paragraph” will be replaced with “sub-paragraph”.</p>
<p>Minor issues such as formatting, minor changes to the explanatory note and footnotes, and correcting typographical errors, will also be corrected prior to making</p>	

SL(6)410 – The Regulated Services (Special School Residential Services) (Wales) Regulations 2023

Background and Purpose

These Regulations prescribe the provision of accommodation and care or nursing to a pupil of a special school as a “regulated service” for the purposes of Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016 (“the Act”) and will require a person providing such a service to register under the Act.

Procedure

Draft affirmative.

The Welsh Ministers have laid a draft of the Regulations before the Senedd. The Welsh Ministers cannot make the Regulations unless the Senedd approves the draft Regulations.

Technical Scrutiny

The following point is identified for reporting under Standing Order 21.2 in respect of this instrument.

1. Standing Order 21.2(v) – that for any particular reason its form or meaning needs further explanation.

Regulation 2(3) provides for a definition of “hospital” and refers to three different terms that are defined in other legislation. Unlike other definitions in regulation 2(3), no reference is made to the sections of the other legislation that the three terms can be found in. For example, “health service hospital” is defined as having the meaning given in the National Health Service (Wales) Act 2006 but does not refer to the specific section which gives the meaning. This is not helpful as the reader is then required to review large pieces of legislation to find the meanings of the relevant terms. An explanation is therefore requested as to why a consistent approach is not taken to defining terms in regulation 2(3).

Merits Scrutiny

No points are identified for reporting under Standing Order 21.3 in respect of this instrument.

Welsh Government response

A Welsh Government response is required.

Committee Consideration

The Committee considered the instrument at its meeting on 20 November 2023 and reports to the Senedd in line with the reporting point above.



Government Response: SL(6)410 – *The Regulated Services (Special School Residential Services) (Wales) Regulations 2023*

Technical Scrutiny point: The definition of “hospital” which is referred to is taken verbatim from paragraph 9 of Schedule 1 to the Regulation and Inspection of Social Care (Wales) Act 2016. It is acknowledged that it is of assistance to the reader for signposting of references to provisions in other Acts to be done as accurately as possible and reference to the specific section numbers would have provided greater assistance.

It is not clear that this is something which properly falls within the ambit of Standing Order 21.2(v) as drafting whose form or meaning requires further explanation.



Paul Davies MS
Chair of Economy, Trade, and Rural
Affairs Committee

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Huw Irranca-Davies MS
Chair of Legislation, Justice and Constitution
Committee

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24 November 2023

Dear Paul, Huw

Further to my letter of 17 November, I am writing to inform you that the Inter-Ministerial Group for Trade has now been re-scheduled for Wednesday 29 November 2023.

The agenda will cover the ongoing negotiations with India, UK-US state level memorandum of understandings (MOUs), the upcoming WTO 13th Ministerial Conference (MC-13) and engagement between the devolved governments and UK government around negotiations.

I will update you further following the meeting.

Yours sincerely,

Vaughan Gething AS/MS
Gweinidog yr Economi
Minister for Economy

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

Ref: 128MISC23

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E: Correspondence@ukgovwales.gov.uk

Rt Hon Elin Jones MS

Llywydd (Presiding Officer)

Senedd Cymru

Cardiff Bay

CF99 1NA

By email: Llywydd@senedd.wales

13th November 2023

Dear Llywydd,

The King's Speech – 7th November 2023

I am writing following the King's Speech on 7th November which set out the UK Government's ambitious legislative programme for the fourth session. The programme is focused on increasing economic growth and safeguarding the health and security of people across the UK.

We will continue to prioritise growing the economy, easing cost-of-living pressures and supporting businesses. This includes modernising regulation to enable the most innovative firms in the UK to thrive. With the Automated Vehicles Bill, the Digital Markets, Competition and Consumers Bill, and the Data Protection and Digital Information Bill, we will open the door to game-changing new technologies like driverless cars and machine learning.

We will continue securing the benefits of Brexit, legislating to boost trade and investment with the fast-growing economies in the Trans-Pacific Partnership, a huge trading pact with a combined GDP of £12 trillion. This deal will give us access to a partnership that will account for the majority of global growth between now and 2050, guarantee that 99% of our goods can be sold tariff free, and reduce red tape for our world-leading services and goods exporters.

We will strengthen society by safeguarding the health and security of people across the United Kingdom for generations to come. This includes our plans for legislation to restrict the sale of tobacco so that children currently aged fourteen or younger can never be sold cigarettes, and to restrict the sale and marketing of e-cigarettes to children. I welcome the positive intergovernmental working that has led to a joint UK-wide consultation on this issue, and I will be encouraging the Welsh Government to join us in this legislation as we seek to protect young people across the UK from the harms caused by tobacco and vaping.

Ref: 128MISC23

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This Government will keep people in Wales safe and protected from crime, anti-social behaviour, terrorism and illegal immigration. We will legislate to ensure tougher sentences for the most serious offences whilst reforming short sentences so that prison does not push offenders who can be rehabilitated into a cycle of reoffending. We will introduce powers to compel criminals to attend sentencing hearings, and will give the police the tools they need to tackle complex offences such as economic and organised crimes.

In this session, we will also support Welsh creative industries by legislating to allow S4C to broaden its reach and offer content on new platforms across the UK and beyond. The Media Bill will update S4C's public service remit to include digital and online services, implementing the recommendations of the Building an S4C for the future independent report. I hope that the Senedd will welcome measures which enable S4C to more easily adapt to market changes, maximise benefits to Welsh audiences, and deliver increased value for money.

As I set out in my Written Ministerial Statement, most of the Bills will apply to Wales, either in full or in part. I enclose a summary of the Bills announced, some of which were introduced to Parliament in the days following the King's Speech.

I hope that the Welsh Government will consider whether the reforms in our programme which cover devolved areas should also be taken forward in Wales. My officials will be working closely with the Welsh Government, and with colleagues in UK Government Departments, to ensure devolved provision could be included in Bills if applicable. We will of course seek the consent of the Senedd for any such provision.

I am writing in similar terms to the First Minister of Wales.

Yours sincerely,

David T.C. Davies

Rt David TC Davies MP
Secretary of State for Wales
Ysgrifennydd Gwladol Cymru

King's Speech 2023

BILLS WHICH APPLY TO WALES (EITHER IN FULL OR IN PART)	
Bill	Purpose
Offshore Petroleum Licencing Bill	The Bill will make the UK more energy independent by increasing investor and industry confidence with regular annual oil and gas licensing. The Bill's emissions tests will ensure that future licensing supports the transition to net zero.
Trade (Comprehensive and Progressive Agreement for Trans-Pacific Partnership) Bill	The Bill will ensure the UK can meet international commitments under the CPTPP when the UK accedes.
Automated Vehicles Bill	The Bill will unlock a transport revolution by enabling the safe deployment of self-driving vehicles. It will cement the UK's position as a global leader in this high tech and high growth industry and deliver one of the world's most comprehensive legal frameworks for self-driving vehicles, with safety at its core.
Digital Markets, Competition and Consumers Bill (carryover)	The Bill will deliver on a manifesto commitment to tackle consumer rip-offs and bad business practices, including fake reviews and subscription traps. It will tackle vested interests to provide better value for money for consumers.
Data Protection and Digital Information Bill (carryover)	The Bill will maximise post-Brexit freedoms to boost the economy and unleash innovation while also protecting people from harm by building on the UK's already high standards. It has been co-designed with industry, for industry, in order to maximise the economic benefits.
Media Bill	The Bill will make long-term changes to ensure viewers and listeners across the UK can continue to access public service television and radio content as technology changes. It will also implement in statute recommendations made by Eyrn Ogwen Williams' 2018 independent S4C review.
Leasehold and Freehold Bill	The Bill will make the long-term and necessary changes to improve home ownership for millions of leaseholders in England and Wales, by making it cheaper and easier for more leaseholders to extend their lease, buy their freehold, and take over management of their building.
Football Governance Bill	An Independent Football Regulator will put fans back at the heart of football and help to deliver a sustainable future for all clubs. The regulator will safeguard the future of clubs in the English football pyramid for the benefit of communities and fans, including Cardiff City, Swansea City, Newport County and Wrexham.
Animal Welfare (Livestock Exports) Bill	The Bill will ban the export of cattle, sheep, goats, pigs and horses for slaughter and fattening from Great Britain, stopping unnecessary stress, exhaustion and injury caused by exporting live animals.

Economic Activities of Public Bodies (Overseas Matters) Bill (carryover)	The Bill delivers a manifesto commitment to ban public bodies from imposing their own boycotts, divestment, or sanctions campaigns against foreign countries.
Sentencing Bill	The Bill will ensure tougher sentences for the most serious offenders, and will also reform short sentences so that prison does not push offenders who can be rehabilitated into a merry-go-round of reoffending.
Criminal Justice Bill	The Bill will give the police the tools they need to tackle complex offences such as economic and organised crimes, and bring in tougher sentences for grooming and child sexual exploitation. It will also reform the criminal justice system, including by introducing powers to compel criminals to attend their sentencing hearings.
Investigatory Powers (Amendment) Bill	The Bill will make urgent and targeted amendments to the Investigatory Powers Act to ensure that our intelligence agencies have the right tools at their disposal to keep the country safe.
Terrorism (Protection of Premises) Bill	The Bill – known as Martyn’s Law – will deliver a manifesto commitment to “improve the safety and security of public venues” and keep the British public safe from terrorism. Through Martyn’s Law, premises will be better prepared and ready to respond in the event of a terrorist attack.
Victims and Prisoners Bill (carryover)	The Bill will introduce long-term reforms to the victim experience with the criminal justice system, providing immediate and victim-centred support in the event of disasters or major incidents, and reforming the parole system to rebuild public confidence.
BILLS WHICH DO NOT APPLY TO WALES	
Tobacco and Vapes Bill	The Bill will create a smokefree generation by restricting the sale of tobacco so that children currently aged fourteen or younger can never be sold cigarettes, and restrict the sale and marketing of e-cigarettes to children.
Renters (Reform) Bill (carryover)	The Bill will deliver a manifesto commitment to upgrade the private rented sector and improve renting for the long-term. It will provide greater security and certainty of quality accommodation for renters, while helping landlords get their property back swiftly when needed, such as evicting anti-social tenants or those repeatedly in rent arrears.
Pedicabs (London) Bill	The Bill will give Transport for London powers to regulate London’s pedicab industry so that passengers, pedestrians and other road users go about their lives safe in the knowledge these vehicles and their operators are properly licensed and accountable.
Holocaust Memorial Bill (carryover)	The Bill will support the building of a national Holocaust Memorial and Learning Centre in the heart of our democracy, next to the Houses of Parliament. It will be a focal point for national remembrance of the Holocaust, dedicated to the six million Jewish men, women and children and all other victims of the Nazis and their collaborators.