

Agenda Supplement – Legislation, Justice and Constitution Committee

Meeting Venue:

Committee Room 4, Tŷ Hywel

Meeting date: 2 March 2026

Meeting time: 14.45

For further information contact:

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Committee Clerk

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Hybrid – Supplementary Pack

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

5 Instruments that raise issues to be reported to the Senedd under Standing Order 21.2 or 21.3 – previously considered (15.05 – 15.15)

Instruments subject to the Senedd approval procedure

5.6 SL(6)743 – The Tertiary Education and Research (Wales) Act 2022 (Consequential Amendments and Transitory Provision) Regulations 2026

(Pages 1 – 3)

Attached Documents:

LJC(6)-07-26 – Paper 36 – Report

LJC(6)-07-26 – Paper 37 – Welsh Government response

5.7 SL(6)748 – The Infrastructure Consent (Compensation for Changing or Revoking Infrastructure Consent Orders) (Wales) Regulations 2026

(Pages 4 – 6)

Attached Documents:

LJC(6)-07-26 – Paper 38 – Report

LJC(6)-07-26 – Paper 39 – Welsh Government response



Instruments subject to the Senedd annulment procedure

5.8 SL(6)759 – The Independent Review of Determinations (Adoption and Fostering) (Wales) Regulations 2026

(Pages 7 – 10)

Attached Documents:

LJC(6)–07–26 – Paper 40 – Report

LJC(6)–07–26 – Paper 41 – Welsh Government response

6 Inter–Institutional Relations Agreement

(15.15 – 15.20)

6.2 Correspondence from the Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs: The Chemicals (Health and Safety) (Amendment, Consequential and Transitional Provision) Regulations 2026

(Pages 11 – 12)

Attached Documents:

LJC(6)–07–26 – Paper 42 – Letter from the Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs, 26 February 2026

6.3 Correspondence from the Welsh Government: Meetings of inter–ministerial groups

(Page 13)

Attached Documents:

LJC(6)–07–26 – Paper 43 – Letter from the Cabinet Secretary for Economy, Energy and Planning: Inter–Ministerial Group for Trade, 26 February 2026

7 Papers to note

(15.20 – 15.30)

7.6 Correspondence from the Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs: Deposit Return Scheme

(Pages 14 – 18)

Attached Documents:

LJC(6)-07-26 – Paper 44 – Letter to the Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs, 6 February 2026

7.8 Correspondence from British Glass: The Deposit Scheme for Drinks Containers (Wales) Regulations 2026

(Pages 19 – 21)

Attached Documents:

LJC(6)-07-26 – Paper 45 – Paper from British Glass, 26 February 2026

7.9 Correspondence from the Counsel General and Minister for Delivery: "Common Legislative Solutions: a guide to tackling recurring policy issues in legislation"

(Page 22)

[Common Legislative Solutions: a guide to tackling recurring policy issues in legislation](#)

Attached Documents:

LJC(6)-07-26 – Paper 46 – Letter from the Counsel General and Minister for Delivery, 27 February 2026

12 Evidence session with the Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs, and the Counsel General and Minister for Delivery

(16.00 – 17.00)

(Pages 23 – 48)

Huw Irranca-Davies MS, Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs

Julie James MS, Counsel General and Minister for Delivery

James Gerard, Deputy Director, Justice Policy, Welsh Government

Scott Tyler, Head of UK Legislation Programme, Welsh Government

Tom Smithson, Deputy Director Economic Strategy & Regulation, Welsh Government

[Thomas Commission Research report](#)

Attached Documents:

LJC(6)-07-26 – Paper 35 – Briefing paper

SL(6)743 – The Tertiary Education and Research (Wales) Act 2022 (Consequential Amendments and Transitory Provision) Regulations 2026

Background and Purpose

These Regulations amend primary and secondary legislation as a consequence of the coming into force of provisions in the Tertiary Education and Research (Wales) Act 2022 (“the 2022 Act”) which:

- repeal the Welsh Ministers’ funding functions in Part 2 of the Learning and Skills Act 2000 (“the 2000 Act”) and which confer funding functions on the Commission for Tertiary Education and Research (“Medr”) in Part 3 of the 2022 Act;
- make amendments to sections 33A – 33Q of the 2000 Act (local curricula provisions) with current functions of the Welsh Ministers becoming functions of Medr;
- have repealed the Welsh Ministers’ functions relating to the restructuring of local authority maintained sixth form education and which confer functions on Medr (Chapter 3A of Part 3 of the School Standards and Organisation (Wales) Act 2013).

Amendments to primary legislation are also made as a consequence of the register of tertiary education providers to be established by Medr under section 25 of the 2022 Act and related amendments to the Further and Higher Education Act 1992.

Procedure

Senedd approval procedure.

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.

In regulation 6, a new reference is inserted after “section 97” in section 1(4)(g) of the Learner Travel (Wales) Measure 2008. However, the words that include the reference to “section 97” in section 1(4)(g) of the 2008 Measure are inserted by paragraph 23(2) of Schedule 4 to the 2022 Act, which is yet to be commenced. Could the Welsh Government confirm that paragraph 23(2) of Schedule 4 to the 2022 Act will be commenced before the coming into force of these Regulations?



Merits Scrutiny

The following two points are identified for reporting under Standing Order 21.3 in respect of this instrument.

2. 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.

Regulation 4 refers to the Saint David's Catholic College Incorporation Order 2005 (S.I. 2005/2293 (W. 171)). However, it does not seem possible to access a copy of the Order on the legislation.gov.uk website or on commonly used subscription-based legal websites. This it raises issues of accessibility to the law for both legal practitioners and members of the general public. The Government is asked to provide further details as to how this Order is accessible to the public.

3. 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.

No consultation has been carried out in relation to these Regulations. The Explanatory Memorandum states:

"No formal consultation has taken place as the Regulations make only consequential amendments and one (non-textual) temporary modification which relates to one of those consequential amendments."

Welsh Government response

A Welsh Government response is required for the first and second reporting points.

Committee Consideration

The Committee considered the instrument at its meeting on 23 February 2026 and reports to the Senedd in line with the reporting points above.



Government Response: The Tertiary Education and Research (Wales) Act 2022 (Consequential Amendments and Transitory Provision) Regulations 2026

Technical Scrutiny point 1: The Welsh Government can confirm that paragraph 23(2) of Schedule 4 to the Tertiary Education and Research (Wales) Act 2022 (amendment of section 1(4)(g) of the Learner Travel (Wales) Measure 2008 (nawm 2)) will come into force at the same time as regulation 6 of the Tertiary Education and Research (Wales) Act 2022 (Consequential Amendments and Transitory Provision) Regulations 2026.

Merit Scrutiny point 2: Section 2(1) of the Statutory Instruments Act 1946 read with regulation 5(a) of the Statutory Instruments Regulations 1947 (S.I. 1948/1) excepts local statutory instruments from the general requirement that statutory instruments be printed and sold. The Saint David’s Catholic College Incorporation Order 2005 (S.I. 2005/2293 (W. 171)) is certified as a local statutory instrument. It is understood that such local statutory instruments made from 2006 onwards (but not earlier) have been routinely published on legislation.gov.uk. This 2005 Order is however available through the Welsh Government’s online publications archive, and the relevant footnote will be amended, as set out below, prior to the making of the Regulations to reflect this.

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
Rheoliadau Deddf Addysg Drydyddol ac Ymchwil (Cymru) 2022 (Diwygiadau Canlyniadol a Darpariaeth Ddarfodol) 2026	The Tertiary Education and Research (Wales) Act 2022 (Consequential Amendments and Transitory Provision) Regulations 2026
<i>In footnote 5, at the end, insert “Mae copi electronig ar gael yn <a a="" href="https://www.llyw.cymru/chwilio-yr-archif-cyhoeddiadau.”</i></td> <td><i>In footnote 5, at the end, insert “An electronic copy is available at <a href=" https:="" search-publications-archive.”<="" www.gov.wales=""></i>	
Minor issues such as formatting, minor changes to the explanatory note and footnotes and correcting typographical errors will also be corrected prior to making.	

Agenda Item 5.7

SL(6)748 – The Infrastructure Consent (Compensation for Changing or Revoking Infrastructure Consent Orders) (Wales) Regulations 2026

Background and Purpose

The Infrastructure (Wales) Act 2024 (“the 2024 Act”) establishes a unified application and consenting process to enable making and consideration of applications for infrastructure consent. The process applies to the significant infrastructure projects that are specified in Part 1 of the 2024 Act. Broadly, they are energy, transport, waste and water projects.

Part 6 of the 2024 Act makes provision about infrastructure consent orders (orders granting infrastructure consent) including provision giving the Welsh Ministers power, by order, to change or revoke an infrastructure consent order (section 90 of the 2024 Act).

Schedule 2 to the 2024 Act makes provision about compensation where an infrastructure consent order is changed or revoked by the Welsh Ministers without an application being made.

These Regulations make provision about the way in which, and the period within which, a claim for compensation under that Schedule must be made. They also specify the minimum amount of compensation for depreciation under paragraph 2 of Schedule 2.

Procedure

Senedd approval procedure.

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.

In regulation 2(1)(a), the terms “land” and “minerals” are used which have both been defined with a meaning by section 143(1) of the Infrastructure (Wales) Act 2024. However, they have not been defined with the same meaning by regulation 2(4) of these Regulations, which is the interpretation provision for regulation 2. The Legislation (Wales) Act 2019 does not include a provision that implies the meaning of defined terms in any subordinate legislation



made under the parent Act. Therefore, there should be definitions of those terms in regulation 2(4) if the intention is for those terms to bear the same meaning in regulation 2(1)(a) of these Regulations. In addition, it appears an inconsistent approach to include the definitions of some but not all of the relevant terms of the Infrastructure (Wales) Act 2024 in regulation 2(4) of these Regulations.

Merits Scrutiny

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

2. 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.

The Explanatory Memorandum accompanying these Regulations states that they were not subject to formal consultation. Paragraphs 5.6-5.9 of the Explanatory Memorandum includes the following:

“5.6 The Infrastructure Consent (Compensation for Changing or Revoking Infrastructure Consent Orders) (Wales) Regulations 2026 were not subject to formal consultation.

5.7 The principle of compensation for unilateral orders was raised in the consultation and as part of the Welsh Government response, a commitment was made to give consideration to these matters when developing subordinate legislation. These regulations reflect that commitment.

5.8 Furthermore, the principle of matters relating to compensation was also agreed as part of the development of the Infrastructure (Wales) Act 2024 and will have limited impact on applicants and other stakeholders. This is because a claim for compensation under these regulations may only be sought in circumstances where the Welsh Ministers unilaterally change or revoke an infrastructure consent order, which is not expected to occur frequently.

5.9 Finally, the Infrastructure Consent (Compensation for Changing or Revoking Infrastructure Consent Orders) (Wales) Regulations 2026 relate to procedural matters which reflect similar provisions in existing consenting regimes, and follow the proposals set out in the Statement of Policy Intent that accompanied the Bill.”

Welsh Government response

A Welsh Government response is required to reporting point 1.

Committee Consideration

The Committee considered the instrument at its meeting on 23 February 2026 and reports to the Senedd in line with the reporting points above.



Government Response: The Infrastructure Consent (Compensation for Changing or Revoking Infrastructure Consent Orders) (Wales) Regulations 2026

Technical Scrutiny point 1: The Welsh Government acknowledges it would have been more consistent to include definitions of the terms “land” and “minerals” in regulation 2(4) by reference to section 143(1) of the Infrastructure (Wales) Act 2024 (“the 2024 Act”). However, we consider the meaning of those terms is clear in the context they are used. The terms are used in regulation 2(1)(a). This provision sets out what information must be included in a claim for compensation under paragraph 1 of Schedule 2 to the 2024 Act. Paragraph 1(2) of Schedule 2 to the 2024 Act sets out the categories of persons entitled to make such a claim. Regulation 2(1)(a) will be read in this context. Therefore, the Welsh Government considers it is sufficiently clear that regulation 2(1)(a)(iii) requires a claimant to include a statement identifying into which category of persons entitled to make a claim for compensation they fall.

SL(6)759 – The Independent Review of Determinations (Adoption and Fostering) (Wales) Regulations 2026

Background and Purpose

The Independent Review of Determinations (Adoption and Fostering) (Wales) Regulations 2026 (the “**2026 Regulations**”) revoke and replace the Independent Review of Determinations (Adoption and Fostering) (Wales) Regulations 2010 (the “**2010 Regulations**”) to modernise and clarify the legal framework governing the Independent Review Mechanism (“**IRM**”) in Wales.

The IRM is the process by which a prospective or approved foster carer or a prospective adopter, can seek a review of a decision or ‘qualifying determination’ made by a fostering or adoption service. The current IRM process is set out in the 2010 Regulations which require the Welsh Ministers to establish a panel on receipt of an application for review of a determination.

The relevant determinations which may be reviewed are:

- where an adoption agency determines that a prospective adopter is not suitable to adopt a child, or is no longer suitable to adopt a child following a review;
- where an adoption agency makes a determination under the Access to Information (Post-Commencement Adoptions) (Wales) Regulations 2005;
- where a fostering service provider determines that a person is not suitable to act as a foster parent or decides to terminate or revise the terms of a foster parent’s existing approval.

Procedure

Senedd annulment procedure.

The Regulations were made by the Welsh Ministers before they were laid before the Senedd. The Senedd can annul the Regulations within 40 days (excluding any days when the Senedd is: (i) dissolved, or (ii) in recess for more than four days) of the date they were laid before the Senedd.

Technical Scrutiny

The following two 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 regulation 2 ('interpretation'), in the definition of "adoption panel", it appears that the reference to regulation 3 of the Agencies Regulations should be a reference to regulation 4.

Whilst regulation 3 requires an adoption agency to maintain a list of persons who may be suitable to be members of an adoption panel, the actual requirement to constitute a panel is in regulation 4.

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

Regulation 3 sets out the definition of a 'qualifying determination' for the purposes of section 12(2) of the Adoption and Children Act 2002.

Regulation 3(a)(ii) provides that a determination made under regulation **30D(2)** of the Agencies Regulations is a qualifying determination. Regulation 30D(2) provides that a review must take place within a year after approval. However, we query whether it is logical to state that a 'determination' is made under this provision.

Whilst the term 'determination' is not used in regulation 30D, it seems that any determination at the conclusion of a review is made in the written report prepared under regulation 30D(6).

Merits Scrutiny

The following two points are identified for reporting under Standing Order 21.3 in respect of this instrument.

3. 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.

The Explanatory Memorandum outlines the consultation undertaken on the 2026 Regulations. It states:

A 12-week consultation ran from 4 August 2025 to 27 October 2025 on the proposed changes to the 2010 Regulations. The consultation was drawn to the attention of a range of key stakeholders including local authorities, third sector organisations, independent fostering providers, third sector fostering providers, adoption agencies, the National Adoption Service and Foster Wales.

14 responses were received to the consultation. There was broad agreement to all of the proposals in the consultation. No amendments were considered necessary to the proposed changes.

4. 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.

The Explanatory Memorandum notes that the 2026 Regulations will be subject to a Post Implementation Review. It states:



*A post implementation review will be conducted to assess whether the remade regulations are delivering their intended outcomes. This will include monitoring application volumes, panel decisions, and adherence to timelines, alongside stakeholder feedback and legal analysis. **An initial review will take place within 24 months, followed by ongoing annual monitoring and a full review within 3–5 years.** Findings will inform any necessary updates to ensure the regulations remain effective, fair, and aligned with policy objectives. (emphasis added)*

Welsh Government response

A Welsh Government response is required for the technical points only.

Committee Consideration

The Committee considered the instrument at its meeting on 23 February 2026 and reports to the Senedd in line with the reporting points above



Government Response: *the Independent Review of Determinations (Adoption and Fostering) (Wales) Regulations 2026*

Technical Scrutiny point 1: The Welsh Government is grateful to the Committee for identifying the incorrect cross reference to the Adoption Agencies (Wales) Regulations 2005 in regulation 2 within the definition of adoption panel. We accept the point. We will lay a short set of amending Regulations to substitute regulation 4 for regulation 3 so that the definition correctly reflects the provision that requires the constitution of an adoption panel.

Technical Scrutiny point 2: We accept that regulation 3(a)(ii) should refer to the provision under which a determination is actually made at the conclusion of a review, rather than to regulation 30D(2). In the set of amending Regulations mentioned above we will include provision which makes an amendment to regulation so that the reference is to regulation 30D(6).

Huw Irranca-Davies AS/MS
Y Dirprwy Brif Weinidog ac Ysgrifennydd y Cabinet dros Newid
Hinsawdd a Materion Gwledig
Deputy First Minister and Cabinet Secretary for Climate Change
and Rural Affairs

Agenda Item 6.2


Llywodraeth Cymru
Welsh Government

Mike Hedges, MS
Chair,
Legislation, Justice and Constitution Committee

26 February 2026

Dear Mike,

The Chemicals (Health and Safety) (Amendment, Consequential and Transitional Provision) Regulations 2026

I refer to my letter to you of 2 February 2026 which explained that I intended to give consent to the Secretary of State to make the Chemicals (Health and Safety) (Amendment, Consequential and Transitional Provision) Regulations 2026 (“the Regulations”) and for their application to Wales. I write to inform you that the draft Regulations and Explanatory Memorandum have been laid before the UK Parliament.

The draft Regulations and Explanatory Memorandum can be found here: [The Chemicals \(Health and Safety\) \(Amendment, Consequential and Transitional Provision\) Regulations 2026](#)

There will now be a 21-day committee period followed by debates in both Houses of Parliament. The dates for these debates are yet to be scheduled. The date the Regulations are made will be dependent on the date of the approval motion, which should follow the debates. The Regulations will come into force 21 days after they are made.

If the Regulations are made before the start of the Easter recess, I will issue a Written Statement and send you post consent letters within 3 days of the laying of the Regulations. If the Regulations are not made before the Senedd is dissolved, I will issue a press notice/website update or other suitable form of public communication followed by a Written Statement once the new Senedd is in session.

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0300 0604400

Gohebiaeth.Huw.Irranca-Davies@llyw.cymru
Correspondence.Huw.Irranca-Davies@gov.wales

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.

Yours sincerely,

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke at the bottom.

Huw Irranca Davies AS/MS

Y Dirprwy Brif Weinidog ac Ysgrifennydd y Cabinet dros Newid Hinsawdd a Materion
Gwledig

Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs

Rebecca Evans AS/MS
Cabinet Secretary for Economy, Energy and Planning
Ysgrifennydd y Cabinet dros yr Economi, Ynni a Chynllunio



Llywodraeth Cymru
Welsh Government

Mike Hedges MS
Chair of Legislation, Justice and Constitution Committee

SeneddLJC@assembly.wales

26 February 2026

Dear Mike,

I am writing to inform you, in line with the inter-institutional relations agreement, that a meeting of the Inter-Ministerial Group for Trade is scheduled for 4 March 2026.

The meeting will cover an update of the trade policy programme and trade matters to do with the US, GCC and discussion around steel trade measures.

I will update you further following the meeting.

A handwritten signature in black ink that reads 'Rebecca Evans.' The signature is written in a cursive, flowing style.

Rebecca Evans AS/MS
Cabinet Secretary for Economy, Energy and Planning
Ysgrifennydd y Cabinet dros yr Economi, Ynni a Chynllunio

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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.

Huw Irranca-Davies

Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs

6 February 2026

Dear Huw,

Written Statement: Deposit Return Scheme – Application for Deposit Management Organisation

In your written statement of 27 November 2025, you confirmed the Welsh Government has formally proposed an exclusion for the Deposit Return Scheme (DRS) in Wales under the UK Internal Market Act 2020.

We note that Welsh Ministers have previously stated to Senedd Committees that exclusions from the Act were not considered necessary for Senedd legislation to be fully effective, despite Senedd committees, including our own, coming to different conclusions.

While we welcome this change in approach, we are seeking further clarity on the process that the Welsh Government is now following in making this request for an exclusion. In particular, we would welcome information on the following matters:

1. The previous UK Government agreed a process with devolved governments for the consideration of exclusions in Common Framework areas. Can you confirm whether this is the process the Welsh Government is following?
 - If so, through which Common Framework is the Welsh Government seeking the exclusion, and when was it discussed at the relevant forum?
 - Has this matter been discussed at an Interministerial Group meeting? If so, which one and when?

- Does the process reflect any of the commitments made by the UK Government in its response to the review of the UK Internal Market Act, particularly regarding consideration of environmental protection impacts and benefits?
2. When does the Welsh Government expect the exclusion process to conclude and the necessary regulations made by the Secretary of State, enabling the Welsh Ministers to make the subordinate legislation needed to introduce a DRS in Wales?
 3. Will you commit to keeping this Committee, and other Senedd committees, updated on progress to ensure transparency and accountability throughout the process?

Separately, we would welcome an update on the expected timetable for the introduction of the second phase of the bans on single-use plastic products provided for in the Schedule to the Environmental Protection (Single-use Plastic Products) (Wales) Act 2023. In particular, we seek confirmation of whether the Welsh Government intends to request an exclusion for the phase 2 products, in line with the approach taken in relation to the DRS.

In order to assist in our timely scrutiny of this matter, we would appreciate receiving a response by 20 February 2026.

I am copying this letter to the Climate Change, Environment and Infrastructure Committee.

We look forward to your response.

Yours sincerely,



Mike Hedges
Chair

Agenda Item 7.8



British Glass

Date: 26th February 2026

Paper to Note: Legislative Process Concerns Regarding the Deposit Scheme for Drinks Containers (Wales) Regulations 2026

For: Senedd Legislation, Justice and Constitution Committee

From: British Glass

1. Summary

This paper sets out British Glass' concerns regarding the legislative process underpinning the Deposit Scheme for Drinks Containers (Wales) Regulations 2026 ("the Regulations"), particularly in relation to the handling of consultations, regulatory notifications, evidence reliance, impact assessment quality, and the UK Internal Market Act (UKIMA) exclusion procedure.

While British Glass continues to oppose the inclusion of glass in a Wales-only DRS on substantive grounds, this note focuses solely on procedural and constitutional issues relevant to the Committee's remit.

2. Concerns with the 2025 Consultation Process

The most recent Welsh Government consultation (18 August – 10 November 2025) placed substantial emphasis on reuse, with detailed proposals for a "reuse roadmap", phased targets and future regulatory frameworks. Although glass inclusion was referenced, the consultation questions and supporting materials predominantly targeted reuse themes, not the implications of a Wales only decision to include glass in the single-use DRS from October 2027. Indeed, the responses to the consultation and a Welsh Government reply have still not been published despite the laying of the regulations. British Glass is concerned that stakeholders were not meaningfully consulted on the crucial issue of creating a divergent glass obligation in Wales.

Furthermore, the Welsh Government notified the Regulations, including provisions on glass, to the World Trade Organisation before the public consultation closed.

This raises procedural concerns:

- It creates a reasonable impression that the Welsh Government had already settled its policy position on glass inclusion before the consultation had closed.
- It undermines the stated purpose of public consultation as an opportunity to influence the design of the scheme.

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Such timing gives consultees the perception that responses on glass inclusion could not have materially shaped the final regulatory approach. The Welsh Government has stated, in replies to these concerns, that previous consultations show public or industry support for including glass in a DRS. However, given that Wales withdrew from the UK wide approach in November 2024 and is now acting entirely alone on glass inclusion, consultations conducted under previous policy assumptions, where glass inclusion across the UK was being considered, cannot reasonably be relied upon as evidence of support for the new Wales-only model.

The Committee should note that no consultation has specifically asked stakeholders whether Wales should diverge from all other UK nations by including glass. This has prevented stakeholders from expressing informed substantive policy concerns to the Welsh Government and given no opportunity to discuss how these can be addressed before legislation is implemented.

3. Insufficient Impact Assessment in the Regulations

The [impact assessment](#) accompanying the Regulations is based on the 2021 three nations impact assessment and does not provide a sufficiently detailed analysis of:

- The impacts specific to Wales acting alone, including cross border market friction trade distortions, and the impact on consumers
- Producer level impacts, particularly the cost implications of running a glass only obligation in a small market.
- Interaction with UK wide Extended Producer Responsibility (EPR) obligations and Packaging Recovery Note flows.
- Operational feasibility of meeting very high return targets despite a prolonged zero deposit period (glass exempt from deposit until 2030).

Instead, it places much greater emphasis on Local Authority impacts and kerbside interactions, with limited assessment of the more complex market and supply chain effects of diverging from the rest of the UK.

British Glass believes that this does not meet the standard required for transparent, evidence-based lawmaking on a policy with wide ranging consequences on the Welsh economy.

4. Concerns Regarding the UK Internal Market Act Exclusion Process

The Welsh Government has stated that Wales required, and has obtained, an exclusion from the UKIMA to allow glass inclusion to proceed. However, British Glass is concerned that:

- The exclusion appears to have been sought late in the process and largely in response to industry pressure, rather than as part of a planned, fully transparent regulatory pathway.
- An ‘all or nothing’ approach was taken with no option of a Welsh DRS without glass given
- The Office for the Internal Market (OIM) does not appear to have been formally asked for an opinion, despite the significant implications for the functioning of the UK internal market.
- The Scottish Government’s earlier request for an exclusion to include glass in its own DRS was rejected, yet the Welsh Government request appears to have been accepted with comparatively limited scrutiny. The divergence in outcomes raises important procedural and constitutional questions.

5. Timing Concerns and the Proximity of the Senedd Election

The Regulations represent a major structural intervention in Wales’ packaging and recycling framework, with significant long-term impacts on producers, retailers, trade flows, and consumers. It is therefore concerning that the decision on a Wales only glass DRS is being pushed through shortly before the Senedd election, despite unresolved issues relating to cost modelling, interoperability, supply chain impacts, consumer choice and the UKIMA exclusion process.

British Glass recommends that the legislative process be paused and resumed urgently after the election, allowing:

- Proper scrutiny by a newly mandated Senedd
- A more thorough and balanced evaluation of the evidence
- A complete and transparent UKIMA exclusion process, including OIM engagement.

6. Conclusion

British Glass urges the Committee to scrutinise the procedural integrity of the Regulations on the following basis:

- A consultation that did not focus on the crucial policy divergence (glass inclusion)
- WTO notification before consultation closure
- Reliance on outdated consultations and impact assessment.
- A questionable and incomplete UKIMA exclusion process
- Pre-election legislative haste

We believe these points create a real risk that the Regulations are proceeding without adequate procedural foundations and therefore strongly recommend that the process be paused until after the Senedd election to ensure the Regulations are grounded in robust evidence, transparent procedure, and full constitutional scrutiny.

Julie James AS/MS
Y Cwnsler Cyffredinol a'r Gweinidog Cyflawni
Counsel General and Minister for Delivery

Agenda Item 7.9

Llywodraeth Cymru
Welsh Government

Mike Hedges AS/MS, Chair
Legislation, Justice and Constitution Committee

27 Chwefror 2026

Annwyl Mike,

I am writing to update the Committee that the Government has published a third edition of *Common Legislative Solutions: a guide to tackling recurring policy issues in legislation* and I enclose a copy for information.

The guidance was first published in 2019, with a second edition published in 2022. This third edition addresses two new legislative solutions: fees and charges and providing information.

Yn gywir,



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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.

Agenda Item 12

By virtue of paragraph(s) vi of Standing Order 17.42

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