

# Agenda – Legislation, Justice and Constitution Committee

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Meeting Venue:	For further information contact:
Video Conference via Zoom	<b>Gareth Williams</b>
Meeting date: 1 March 2021	Committee Clerk
Meeting time: 09.30	0300 200 6565
	<a href="mailto:SeneddLJC@senedd.wales">SeneddLJC@senedd.wales</a>

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In accordance with Standing Order 34.19, the Chair has determined that the public are excluded from the Committee's meeting in order to protect public health. This meeting will be broadcast live on [www.Senedd.TV](http://www.Senedd.TV)

Informal pre-meeting (09.00–09.30)

- 1 Introduction, apologies, substitutions and declarations of interest**  
09.30
- 2 End of the Fifth Senedd general scrutiny – evidence session with the Counsel General**  
09.30–10.30 (Pages 1 – 37)  
Jeremy Miles MS, Counsel General  
  
CLA(5)–07–21 – Briefing  
CLA(5)–07–21 – Paper 1 – Letter from the Secretary of State for Wales, 16 February 2021  
CLA(5)–07–21 – Paper 2 – Letter to the Secretary of State for Wales, 21 January 2021
- 3 Instruments that raise issues to be reported to the Senedd under Standing Order 21.2 or 21.3**  
10.30–10.40



Negative Resolution Instruments

- 3.1 SL(5)750 – The Senedd Cymru (Letters Patent and Proclamations) Order 2021**  
(Pages 38 – 49)

CLA(5)–07–21 – Paper 3 – Report

CLA(5)–07–21 – Paper 4 – Regulations

CLA(5)–07–21 – Paper 5 – Explanatory Memorandum

- 3.2 SL(5)751 – The Health Protection (Coronavirus, International Travel) (Wales) (Amendment) (No. 3) Regulations 2021**

(Pages 50 – 99)

CLA(5)–07–21 – Paper 6 – Report

CLA(5)–07–21 – Paper 7 – Regulations

CLA(5)–07–21 – Paper 8 – Explanatory Memorandum

CLA(5)–07–21 – Paper 9 – Letter from the Minister for Health and Social Services, 13 February 2021

CLA(5)–07–21 – Paper 10 – Written statement, 13 February 2021

- 3.3 SL(5)753 – The Health Protection (Coronavirus, Operator Liability and Public Health Information to Travellers) (Wales) (Amendment) Regulations 2021**

(Pages 100 – 119)

CLA(5)–07–21 – Paper 11 – Report

CLA(5)–07–21 – Paper 12 – Regulations

CLA(5)–07–21 – Paper 13 – Explanatory Memorandum

CLA(5)–07–21 – Paper 14 – Letter from the Minister for Finance and Trefnydd, 19 February 2021

CLA(5)–07–21 – Paper 15 – Written statement, 19 February 2021

Affirmative Resolution Instruments

- 3.4 SL(5)744 – The Local Government and Elections (Wales) Act 2021 (Consequential Amendments) Regulations 2021**

(Pages 120 – 135)

CLA(5)–07–21 – Paper 16 – Report

CLA(5)–07–21 – Paper 17 – Regulations

CLA(5)–07–21 – Paper 18 – Explanatory Memorandum

**3.5 SL(5)745 – The Equality Act 2010 (Authorities subject to a duty regarding Socio-economic Inequalities) (Wales) Regulations 2021**

(Pages 136 – 200)

CLA(5)–07–21 – Paper 19 – Report

CLA(5)–07–21 – Paper 20 – Regulations

CLA(5)–07–21 – Paper 21 – Explanatory Memorandum

CLA(5)–07–21 – Paper 22 – Written statement, 9 February 2021

CLA(5)–07–21 – Paper 23 – Statutory guidance

**3.6 SL(5)746 – The Climate Change (Interim Emissions Targets) (Wales) (Amendment) Regulations 2021**

(Pages 201 – 250)

CLA(5)–07–21 – Paper 24 – Report

CLA(5)–07–21 – Paper 25 – Regulations

CLA(5)–07–21 – Paper 26 – Explanatory Memorandum

CLA(5)–07–21 – Paper 27 – Written statement, 9 February 2021

**3.7 SL(5)747 – The Climate Change (Carbon Budgets) (Wales) (Amendment) Regulations 2021**

(Pages 251 – 297)

CLA(5)–07–21 – Paper 28 – Report

CLA(5)–07–21 – Paper 29 – Regulations

CLA(5)–07–21 – Paper 30 – Explanatory Memorandum

**3.8 SL(5)748 – The Climate Change (Net Welsh Emissions Account Credit Limit) (Wales) Regulations 2021**

(Pages 298 – 344)

CLA(5)–07–21 – Paper 31 – Report

CLA(5)–07–21 – Paper 32 – Regulations

CLA(5)–07–21 – Paper 33 – Explanatory Memorandum

**3.9 SL(5)749 – The Environment (Wales) Act 2016 (Amendment of 2050 Emissions Target) Regulations 2021**

(Pages 345 – 391)

CLA(5)–07–21 – Paper 34 – Report

CLA(5)–07–21 – Paper 35 – Regulations

CLA(5)–07–21 – Paper 36 – Explanatory Memorandum

Made Affirmative Resolution Instruments

**3.10 SL(5)754 – The Health Protection (Coronavirus Restrictions) (No. 5) (Wales)  
(Amendment) (No. 3) Regulations 2021**

(Pages 392 – 408)

CLA(5)–07–21 – Paper 37 – Report

CLA(5)–07–21 – Paper 38 – Regulations

CLA(5)–07–21 – Paper 39 – Explanatory Memorandum

CLA(5)–07–21 – Paper 40 – Letter from the First Minister, 19 February 2021

CLA(5)–07–21 – Paper 41 – Written statement, 19 February 2021

**4 Papers to note**

10.40–10.45

**4.1 Letter from the Minister for Environment, Energy and Rural Affairs: The  
Approved Country Lists (Animals and Animal Products) (Amendment)  
Regulations 2021**

(Pages 409 – 410)

CLA(5)–07–21 – Paper 42 – Letter from the Minister for Environment, Energy  
and Rural Affairs, 22 February 2021

**4.2 Letters from the Minister for Education: Curriculum and Assessment (Wales)  
Bill**

(Pages 411 – 417)

CLA(5)–07–21 – Paper 43 – Letter from the Minister for Education to the  
Chair of the Finance Committee, 23 February 2021

CLA(5)–07–21 – Paper 44 – Letter from the Minister for Education to the  
Chair of the Children, Young People and Education Committee, 23 February  
2021

**4.3 Letter from the Minister for Housing and Local Government: British–Irish  
Council Joint Housing and Spatial Planning Work Sectors Ministerial Meeting**

(Page 418)

**CLA(5)–07–21 – Paper 45 – Letter from the Minister for Housing and Local Government, 24 February 2021**

**5 Motion under Standing Order 17.42 to resolve to exclude the public from the remainder of the meeting**

10.45

**6 End of the Fifth Senedd general scrutiny – consideration of evidence**

10.45–11.15

**Date of the next meeting – 8 March 2021**

Document is Restricted

Ref: 020MISC21

T: 0292 092 4216  
E: Correspondence@ukgovwales.gov.uk

**Mick Antoniw MS**

Chair of the Legislation, Justice and Constitution Committee  
Senedd Cymru  
Cardiff Bay  
Cardiff  
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16 February 2021

Dear Mick,

**The Sewel Convention**

Thank you for your letter of 21 January regarding the application of the Sewel Convention to the United Kingdom Internal Market Bill (the Bill).

As set out in the Minister of State for Small Business, Consumers and Labour Markets' written statement of 17 December 2020, it was the UK Government's intention from the very outset of the process to legislate for the Bill with the consent of all devolved legislatures. As with every UK Government Bill that engages the legislative consent process, we followed the associated practices and procedures for seeking consent from the devolved administrations. We therefore wrote to all three devolved administrations in advance of introduction of the Bill seeking consent.

In this respect I disagree with your assertion that the 'not normal' circumstances of the Bill meant that the Sewel Convention did not apply. The convention applies in all circumstances where Parliament seeks to legislate on devolved matters and the UK government seeks consent on this basis. The convention recognises however that there are circumstances in which it may be necessary for Parliament to legislate irrespective of whether or not consent is obtained. The inclusion of the words 'not normal' within the convention acknowledges that Parliament is sovereign and therefore it is ultimately for Parliament whether to use its power to legislate in any such circumstances.

Our work with the Welsh Government alongside the Bill's parliamentary passage sought to clarify the concerns that they had raised with us with the hope of reaching a point at which the Welsh Government could recommend that the Senedd granted consent to the Bill. I was pleased that as a result of this engagement we were able to bring forward amendments to the Bill to directly address a number of issues.

Ref: 020MISC21

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This included providing a mechanism that would enable divergence under Common Frameworks to be excluded from the Market Access Principles where there is agreement between all four parts of the UK, as well as ensuring that the Secretary of State is obliged to seek the consent of the devolved administrations when panel appointments are made to the Office of the Internal Market. The UK Government deeply regrets that, despite efforts to find common ground, both the Senedd and the Scottish Parliament refused consent for the Bill. However, we sought consent in good faith and are confident that the legislation is more robust and more attuned to Welsh Government concerns in particular as a result.

The Bill, now Act, is vital in ensuring that businesses in Wales and across the UK can continue to trade freely within our internal market now that the Transition Period has ended. Our consultation highlighted the real concerns that businesses, including those in Wales, had about the potential for regulatory divergence between parts of the UK to create new internal barriers to trade. It is the Government's view that legislation of this kind must be in place across the whole UK in order to provide businesses and consumers from all parts of our country with the same legal protections and advantages. Taking all of this into account, we made the difficult decision at the end of the process that it was necessary to proceed with the Bill without consent and to bring key parts of the Act into force before the end of the Transition Period on 31 December 2020. This is not a decision that was taken lightly, however as I have made clear, it was in line with the convention.

The Government remains firmly committed to the Sewel Convention and its associated practices. The convention continues to work well and it remains the case that the vast majority of UK Parliamentary Bills that intersect with devolved competence are passed with the consent of the devolved legislatures. This has enabled provisions to be made in parliamentary primary legislation which are of great benefit to Wales and ensured that the Senedd has the necessary time and capacity to deliver its distinct programme of legislation. The information provided in explanatory notes which accompany UK primary legislation provide transparency on the provisions for which consent is being sought.

It is a matter for Parliament to consider the role that it should play in respect of the Sewel Convention. I am sure that your Committee will be aware of the implementation of a new procedure in the House of Lords, proposed by the Procedure and Privileges Committee and which the UK Government adopted for the first time in the course of the UKIM Bill's passage. Under this procedure the UK Government is expected to provide peers with a statement to the House outlining the reasons why legislative consent has been refused or not yet granted by the relevant devolved legislatures prior to the commencement of Third Reading.

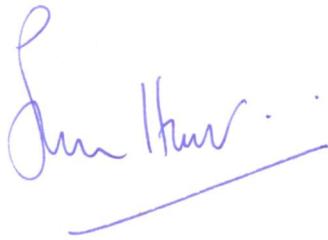
Ref: 020MISC21

T: 0292 092 4216  
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Letters from the Clerks of each of the relevant devolved legislatures detailing the outcome of LCMs are also made available on the Parliament website. The UK Government will engage constructively with Parliament and its committees on any ongoing improvements to the legislative consent process.

I am copying this letter to the Secretary of State for Business, Energy and Industrial Strategy, the Minister for Small Business, Consumers and Labour Markets, the Minister of State for the Constitution and Devolution, the Chairs of the External Affairs and Additional Legislation Committee, Finance and Constitution Committee, Committee for the Executive Office, the Welsh Affairs Committee, the Public Administration and Constitutional Affairs Committee, and the Lords Constitution Committee.

Yours sincerely,



**Rt Hon Simon Hart MP**  
Secretary of State for Wales  
Ysgrifennydd Gwladol Cymru

The Rt Hon Simon Hart MP  
Secretary of State for Wales

21 January 2021

Dear Simon

### **The Sewel Convention**

As you will be aware, we are undertaking an inquiry on Wales' Changing Constitution. As we conclude our inquiry, we would like to consider the application of the Sewel Convention to the United Kingdom Internal Market Bill ("the Bill").

We wrote to you on **18 September 2020** asking whether the UK Government would seek to pass the Bill without the consent of the Senedd. You will be aware that this question was asked within the context of the evidence you provided to the Committee on **9 March 2020** in relation to the European Union (Withdrawal Agreement) Bill, during which you said "in this particular instance, 'not normal' emerged as the theme as it became more obvious that the LCM wouldn't get through this place [the Senedd]".

You responded on **3 October 2020** and stated that the UK Government remains "fully committed to the convention on legislative consent". You also said that "...the Bill's explanatory notes state clearly that we are seeking consent in relation to all parts of the Bill [and] the UK government ministers responsible for the Bill wrote... ahead of the Bill's introduction to set this position out in detail".

Prior to the Bill becoming an Act, the Minister for London and Parliamentary Under Secretary of State, Paul Scully MP made a **statement** on 17 December 2020. He stated that:

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The Sewel Convention envisages situations where the UK Parliament may need to legislate for the whole country [...] The exceptional circumstances of our departure from the EU, and the need to provide a UK-wide legal underpinning for the internal market, is clearly one such situation.

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We share the view of the Senedd's External Affairs and Additional Legislation Committee, expressed in its report **UK Internal Market Bill Legislative Consent**, that the circumstances relating to the UK internal market are fundamentally different from the circumstances of our departure from the European Union.



**Senedd Cymru**  
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The Bill should not, in our view, have been captured by the “not normal” aspect of the Sewel Convention and the Senedd’s refusal of consent should have been respected by the UK Government. Our position that the UK-wide Bill as drafted was a preferred course of action by the UK Government, not a required one, is supported by the UK Government’s own acknowledgement in the [JMC communique of October 2017](#) that a UK internal market could be delivered through legislative and non-legislative common frameworks. This is something that we highlighted in our report on [The Welsh Government’s Legislative Consent Memorandum on the United Kingdom Internal Market Bill](#).

Our report also highlighted that, at the same time as all four governments of the UK were collaborating on common frameworks, the Welsh Government (along with other devolved governments) was being excluded from involvement in the Bill’s development prior to its introduction to the UK Parliament. We were therefore surprised to see the UK Government say in the statement, “At every stage, we have followed the spirit and letter of the devolution settlement and worked hard to secure legislative consent.” We consider that collaboration and engagement with the Welsh Government prior to the introduction of a constitutional Bill that impacts on the Senedd’s legislative competence is an essential part of the legislative consent process. Such an approach would be in line with the UK Government’s own guidance contained in [Devolution Guidance Note: Parliamentary and Assembly Primary Legislation Affecting Wales](#).

In light of our observations, we would be grateful for your responses to the following questions:

1. Why did the UK Government not involve the Welsh Government in the preparation of the Bill prior to its introduction?
2. Your response of 3 October 2020 references the Explanatory Notes to the Bill (as introduced to the House of Commons), which state:

*87 There is a convention that the UK Government will not normally legislate with regard to matters that affect or are within the legislative competence of the Scottish Parliament, the National Assembly for Wales or the Northern Ireland Assembly without the consent of the legislature concerned.*

*88 The Government has therefore sought legislative consent for the clauses contained in this Bill.*

If the circumstances of the Bill were “not normal”, meaning the Sewel Convention did not apply, why did the UK Government seek consent in the first instance?

3. When did the UK Government decide that the circumstances of the Bill were “not normal” for the purposes of the Sewel Convention?
4. Did the UK Government make its final decision after consent was refused by the Senedd?
5. What, if anything, did you do differently when seeking consent for the Bill when compared to the process you followed for the EU (Withdrawal Agreement) Bill, consent for which was also refused by the Senedd?
6. What role does the UK Government consider the UK Parliament should play in the Sewel Convention in respect of each UK Bill for which consent is sought from the Senedd?



7. How could the processes surrounding the Sewel Convention be improved so that it operates clearly and more effectively?

I look forward to hearing from you by 17 February 2021.

Yours sincerely,



**Mick Antoniw MS**

Chair of the Legislation, Justice and Constitution Committee

Croesewir gohebiaeth yn Gymraeg neu Saesneg.  
We welcome correspondence in Welsh or English.

cc.

The Rt Hon Kwasi Kwarteng MP, Secretary of State for Business, Energy and Industrial Strategy

Paul Scully MP, Minister for London and Parliamentary Under Secretary of State (Minister for Small Business, Consumers and Labour Markets)

David Rees MS, External Affairs and Additional Legislation Committee, Senedd Cymru

Bruce Crawford MSP, Finance and Constitution Committee, Scottish Parliament

Colin McGrath MLA, Committee for the Executive Office, Northern Ireland Assembly

Rt Hon Stephen Crabb MP, Welsh Affairs Committee, House of Commons

William Wragg MP, Public Administration and Constitutional Affairs Committee, House of Commons

Rt Hon the Baroness Taylor of Bolton, Constitution Committee, House of Lords



# Agenda Item 3.1

## SL(5)750 – The Senedd Cymru (Letters Patent and Proclamations) Order 2021

### Background and Purpose

The Senedd Cymru (Letters Patent and Proclamations) Order 2021 (“the Order”) relates to the Letters Patent that give Her Majesty’s Assent to a Bill passed by Senedd Cymru. The Order amends the name of the Senedd in the Letters Patent in accordance with the provisions of the Senedd and Elections (Wales) Act 2020 (“SEWA”). The Order also amends who is responsible for submitting Bills for Royal Assent, changing it from the Clerk of the Senedd to the Llywydd.

The Order includes the wording for royal proclamations relevant to the power of the Llywydd under section 4 of the Government of Wales Act 2006 (“GoWA”) and the duty of the Llywydd under section 5 of GoWA. Section 4 of GoWA gives the Llywydd the power to propose that the date of the poll for an ordinary general election of the Senedd be varied by up to one month from the first Thursday in May in the fifth year following the previous election. Section 5 of GoWA places a duty upon the Llywydd to propose a date for an extraordinary general election of the Senedd in specified circumstances. Following a proposal under either section 4 or section 5 of GoWA, Her Majesty may by proclamation dissolve the Senedd and set a date for the poll.

### Procedure

Negative.

The Order was made by the Welsh Ministers before it was laid before the Senedd.

The Senedd can annul the Order within 40 days (excluding any days when the Senedd is: (i) dissolved, or (ii) in recess for more than four days) of the date it was laid before the Senedd.

### Technical Scrutiny

No points are identified for reporting under Standing Order 21.2 in respect of this instrument.

### Merits Scrutiny

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

#### **1. 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.**

Article 2 of the Order provides the form of wording for the Letters Patent and proclamations as set out in the Schedule to the Order, but states that such form of wording is:



*subject only to such variations as are necessitated by the circumstances.*

The Welsh Government is requested to provide further information as to:-

- a) why this wording is necessary; and
- b) what variations are envisaged by this wording.

In particular, in the context of the wording for a royal proclamation under section 4(2)(a) of GoWA, where the Senedd has already been dissolved, would the wording quoted above permit the omission of the words which dissolve the Senedd from the royal proclamation, thereby permitting the Llywydd to propose a change to the date of an election right up until the day before such election? If so, how does this fit with section 4(2)(a) of GoWA which specifically provides that the royal proclamation will dissolve the Senedd?

**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.**

Section 4(2)(c) of GoWA provides that a proclamation to vary the date of the election must require that the first meeting of the Senedd takes place within 7 days of the election (although section 39 of SEWA extends this period to 14 days and comes into force on the day of the poll for the first election to take place after 5 April 2021).

However, the form of wording for a proclamation to be made under section 4(2) of GoWA, as set out in Part 2 of the Schedule to the Order, makes no reference to the timescale within which the Senedd is to meet for the first time following an election which takes place following such proclamation.

It is noted that section 4(2)(c) of GoWA has been disapplied for the purposes of the 2021 election only by the Welsh Elections (Coronavirus) Bill ("the Bill"), which was passed by the Senedd on 10 February 2021 (at the time of writing Royal Assent has not yet been received) for the Bill. Under section 5 of the Bill, the Senedd must meet within 21 days of the 2021 election, regardless of when such election takes place (no later than 5 November 2021 under the provisions of the Bill).

The Welsh Government is asked to confirm what steps it intends to take to ensure that the Order complies with section 4(2)(c) of GoWA.

**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.**

Section 5(4)(c) of GoWA provides that a proclamation to declare an extraordinary Senedd election must require that the first meeting of the Senedd takes place within 7 days of the election. SEWA extends this period to 14 days for the first election to take place after 5 April 2021. The Welsh Government is asked to confirm what steps it intends to take in the future to ensure that the Order complies with section 5(4)(c) of GoWA as amended.



## Welsh Government response

A Welsh Government response is required.

### **Legal Advisers**

**Legislation, Justice and Constitution Committee**

**23 February 2021**



Senedd Cymru

**Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad**

—

Welsh Parliament

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**Legislation, Justice and Constitution Committee**

**2021 No.**

**CONSTITUTIONAL LAW**

**DEVOLUTION, WALES**

**The Senedd Cymru (Letters Patent and Proclamations) Order  
2021**

*Made* - - - - - *10th February 2021*

*Laid before Senedd Cymru* *11th February 2021*

*Coming into force* - - - *4th March 2021*

At the Court at Windsor Castle, the 10th day of February 2021

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred on Her by section 116(3) of the Government of Wales Act 2006(a), is pleased, by and with the advice of Her Privy Council, to order as follows:

**Title, commencement and interpretation**

**1.**—(1) The title of this Order is the Senedd Cymru (Letters Patent and Proclamations) Order 2021 and it comes into force on 4th March 2021.

(2) In this Order—

- (a) “the 2006 Act” means the Government of Wales Act 2006;
- (b) “Letters Patent” means Letters Patent signed with Her Majesty’s own hand signifying Her Assent to a Bill passed by Senedd Cymru;
- (c) “proclamations” means royal proclamations under sections 4(2) and 5(4) of the 2006 Act.

**Form of Letters Patent and proclamations**

**2.** The form of words to be used—

- (a) in Letters Patent is that set out in Part 1 of the Schedule to this Order,
- (b) in proclamations under section 4(2) of the 2006 Act is that set out in Part 2 of that Schedule, and

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(a) 2006 c. 32. Section 116 as amended by Schedule 6 to the Wales Act 2017 (c. 4) now includes power to make provision as to the form, manner of preparation, and publication of all royal proclamations under sections 4(2) and 5(4) of the Government of Wales Act 2006. Section 116 was also amended by Schedule 1 to the Senedd and Elections (Wales) Act 2020 (anaw 1) to give effect to the name change of the National Assembly for Wales to Senedd Cymru.

(c) in proclamations under section 5(4) of the 2006 Act is that set out in Part 3 of that Schedule,  
subject only to such variations as are necessitated by the circumstances.

**Preparation of Letters Patent and proclamations**

3. Letters Patent and proclamations may be printed or written or partly printed and partly written, and may be prepared on paper or parchment.

**Publication of Letters Patent and proclamations**

4.—(1) As soon as is reasonably practicable after Letters Patent under the Welsh Seal are notified to the Clerk of the Senedd, the Keeper of the Welsh Seal must arrange for the Letters Patent to be published in the London, Edinburgh and Belfast Gazettes.

(2) Proclamations must be published in the London, Edinburgh and Belfast Gazettes.

**Revocation of the National Assembly for Wales (Letters Patent) Order 2011**

5. The National Assembly for Wales (Letters Patent) Order 2011(a) is revoked.

Richard Tilbrook  
Clerk of the Privy Council

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(a) S.I. 2011/752.

## SCHEDULE

Article 2

### Form of documents

#### PART 1

##### Letters Patent

"ELIZABETH THE SECOND by the Grace of God of the United Kingdom of Great Britain and Northern Ireland and of Our other Realms and Territories Queen Head of the Commonwealth Defender of the Faith To Our Trusty and well beloved the Members of the Senedd GREETING:

FORASMUCH as one or more Bills have been passed by Senedd Cymru and have been submitted to Us for Our Royal Assent by the Presiding Officer of Senedd Cymru in accordance with the Government of Wales Act 2006 the short Titles of which Bills are set forth in the Schedule hereto but those Bills by virtue of the Government of Wales Act 2006 do not become Acts of Senedd Cymru nor have effect in the Law without Our Royal Assent signified by Letters Patent under Our Welsh Seal signed with Our own hand We have therefore caused these Our Letters Patent to be made and have signed them and by them do give Our Royal Assent to those Bills which shall be taken and accepted as good and perfect Acts of the Senedd and be put in due execution accordingly COMMANDING ALSO the Keeper of Our Welsh Seal to seal these Our Letters with that Seal.

IN WITNESS WHEREOF We have caused these Our Letters to be made Patent

WITNESS Ourselves at . . . the . . . day of . . . in the . . . year of Our Reign

By The Queen Herself Signed with Her Own Hand."

#### PART 2

##### Proclamations under section 4(2) of the 2006 Act

"BY THE QUEEN A PROCLAMATION

DISSOLVING SENEDD CYMRU AND SETTING THE DATE OF THE POLL AT THE SUBSEQUENT ORDINARY GENERAL ELECTION.

Whereas, under section 4(2) of the Government of Wales Act 2006, if the Presiding Officer of Senedd Cymru proposes to Us a day for the holding of the poll at an ordinary general election for membership of the Senedd which is not more than one month earlier, nor more than one month later, than the first Thursday in May in the fifth calendar year following that in which the previous ordinary general election was held, We have power by proclamation under Our Welsh Seal to dissolve Senedd Cymru and to require the poll at the ordinary general election for membership of the Senedd to be held on the day proposed:

And Whereas the said Presiding Officer has, in accordance with the said section 4(2), proposed [*insert the day proposed by the Presiding Officer*] as a day for the holding of the poll:

We, therefore, in pursuance of the said section 4(2) and of all other powers enabling Us in that behalf do hereby proclaim, direct and ordain as follows—

1. Senedd Cymru is hereby dissolved.

2. The poll at the ordinary general election for membership of the Senedd shall be held on [*insert the day proposed by the Presiding Officer*].

3. The Keeper of Our Welsh Seal is commanded to seal this proclamation with Our Welsh Seal.

Given at Our Court at ... this ... day of... in the year of our Lord... and in the... year of Our Reign."

### PART 3

#### Proclamations under section 5(4) of the 2006 Act

"BY THE QUEEN A PROCLAMATION

DISSOLVING SENEDD CYMRU, REQUIRING AN EXTRAORDINARY GENERAL ELECTION TO BE HELD, SETTING THE DATE OF THE POLL AT THAT ELECTION AND REQUIRING THE SENEDD TO MEET WITHIN SEVEN DAYS THEREAFTER.

Whereas, under section 5(4) of the Government of Wales Act 2006, if the Presiding Officer of Senedd Cymru proposes to Us a day for the holding of a poll in the circumstances set out in section 5(2) and (3) of that Act, We have power by proclamation under Our Welsh Seal to dissolve Senedd Cymru, to require an extraordinary general election for membership of the Senedd to be held, to require the poll at the election to be held on the day proposed, and to require the Senedd to meet within the period of seven days beginning immediately after the day of the poll:

And Whereas the said Presiding Officer has, in accordance with section 5(1) of that Act, proposed [*insert the day proposed by the Presiding Officer*] as a day for the holding of the poll:

We, therefore, in pursuance of the said section 5(4) and of all other powers enabling Us in that behalf do hereby proclaim, direct and ordain as follows—

1. Senedd Cymru is hereby dissolved.
2. An extraordinary general election for membership of the Senedd shall be held.
3. The poll at that election shall be held on [*insert the day proposed by the Presiding Officer*].
4. The Senedd shall meet within the period of seven days beginning immediately after that date.
5. The Keeper of Our Welsh Seal is commanded to seal this proclamation with Our Welsh Seal.

Given at Our Court at ... this ... day of ... in the year of our Lord... and in the ... year of Our Reign."

## **EXPLANATORY NOTE**

*(This note is not part of the Order)*

Section 107(2) of the Government of Wales Act 2006 (c. 32) (“the 2006 Act”) provides that a Bill passed by Senedd Cymru becomes an Act on receipt of Royal Assent.

Section 115(4) of the 2006 Act provides that such a Bill receives Royal Assent when Letters Patent under the Welsh Seal signed with Her Majesty’s own hand signifying Her Assent are notified to the Clerk of the Senedd.

Sections 4(2) and 5(4) of the 2006 Act also confer power on Her Majesty to make a proclamation under the Welsh Seal in circumstances where the Presiding Officer has exercised the power in section 4(1) or 5(1) of the 2006 Act.

This Order prescribes the form of words to be used in Letters Patent signifying Royal Assent to Bills passed by Senedd Cymru and in royal proclamations made under sections 4(2) and 5(4) of the 2006 Act. It also makes provision as to the preparation and publication of those documents.

This Order revokes the previous Order made in 2011.

**Explanatory Memorandum to the Senedd Cymru (Letters Patent and Proclamations) Order 2021**

This Explanatory Memorandum has been prepared by the Office of the First Minister and is laid before Senedd Cymru in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1

**Minister's Declaration**

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Senedd Cymru (Letters Patent and Proclamations) Order 2021

Mark Drakeford MS  
First Minister of Wales  
11 February 2021

## **PART 1**

### **Description**

1. The Senedd Cymru (Letters Patent and Proclamations) Order 2021 relates to the Letters Patent that give her Majesty's Assent to a Bill passed by Senedd Cymru. The Order intends to amend the name of the Senedd to correspond with the Senedd and Elections (Wales) Act 2020 as well as amending who is responsible for submitting Bills for Royal Assent. It also includes the wording for royal proclamations relevant to functions of the Llywydd under sections 4 and 5 of the Government of Wales Act 2006 (GoWA), as amended by the Wales Act 2017.

### **Matters of special interest to the Legislation, Justice and Constitution Committee**

2. None

### **Legislative background**

3. Section 116 of GoWA<sup>1</sup> refers to the "Letters Patent" which means the Letters Patent signed with Her Majesty's own hand signifying Her Assent to a Bill passed by Senedd Cymru as well as all royal proclamations under sections 4(2) and 5(2) of GoWA, which have passed under the Welsh Seal.
4. Orders made under this section are made by the Queen in Privy Council and are then subject to the negative procedure in the Senedd.
5. This Order was made by her Majesty in Council on 10 February 2021.
6. The Order will come into force on 4 March 2021.

### **Purpose and intended effect of the legislation**

7. Section 116 of GoWA provides that Her Majesty may by Order in Council make provision for the form and manner of preparation and publication of letters patent and proclamations.
8. The National Assembly for Wales (Letters Patent) Order 2011 previously made under this section does not reflect current legislation as a result of amendments made to GoWA by the Wales Act 2017 and the Senedd and Election (Wales) Act 2020.
9. The Senedd Cymru (Letters Patent and Proclamations) Order 2021 will revoke and replace the National Assembly for Wales (Letters Patent) Order 2011.

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<sup>1</sup> <https://www.legislation.gov.uk/ukpga/2006/32/section/116>

10. The purpose of this Order is therefore to:

- a) Address the naming change in the Senedd and Elections (Wales) Act from National Assembly for Wales to Senedd Cymru, and
- b) Provide for the form of words to be used for royal proclamations under ss.4(2) and 5(2), passed under the Welsh Seal. This is a new requirement, inserted by the Wales Act 2017, relevant to functions of the Llywydd under ss.4<sup>2</sup> and 5<sup>3</sup> of GoWA, in relation to the holding of polls for Senedd elections on days other than that specified in section 3 of that Act.

11. The Order also recognises the change made to the procedure for submitting Bills for Royal Assent that was made by the Wales Act 2017. Previously Clerks of the Senedd had this responsibility but it will now fall to the Llywydd<sup>4</sup>.

### **Consultation**

12. The required legislative amendments being addressed by the Senedd Cymru (Letters Patent and Proclamations) Order 2021 took effect in the Senedd and Elections (Wales) Act 2020 and the Wales Act 2017.

13. As a result no consultation was considered necessary for the making of this Order.

### **Regulatory Impact Assessment (RIA)**

14. The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to this Order. As a result, it was not considered necessary to carry out a regulatory impact assessment as to the likely costs and benefits of complying with the Order as the Senedd Cymru (Letters Patent and Proclamations) Order 2021 falls within the exemption contained within the Code where routine technical amendments or factual amendments are required to update regulations.

15. This Order has no impact on the statutory duties of Welsh Ministers relating to equality of opportunity (section 77 of GOWA 2006), the Welsh language (section 78 GOWA), or sustainable development (section 79 GOWA 2006), and will have no impact on the local government, voluntary sector or business schemes under section 73, 74 and 75 of GOWA 2006 respectively.

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<sup>2</sup> <https://www.legislation.gov.uk/ukpga/2006/32/section/4>

<sup>3</sup> <https://www.legislation.gov.uk/ukpga/2006/32/section/5>

<sup>4</sup> Section 115(1) of GoWA as amended by the Wales Act 2017

# Agenda Item 3.2

## **SL(5)751 – The Health Protection (Coronavirus, International Travel) (Wales) (Amendment) (No. 3) Regulations 2021**

### **Background and Purpose**

The Health Protection (Coronavirus, International Travel) (Wales) (Amendment) (No. 3) Regulations 2021 (“the Regulations”) are made in reliance on the powers in sections 45B, 45F(2) and 45P(2) of the Public Health (Control of Disease) Act 1984.

The Regulations amend the Health Protection (Coronavirus, International Travel) (Wales) Regulations 2020 (S.I. 2020/574 (W. 132)) (the “International Travel Regulations”).

The International Travel Regulations require all passengers arriving in Wales from outside of the Common Travel Area (i.e. the open borders area comprising the United Kingdom, the Channel Islands, the Isle of Man and the Republic of Ireland) to provide their contact details and travel information and to isolate for a period of 10 days. There is an exemption from the isolation requirement for passengers arriving from specified countries and territories, known as “exempt countries”.

On the basis of current public health advice, enhanced measures have been introduced under the Regulations imposing a new testing system for persons aged 5 years or over arriving into Wales (subject to a limited number of exemptions), requiring them to book, pay for and undertake testing on day 2 and 8 of their isolation period. Failure to do so will be a criminal offence, liable to a fine. Failure to undertake both tests will also mean that the isolation period is extended to 14 days. The Regulations also impose enhanced information requirements on travellers.

Further measures are being taken in relation to countries listed in Schedule 3A of the International Travel Regulations that have already been identified as an enhanced risk due to links with variant strains of coronavirus in order to further protect against the risk of community transmission of variant strains. In addition to the existing ban on direct flights and vessels from the listed countries, no person who has been in such a country in the last 10 days will be able to enter Wales as from 4am on 15 February, and failure to comply with this restriction will be a criminal offence, liable to a fine.

Part 5 of the Regulations amends Schedule 2 (exempt persons) to the International Travel Regulations, which exempts certain categories of worker from having to isolate, or in certain circumstances, provide passenger information. Part 1 of Schedule 2 is amended to insert a provision exempting those in transit through the United Kingdom from both the requirement to isolate and to provide passenger information.

Part 6 of the Regulations creates new exceptions from the requirements to isolate pursuant to regulations 7 and 8 of the International Travel Regulations. The Regulations insert a new Schedule 5 to the International Travel Regulations dealing with sectoral exceptions, and they



amend regulation 10(4) of the International Travel Regulations (isolation requirements: exceptions) in two ways. Firstly, to permit people to leave their isolation premises for the purpose of obtaining a test for coronavirus. Secondly, to provide that the categories of workers listed in new Schedule 5 are permitted to leave their isolation premises in order to carry out their work where they are unable to do so from home.

Regulation 20 amends Schedule 4 to the International Travel Regulations (specified sporting events), replacing the existing list of sporting events with an updated list.

The Regulations also make various consequential changes and transitional provisions.

The enhanced management of isolation requirements came into effect for travellers arriving into Wales from 4am on 15 February. However, the amendments to the International Travel Regulations do not affect the requirements under those Regulations for persons arriving into Wales before the coming into force of these amendments.

## Procedure

Negative.

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

### **1. Standing Order 22(2)(vi) – that its drafting appears to be defective or it fails to fulfil statutory requirements**

The Regulations contain various incorrect references and omissions as follows:

- The reference to “regulations 2 to 12” in regulation 2 of the Regulations is incorrect. The correct reference is regulations 2 to 20.
- Regulation 11(b) of the Regulations omits the relevant section number of the Perjury Act 1919, which is section 5.
- The reference to “paragraph 24 of Schedule 5” in regulation 17(3) of the Regulations is incorrect. The correct reference is paragraph 14 of Schedule 5.
- The reference to “paragraph 31(2)(a) of Schedule 5” in regulation 19(2) of the Regulations is incorrect. The correct reference is 21(2)(a) of Schedule 5.
- The reference to “paragraph 31(2)(b) of Schedule 5” in regulation 19(3) of the Regulations is incorrect. The correct reference is 21(2)(b) of Schedule 5.



## Merits Scrutiny

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

### **1. 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**

We note the breach of the 21-day rule (i.e. the rule that 21 days should pass between the date a “made negative” instrument is laid before the Senedd and the date the instrument comes into force), and the explanation for the breach provided by Vaughan Gething MS, Minister for Health and Social Services, in a letter to the Llywydd dated 13 February 2021.

In particular, we note what the letter says regarding the urgency with which the Regulations need to address the latest risks associated with international travel:

*“These enhanced measures include a new testing system is in place for persons aged 5 years or over arriving into Wales (subject to a limited number of exemptions), requiring them to book and undertake testing on day 2 and 8 of their isolation period. Failure to do so will be a criminal offence, liable to a fine. Failure to undertake both tests will also mean that the isolation period is extended to 14 days.*

*Moreover, further measures are being taken in relation to countries that have already been identified as an enhanced risk due to links with variant strains of coronavirus (“red list countries”) in order to further protect against the risk of community transmission of variant strains.*

*Not adhering to the 21 day convention, and bringing them into force before they are laid, allows these Regulations to come into force at the earliest opportunity and continue the four nation approach to international travel; in view of the changing evidence on risk in relation to this disease this is considered necessary and justifiable in this case.”*

### **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 Regulations impose complex new requirements for testing, isolation, reporting, and in respect of various exemptions thereto. Failure to comply with the new requirements is potentially subject to criminal sanctions. Bearing in mind both the level of complexity, and the serious repercussion for breach, it is important the citizen can fully access and understand the relevant law being introduced by the Regulations.

Whilst it is accepted that legislation of this nature is necessarily complicated at times, we note the high level of complexity introduced by new regulations 6B to 6J (as inserted by regulation 3 of the Regulations), and 6D in particular. The Explanatory Note and Explanatory Memorandum do not appear to provide sufficient guidance to enable a full understanding of the detailed legal obligations these provisions impose on the citizen and, as such, additional



guidance is desirable. We note in particular, that the nature of these provisions would lend themselves to explanation via a flowchart.

### **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 Note to the Regulations contains references to regulations that amend specific provisions in the International Travel Regulations. Whilst the effect is correctly described in each case, certain of the amending regulations referred to are incorrectly numbered, and the correct numbering is as follows:

- The reference to “Regulation 14” in the seventh paragraph of the Explanatory Note is incorrect. The correct reference is regulation 13.
- The reference to “Regulation 15” in the eighth paragraph of the Explanatory Note is incorrect. The correct reference is regulation 14.
- The reference to “Regulation 4” in the eighth paragraph of the Explanatory Note is incorrect. The correct reference is regulation 15.
- The reference to “Regulation 9” in the tenth paragraph of the Explanatory Note is incorrect. The correct reference is regulation 20.

### **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**

We note the Welsh Government’s justification for any potential interference with human rights. In particular, we note the following paragraph in the Explanatory Memorandum:

*“The amendments contained in these Regulations do not change the engagement under the International Travel Regulations of individual rights under the Human Rights Act 1998 and the European Convention of Human Rights; the Government considers that they are justified for the purpose of preventing the spreading of infectious diseases and/or the interference is permitted on the basis that it is in pursuit of a legitimate aim, namely of protecting public health, and are proportionate.”*

### **5. 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**

We note there has been no formal consultation on these Regulations. In particular, we note the following paragraphs in the Explanatory Memorandum:

*“Given the serious and imminent threat arising from coronavirus and the need for an urgent public health response, there has been no public consultation in relation to these Regulations.”*

### **6. 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**



We note there has been no formal regulatory impact assessment in relation to these Regulations. In particular, we note the following paragraphs in the Explanatory Memorandum:

*“There has been no regulatory impact assessment in relation to these Regulations due to the need to put them in place urgently to deal with a serious and imminent threat to public health. .”*

**7. Standing Order 21.3(i) – that it imposes a charge on the Welsh Consolidated Fund or contains provisions requiring payments to be made to that Fund or any part of the government or to any local or public authority in consideration of any licence or consent or of any services to be rendered, or prescribes the amount of any such charge or payment**

We note that new regulation 6J, as inserted by regulation 3 of the Regulations, engages Standing Order 21.3(i) in that it provides for the imposition, publication and recovery of charges by the Welsh Ministers for day 2 and day 8 tests.

## **Welsh Government response**

A Welsh Government response is required in relation to the technical reporting point, and merits reporting points 2 and 3.

### **Legal Advisers**

**Legislation, Justice and Constitution Committee**

**24 February 2021**



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W E L S H S T A T U T O R Y  
I N S T R U M E N T S

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**2021 No. 154 (W. 38)**

**PUBLIC HEALTH, WALES**

**The Health Protection  
(Coronavirus, International Travel)  
(Wales) (Amendment) (No. 3)  
Regulations 2021**

**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations amend the Health Protection (Coronavirus, International Travel) (Wales) Regulations 2020 (S.I. 2020/574 (W. 132)) (the “International Travel Regulations”).

The International Travel Regulations impose requirements on persons entering Wales after having been abroad. They include a requirement for persons arriving in Wales to isolate for a period determined in accordance with those Regulations.

The requirements imposed by the International Travel Regulations are subject to exceptions, and certain categories of person are exempt from having to comply.

Part 2 of these Regulations introduces mandatory testing requirements in respect of coronavirus for all travellers to Wales from non-exempt countries or territories. Regulation 2 inserts a new Part 2B in which regulation 6B requires arrivals from non-exempt countries and territories to book and pay for tests to be taken on day 2 and day 8 after arrival in Wales. Regulation 6C requires tests to be undertaken on day 2 and day 8 after arrival in Wales and in the event of a failure to take a test regulation 6D requires travellers to isolate for 14 days. Regulation 6E provides for the period of isolation in the event of a positive test result. Part 2B introduces Schedule 1B (booking information) outline the booking information required of passengers as part of the test arrangement provisions in regulation 6B. Schedule 1C (mandatory testing after arrival in Wales) is also inserted to make provision for the technical requirements and standards of the day 2 and day 8 tests.

Part 3 of these Regulations makes various amendments to the International Travel Regulations imposing additional measure relating to arrivals from a country or territory listed in Schedule 3A. Regulation 12E is amended to make provision for the prohibiting from entering into Wales of non-exempt persons who have been in a Schedule 3A country within the last 10 days of arrival.

Part 4 of these Regulations makes miscellaneous amendments to the International Travel Regulations resulting from the amendments made by Parts 2 and 3 of these Regulations. Regulation 14 is amended to make provision for offences for breaches of the requirements of these Regulations. Regulation 16 is amended to specify fixed penalty notices values for offences for providing false/misleading information relating to travel from a country or territory listed in Schedule 3, for failure to have a test booked on arrival, for a failure to undertake mandatory test and for breaches of the requirement in regulation 12E. Regulation 17 of the International Travel Regulations, regarding the use and disclosure of information, is amended to make further provision on the meaning of “Welsh Passenger Information” in relation to those required to isolate. Regulation 18 regarding ‘self-incrimination’ is amended to provide for offences under the Fraud Act 2006 and the Forgery and Counterfeiting Act 1981 in relation to the provision of this information under the International Travel Regulations.

Part 5 of these Regulations amends Schedule 2 (exempt persons) to the International Travel Regulations, which exempts certain categories of worker from having to isolate, or in certain circumstances, provide passenger information. Regulation 14 amends Part 1 of Schedule 2 to insert a provision exempting those in transit through the United Kingdom from both the requirement to isolate and to provide passenger information. It also amends Part 2 of Schedule 2 to remove paragraphs 5, 12, 17 to 35, 38 and 39 of Schedule 2 to the International Travel Regulations.

Part 6 of these Regulations creates new exceptions from the requirements to isolate pursuant to regulations 7 and 8 of the International Travel Regulations. Regulation 15 inserts a new Schedule 5 to the International Travel Regulations (sectoral exceptions). Regulation 4 amends regulation 10(4) of the International Travel Regulations (isolation requirements: exceptions) in two ways. Firstly, to permit people to leave their isolation premises for the purpose of obtaining a test for coronavirus. Secondly, to provide that the categories of workers listed in new Schedule 5 are permitted to leave their isolation

premises in order to carry out their work where they are unable to do so from home.

Part 7 of these Regulations makes miscellaneous consequential amendments to the International Travel Regulations in relation to the removal of Channel Tunnel workers from the Schedule 2 list of exempt persons and makes minor changes to Schedule 5 to those Regulations.

Part 8 of these Regulations amends Schedule 4 to the International Travel Regulations (specified sporting events). Regulation 9 replaces the existing list of sporting events with an updated list.

Part 9 of these Regulations makes transitional provision in relation to these Regulations.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, a regulatory impact assessment has not been prepared as to the likely cost and benefit of complying with these Regulations.

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W E L S H S T A T U T O R Y  
I N S T R U M E N T S

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**2021 No. 154 (W. 38)**

**PUBLIC HEALTH, WALES**

**The Health Protection  
(Coronavirus, International Travel)  
(Wales) (Amendment) (No. 3)  
Regulations 2021**

*Made* *13 February 2021*

*Coming into force at 4.00 a.m. on 15 February  
2021*

*Laid* *before* *Senedd*  
*Cymru* *at 2.00 p.m. on 15 February 2021*

The Welsh Ministers, in exercise of the powers conferred on them by sections 45B, 45F(2) and 45P(2) of the Public Health (Control of Disease) Act 1984<sup>(1)</sup>, make the following Regulations.

**PART 1**

**General**

**Title, coming into force and interpretation**

**1.**—(1) The title of these Regulations is the Health Protection (Coronavirus, International Travel) (Wales) (Amendment) (No. 3) Regulations 2021.

(2) These Regulations come into force at 4.00 a.m. on 15 February 2021.

(3) In these Regulations, the “International Travel Regulations” means the Health Protection

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(1) 1984 c. 22. Part 2A was inserted by section 129 of the Health and Social Care Act 2008 (c. 14). The function of making regulations under Part 2A is conferred on “the appropriate Minister”. Under section 45T(6) of the 1984 Act the appropriate Minister as respects Wales, is the Welsh Ministers.

(Coronavirus, International Travel) (Wales)  
Regulations 2020(1).

## PART 2

### Amendment of the International Travel Regulations relating to arrivals from non- exempt countries and territories

#### **Amendment of the International Travel Regulations**

2. The International Travel Regulations are amended in accordance with regulations 2 to 12.

#### **Insertion of Part 2B of the International Travel Regulations**

3. After Part 2A (notification of a negative test result etc.) of the International Travel Regulations insert—

### “Part 2B

#### Mandatory testing requirements

##### **Requirement to arrange tests before arriving in Wales**

**6B.**—(1) This regulation and regulation 6C apply to a person (“P”) aged 5 or over who is subject to an isolation requirement under regulation 7 (requirement to isolate: arrivals from outside the United Kingdom) or 8 (requirement to isolate: arrivals from another part of the United Kingdom).

(2) In this Part—

(a) a “day 2 test” is a test complying with paragraph 1 of Schedule 1C;

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(1) S.I. 2020/574 (W. 132), amended by S.I. 2020/595 (W. 136), S.I. 2020/714 (W. 160), S.I. 2020/726 (W. 163), S.I. 2020/804 (W. 177), S.I. 2020/817 (W. 179), S.I. 2020/840 (W. 185), S.I. 2020/868 (W. 190), S.I. 2020/886 (W. 196), S.I. 2020/917 (W. 205), S.I. 2020/942, S.I. 2020/944 (W. 210), S.I. 2020/962 (W. 216), S.I. 2020/981 (W. 220), S.I. 2020/1015 (W. 226), S.I. 2020/1042 (W. 231), S.I. 2020/1080 (W. 243), S.I. 2020/1098 (W. 249), S.I. 2020/1133 (W. 258), S.I. 2020/1165 (W. 263), S.I. 2020/1191 (W. 269), S.I. 2020/1223 (W. 277), S.I. 2020/1232 (W. 278), S.I. 2020/1237 (W. 279), S.I. 2020/1288 (W. 286), S.I. 2020/1329 (W. 295), S.I. 2020/1362 (W. 301), S.I. 2020/1477 (W. 316), S.I. 2020/1521 (W. 325), S.I. 2020/1602 (W. 332), S.I. 2020/1645 (W. 345), S.I. 2021/20 (W. 7), S.I. 2021/24 (W. 8), S.I. 2021/46 (W. 10), S.I. 2021/48 (W. 11), S.I. 2021/50 (W. 12), S.I. 2021/66 (W. 15) and S.I. 2021/95 (W. 26).

(b) a “day 8 test” is a test complying with paragraph 2 of Schedule 1C;

(c) a “public test provider” is a person who provides or administers a test exercising powers under the National Health Service (Wales) Act 2006<sup>(1)</sup>, the National Health Services Act 2006<sup>(2)</sup>, the National Health Service (Scotland) Act 1978<sup>(3)</sup>, or the Health and Personal Social Services (Northern Ireland) Order 1972<sup>(4)</sup>.

(3) Before arriving in Wales, P must arrange with a public test provider to take—

(a) a day 2 test, and

(b) a day 8 test,

after P’s arrival in Wales.

(4) But P is not required to comply with paragraph (3) if another person has arranged the tests on P’s behalf before P’s arrival in Wales.

(5) Where P is a child who arrives in Wales with a person (“R”) who has responsibility for P—

(a) (unless paragraph (4) applies to P) R must arrange tests in accordance with paragraph (3) on behalf of P, and

(b) P is not required to comply with paragraph (3).

(6) A test is not to be treated as having been arranged in accordance with this regulation unless—

(a) the person arranging the test notified the public test provider that the tests were being arranged for the purposes of this regulation, and

(b) the information specified in Schedule 1B was provided to the public test provider in relation to P.

(7) When the tests are arranged, the public test provider must provide a test reference number—

(a) to P, and

(b) to any person who arranges tests on P’s behalf.

(8) If requested by an immigration officer to do so, P, or R if P is a child, must provide the officer with the test reference number or other

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(1) 2006 c. 42.

(2) 2006 c. 41.

(3) 1978 c. 29.

(4) S.I. 1972/1265 (N.I. 14).

evidence that the tests have been arranged on P's behalf.

#### **Requirement to take tests**

**6C.**—(1) Upon arrival in Wales, P must take—

- (a) a day 2 test, administered by a public test provider, no later than the end of the second day after the day on which P arrives in Wales, and
- (b) a day 8 test, administered by a public test provider, no earlier than the end of the seventh day after the day on which P arrives in Wales.

(2) But paragraph (1)(b) does not apply where P's day 2 test generates a positive result.

(3) Where P is a child, any person who has responsibility for P must, so far as reasonably practicable, ensure that P complies with paragraph (1).

(4) Where P does not take a day 2 test as required by this regulation by reason of having a reasonable excuse, P must, as soon as practicable after the matters giving rise to the reasonable excuse no longer apply, take a replacement test that complies with the requirements for a day 2 test.

(5) Where a replacement test is taken instead of a day 2 test, P is to be treated as if P had taken a day 2 test in accordance with this regulation.

#### **Requirement to isolate on failure to take tests**

**6D.**—(1) This regulation applies where a person ("P")—

- (a) fails to take a day 2 test in accordance with regulation 6C(1)(a) and fails to take a day 8 test in accordance with regulation 6C(1)(b), or
- (b) takes a day 2 test in accordance with regulation 6C(1)(a) (which is negative or inconclusive) but fails to take a day 8 test in accordance with regulation 6C(1)(b).

(2) The last day of P's isolation under regulation 7 or 8 is the last day of the period of 14 days beginning with the day after the day on which P was last in a non-exempt country or territory (and regulation 12 does not apply for the purposes of determining the last day of P's isolation).

(3) But where P takes a test to which paragraph (4) applies and—

- (a) the result is positive, regulation 6E applies as if the test had been undertaken in accordance with regulation 6C;
- (b) the result is negative, regulation 6G applies as if—
  - (i) P had taken a day 2 test and a day 8 test in accordance with regulation 6C(1), and
  - (ii) both tests were negative.

(4) This paragraph applies to a day 8 test that is taken—

- (a) before the end of P’s isolation period as it would have been determined under regulation 12 if paragraph (1) did not apply, but
- (b) before than the end of the seventh day after the day on which P arrives in Wales.

#### **Consequences of positive test result**

**6E.** Where a test taken by a person (“P”) in accordance with regulation 6C is positive—

- (a) regulation 10(3) (isolation requirement ceasing to apply to P when P leaves Wales) and, subject to regulation 6I, regulation 6 or 7, as appropriate, of the Health Protection (Coronavirus Restrictions) (No. 5) (Wales) Regulations 2020(1) do not apply in relation to P, and
- (b) the last day of P’s isolation under regulation 7 or 8 is the last day of the period of 10 days beginning with the day on which P took the test (and regulation 12 does not apply for the purposes of determining the last day of P’s isolation).

#### **Consequences of positive result for person residing in same premises**

**6F.—**(1) This regulation applies where a test taken by a person (“P”) in accordance with regulation 6C is positive and P resides with another person (“A”)—

- (a) who is under a requirement to isolate under regulation 7 or 8, and

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(1) S.I. 2020/1609 (W. 335).

- (b) whose last day of isolation period would, if it were not for this regulation, be determined in accordance with regulation 12.

(2) The last day of A's isolation under regulation 7 or 8 is the last day of the period of 10 days beginning with the day on which P took the test (and regulation 12 does not apply for the purposes of determining the last day of A's isolation).

(3) But this does not apply where—

- (a) the positive test referred to in paragraph (1)(b) is a day 8 test taken by P in accordance with regulation 6C(1)(b), and
- (b) A received a positive result to a day 2 test that A took in accordance with regulation 6C(1)(a).

#### **Consequences of not receiving result of day 8 test before end of isolation period**

**6G.**—(1) This regulation applies where a person (“P”)—

- (a) takes a day 2 test and a day 8 test in accordance with regulation 6C(1),
- (b) receives a negative result to the day 2 test, and
- (c) has not received a result to the day 8 test before the end of the last day of P's isolation under regulation 7 or 8 (as determined under regulation 12).

(2) If the result of P's day 8 test is negative, the last day of P's isolation under regulation 7 or 8 is the day on which P receives the result of the day 8 test (and regulation 12 does not apply for the purposes of determining the last day of P's isolation).

#### **Consequences of receiving inconclusive test result**

**6H.**—(1) Where the result of a test taken by a person (“P”) in accordance with regulation 6C is inconclusive, the last day of P's isolation under regulation 7 or 8 is determined in accordance with paragraph (2) (and regulation 12 does not apply for the purposes of determining the last day of P's isolation).

(2) The last day of P's isolation is—

- (a) the last day of the period of 10 days beginning with the day P took the test, or

(b) where P takes a test to which paragraph (4) applies and the result of the test is negative, the later of—

- (i) the last day of the period of 10 days beginning with the day after the day on which P was last in a non-exempt country or territory, or
- (ii) the day on which P receives the negative result, or

(c) where P takes a test to which paragraph (4) applies and the result of the test is positive, the last day of the period of 10 days beginning with the day P took the test.

(3) Where paragraph (2)(c) applies, P is not required to take a day 8 test in accordance with regulation 6C.

(4) This paragraph applies to—

- (a) a day 8 test taken in accordance with regulation 6C(1)(b);
- (b) a day 8 test that is taken—
  - (i) before the end of P's isolation period as it would have been determined under regulation 12 if paragraph (1) did not apply, but
  - (ii) before than the end of the seventh day after the day on which P arrives in Wales.

### **Tests other than in accordance with these Regulations**

**6I.**—(1) This regulation applies where—

- (a) P takes a day 2 test which is negative,
- (b) while P is isolating in accordance with regulation 7 or 8, P subsequently takes a test other than in accordance with these Regulations, and
- (c) P is notified that the test is positive.

(2) P ceases to be required to isolate in accordance with these Regulations, and regulation 6 or 7, as appropriate, of the Health Protection (Coronavirus Restrictions) (No. 5) (Wales) Regulations 2020 applies in relation to P.

### **Charge for tests**

**6J.**—(1) The Welsh Ministers or a person designated by the Welsh Ministers may impose a charge in respect of day 2 tests or day 8 tests.

(2) The Welsh Ministers—

- (a) must publish details of the charges in a way they consider to be appropriate, and
- (b) may recover any sum owed by a person pursuant to a charge as a debt.”

**Insertion of Schedules 1B and 1C**

4. After Schedule 1A (testing before arrival in Wales) to the International Travel Regulations insert—

**“Schedule 1B Regulation 6B**

**Booking information**

**Booking information**

**1. Personal details—**

- (a) full name;
- (b) sex;
- (c) ethnicity;
- (d) date of birth;
- (e) passport number, or travel document reference number (as appropriate);
- (f) NHS number (if known and applicable);
- (g) telephone number;
- (h) home address;
- (i) email address.

**2. Journey details—**

- (a) the address of the suitable premises at which P intends to reside as required by regulation 7 or 8;
- (b) the date of arrival in the United Kingdom;
- (c) coach number;
- (d) flight number of vessel name;
- (e) the date on which P was last in a non-exempt country or territory;
- (f) the country or territory P will be travelling from when P arrives in the United Kingdom, and any country or territory P will have been in as part of that journey.

**Schedule 1C** Regulation 6B  
**Mandatory testing after arrival in  
Wales**

**Day 2 test requirements**

**1.** A day 2 test complies with this paragraph where—

- (a) it is a semi-quantitative test for the detection of coronavirus which—
  - (i) targets a minimum of two distinguishable SARS-CoV-2 genes other than the S gene and performance reference controls,
  - (ii) includes routine in silico assurance against every variant of concern, and
  - (iii) produces a test solution that provides extracted nucleic acid that is suitable for whole genome sequencing using a specified method,
- (b) the manufacturer of any device used for the purposes of the test states that the device—
  - (i) uses an established molecular detection method,
  - (ii) has a specificity and a sensitivity greater than 99% (with a 95% two-sided confidence interval entirely above 97%),
  - (iii) has a limit of detection of less than or equal to 1000 SARS-CoV-2 copies per millilitre, and
  - (iv) is suitable for identifying every variant of concern, and
- (c) any device used for the purposes of the test—
  - (i) can be put into service in accordance with Part 4 of the Medical Devices Regulations 2002<sup>(1)</sup>, other than solely by virtue of regulation 39(2) of those Regulations, and
  - (ii) has been validated no more than 18 months before the test is administered or provided to P.

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<sup>(1)</sup> S.I. 2002/618.

### **Day 8 test requirements**

**2.** A day 8 test complies with this paragraph where—

- (a) it is a semi-quantitative test for the detection of coronavirus which targets a minimum of two distinguishable SARS-CoV-2 genes other than the S gene and performance reference controls,
- (b) the manufacturer of any device used for the purposes of the test states that the device—
  - (i) uses an extracted molecular method,
  - (ii) has a specificity and a sensitivity greater than 95% (with a 95% two-sided confidence interval entirely above 90%), and
  - (iii) has a limit of detection of less than or equal to 1000 SARS-CoV-2 copies per millilitre, and
- (c) any device used for the purposes of the test—
  - (i) can be put into service in accordance with Part 4 of the Medical Devices Regulations 2002, other than solely by virtue of regulation 39(2) of those Regulations, and
  - (ii) has been validated no more than 18 months before the test is administered or provided to P.

### **Interpretation**

**3.** In this Schedule—

- (a) “specified method” means a targeted sequence method specific to SARS-CoV-2 or an equivalent—
  - (i) amplicon method, or
  - (ii) sequence bait capture method;
- (b) “validated”, in relation to a device, means confirmed as having a sensitivity of at least 97% and a specificity of at least 99% for at least 150 positive samples and 250 negative samples, by—
  - (i) the Welsh Ministers,
  - (ii) the National Institute for Health and Care Excellence, or
  - (iii) a laboratory which is accredited by the United Kingdom Accreditation

Service (“UKAS”) to ISO standard 15189 or ISO/IEC standard 17025, other than a laboratory which processes tests provided by the test provider for the purposes of this Schedule or is owned by the test provider;

- (c) “variant of concern” means a variant of SARS-CoV-2 identified in a designation made by the relevant expert UK Group (currently NERVTAG) for the purposes of these Regulations and published in a way that the Welsh Ministers consider to be appropriate.”

### PART 3

#### Amendment of the International Travel Regulations relating to arrivals from a country or territory listed in Schedule 3A to the International Travel Regulations

##### **Amendment of regulation 9**

5. In regulation 9(2) (isolation requirements: exemptions) of the International Travel Regulations, after sub-paragraph (b) insert—

- “(c) a person described in regulation 12E(2) (additional measures applicable to persons travelling from a country or territory listed in Schedule 3A).”

##### **Amendment of regulation 12E**

6.—(1) Regulation 12E (additional measures applicable to persons travelling from a country or territory listed in Schedule 3A) of the International Travel Regulations is amended as follows.

(2) For paragraphs (1) to (9) substitute—

“(1) A person (“P”) may not enter Wales if P has been in a country or territory listed in Schedule 3A at any time in the period beginning with the 10th day before the date of P’s arrival in Wales.

(2) But paragraph (1) does not apply where P is—

- (a) a person described in paragraph 1(1)(a) to (h) or (k) of Schedule 2 or a member of the family forming part of their household;
- (b) a person described in paragraph 1(1)(i) or (j) of Schedule 2 where the conditions in paragraph (3) are met;

- (c) a member of the family forming part of the household of a person to whom sub-paragraph (b) applies, where—
    - (i) the conditions in paragraph (3) are met in relation to that person,
    - (ii) the Foreign, Commonwealth and Development Office has been notified of P's arrival, and
    - (iii) the Foreign Commonwealth and Development Office has confirmed that paragraph (1) should not apply to P;
  - (d) a person described in the following paragraphs of Schedule 2—
    - (i) paragraphs 2 to 5;
    - (ii) paragraph 6 unless P has at any time during the period beginning with the 10th day before the date of P's arrival in Wales been in a country or territory listed in Schedule 3A apart from The Azores, Madeira or Portugal;
    - (iii) paragraph 13 or 13A;
    - (iv) paragraph 15 or 16.
- (3) The conditions specified in this paragraph are that, prior to P's departure to the United Kingdom—
- (a) the relevant head of the mission, consular post, or office representing a foreign territory in the United Kingdom, or a Governor of a British overseas territory (as the case may be), or a person acting on their authority, confirms in writing to the Foreign, Commonwealth and Development Office that P is required to undertake work which is essential to the foreign country represented by the mission or consular post, the foreign territory represented by the office or the British overseas territory, and
  - (b) the Foreign, Commonwealth and Development Office has then confirmed in writing to the person giving the confirmation referred to in sub-paragraph (a) that—
    - (i) it has received that confirmation, and
    - (ii) P is travelling to the United Kingdom to conduct official business with the United Kingdom and is not required to comply with paragraph (1).

(4) Where a word or expression is defined for the purposes of Schedule 2 and is used in this regulation, the same definition applies for the purposes of this regulation.”

#### **Amendment of regulation 12F**

7. In regulation 12F(2) (prohibition on the arrival of aircraft and vessels travelling directly from a country or territory listed in Schedule 3A) of the International Travel Regulations, insert the following after sub-paragraph (c)—

“(d) an aircraft or vessel which is operated by or in support of a foreign country or territory where, prior to its arrival in Wales, a Government Department has provided written confirmation to the operator that the aircraft or vessel is carrying passengers who are travelling to conduct official business with the United Kingdom.”

### **PART 4**

#### **Miscellaneous amendments to the International Travel Regulations relating to Parts 2 and 3 of these Regulations**

#### **Amendment to regulation 14**

8. Regulation 14 (offences) is amended as follows—

- (a) in paragraph (1)—
  - (i) in sub-paragraph (f), omit “or”;
  - (ii) in sub-paragraph (g), for “12D(1)” substitute “12E”;
  - (iii) after sub-paragraph (g) insert—
    - “(h) 6B and 6C, or
    - (i) 6D.”;
- (b) after paragraph (1A) insert—
  - “(1B) But a person does not commit an offence if they have a reasonable excuse for contravening regulation 6B or 6C.
  - (1C) For the purposes of regulation 6B a reasonable excuse includes, in particular, where—
    - (a) it was not reasonably practicable for a person to book a test due to a disability;
    - (b) a person reasonably considered before arriving in Wales that it would not be reasonably practicable for the person

(or, as the case may be, the child for whom the person has responsibility) to provide a sample for a test due to a disability;

- (c) a person required medical treatment with such urgency that booking a test was not reasonably practicable;
- (d) a person was accompanying, in order to provide support, whether medical or otherwise, a person described in subparagraph (a) or (c) where it was not reasonably practicable for the accompanying person to book a test;
- (e) a person began their journey to Wales in a country or territory in which the person did not have reasonable access to the facilities or services required to book a test, with or without payment, and such facilities or services were not reasonably accessible in their last point of departure if this was different to where they began their journey.

(1D) For the purposes of regulation 6C, a reasonable excuse includes, in particular, where—

- (a) it is not reasonably practicable for P to undertake a test due to a disability;
- (b) P requires medical treatment with such urgency that undertaking a test is not reasonably practicable;
- (c) a test is cancelled for reasons beyond P's control."

#### **Amendment to regulation 16**

**9.** In regulation 16 (fixed penalty notices)—

- (a) after paragraph (6)(aa) insert—
  - “(ab) of contravening a requirement imposed by regulation 6D.”;
- (b) after paragraph (6A) insert—

“(6AA) Where the fixed penalty notice is issued to a person in respect of an offence described in regulation 14(1)(g), then the amount specified under paragraph (5)(c) must be £10,000.

(6AB) Where the fixed penalty notice is issued to a person in respect of an offence described in regulation 14(1)(h), then the amount specified under paragraph (5)(c) must be—

- (a) in the case of a fixed penalty notice issued in respect of a failure to arrange

- tests in accordance with regulation 6B(3) or (5), £1,000;
- (b) in the case of the first fixed penalty notice issued in respect of a failure to take a test in accordance with regulation 6C(1) or (3), £1,000;
- (c) in the case of the second fixed penalty notice issued in respect of a failure to take a test in accordance with regulation 6C(1) or (3), £2,000.”;
- (c) in paragraph (7), at the beginning insert “Subject to paragraph (7A),”;
- (d) after paragraph (7) insert—
  - “(7A) Where a fixed penalty notice is issued to a person in respect of an offence—
  - (a) under regulation 14(2), and
  - (b) it relates to that person’s travel history to a country or territory listed in Schedule 3A,the amount specified under paragraph (5)(c) must be £10,000.”

#### **Amendment to regulation 17**

**10.** In regulation 17 (use and disclosure of information)—

- (a) in paragraph (2), after sub-paragraph (a)(ii) insert—
  - “(iii) where a person arranges a test under regulation 6B or takes a test under regulation 6C—
  - (aa) information generated where the person arranges or takes a test;
  - (bb) information obtained by a public test provider (within the meaning given by regulation 6B(2)(c)) under regulation 6B(6);
  - (cc) the results of a test;
  - (dd) information recorded by a public test provider in the course of administering a test taken in accordance with regulation 6C (including confirmation that the test was taken, details of when and where it was taken, any reasons for a test not being taken and the details of any replacement test to be taken);

- (iv) information provided to an immigration officer pursuant to regulation 6B(8);
  - (v) where a sample taken in respect of a day 2 test under regulation 6C has been sequenced, the sorted BAM file relating to that sample containing all reads aligning to the SARS-CoV-2 reference genome with unaligned and human reads removed;”;
- (b) in paragraph (3), after sub-paragraph (b) insert—
- “(c) a public test provider;
  - (d) an immigration officer.”

### **Amendment to regulation 18**

**11.** Regulation 18 (self-incrimination) is amended as follows—

- (a) in paragraph (2), after “in” insert “such”;
- (b) omit “other than for an offence under these Regulations or section of the Perjury Act 1911(false statements made otherwise than on oath)”;
- (c) after paragraph (2) insert—

“(2A) Paragraph (2) does not apply if the proceedings are for—

  - (a) an offence under these Regulations,
  - (b) an offence under section 5 of the Perjury Act 1911(1) (false statements made otherwise than on oath),
  - (c) an offence under section 1 of the Fraud Act 2006(2) (fraud), or
  - (d) an offence under section 2 or 3 of the Forgery and Counterfeiting Act 1981(3) (offence of copying or using a false instrument).”

### **Amendment to Schedule 1**

**12.** In Schedule 1 (passenger information), after paragraph 2 insert—

- “**3.** Where regulation 6B requires a day 2 test and a day 8 test to be arranged—
- (a) the name of the provider of the tests, and

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(1) 1911 c. 6. Section 5 was amended by section 1(2) of the Criminal Justice Act 1948 (c. 58).  
(2) 2006 c. 35.  
(3) 1981 c. 45.

- (b) the reference number for the tests provided to them by the test provider in accordance with regulation 6B(7).”

## PART 5

### Amendments to Schedule 2 to the International Travel Regulations

#### **Amendments to Schedule 2 (exempt persons)**

**13.**—(1) Schedule 2 to the International Travel Regulations (exempt persons) is amended as follows.

(2) In Part 1 of Schedule 2, after paragraph 4 insert—

“**5.** A person who, on arrival in the United Kingdom, passes through to another country or territory without entering the United Kingdom.”

(3) In Part 2 of Schedule 2, omit paragraphs 5, 12, 17 to 35, 38 and 39.

(4) In paragraph 36 of Schedule 2, after subparagraph (b) insert “where that activity cannot reasonably be undertaken at home.”

## PART 6

### Insertion of new Schedule 5 to the International Travel Regulations and amendments to regulation 10 of the International Travel Regulations

#### **Insertion of Schedule 5 to the International Travel Regulations (sectoral exceptions)**

**14.** After Schedule 4 to the International Travel Regulations (specified sporting events) insert—

#### “**SCHEDULE 5** Regulation 10(4)(m) **Sectoral Exceptions**”

**1.**—(1) A worker engaged in essential or emergency works—

- (a) related to water supplies and sewerage services, and
- (b) carried out by, for, or on behalf of a water undertaker, sewerage undertaker, water supply licensee, sewerage licensee or local authority,

where the worker has travelled to the United Kingdom in the course of the work.

(2) For the purposes of sub-paragraph (1)—

- (a) “essential or emergency works” includes—
  - (i) inspections, maintenance, repairs, and asset replacement activities;
  - (ii) monitoring, sampling and analysis of water supplies under the Private Water Supplies (Wales) Regulations 2017(1), the Water Supply (Water Quality) Regulations 2018(2), the Private Water Supplies (England) Regulations 2016(3) or the Water Supply (Water Quality) Regulations 2016(4);
- (b) “sewerage licensee” means a person who is the holder of a sewerage licence under section 17BA of the Water Industry Act 1991(5);
- (c) “sewerage services” has the meaning given in section 219(1) of the Water Industry Act 1991(6);
- (d) “sewerage undertaker” means a company appointed as a sewerage undertaker under section 6 of the Water Industry Act 1991(7);
- (e) “water supply licensee” has the meaning given in sections 17A(7) and 219(1) of the Water Industry Act 1991(8);
- (f) “water undertaker” means a company appointed as a water undertaker under section 6 of the Water Industry Act 1991.

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- (1) S.I. 2017/1041 (W.270), amended by S.I. 2018/647 (W. 121), S.I. 2019/460 (W. 110) and S.I. 2019/463 (W. 111).
  - (2) S.I. 2018/647 (W. 121), amended by S.I. 2019/463 (W. 111).
  - (3) S.I. 2016/618; relevant amending instruments are S.I. 2017/506, S.I. 2018/707 and S.I. 2019/558.
  - (4) S.I. 2016/614; relevant amending instruments are S.I. 2017/506, S.I. 2018/706, S.I. 2018/378, S.I. 2019/526 and S.I. 2019/558.
  - (5) 1991 c. 56. Section 17BA(6) was inserted by section 4(1) of the Water Act 2014 (c. 21). The reference to “sewerage licensee” was inserted in section 219(1) by paragraph 120(2)(f) of Schedule 7 to the Water Act 2014.
  - (6) 1991 c 56. The definition of “sewerage services” was amended by paragraph 120 of Schedule 7 to the Water Act 2014.
  - (7) Section 6 was amended by section 36(2) of, and Schedule 8 to, the Water Act 2003 (c. 37), Schedule 23 to the Deregulation Act 2015 (c. 20), and Schedule 7 to the Water Act 2014.
  - (8) Section 17A was inserted by section 1 of the Water Act 2014.

**2.—**(1) A worker engaged in essential or emergency works relating to flood and coastal erosion risk management on behalf of—

- (a) the Environment Agency<sup>(1)</sup>;
- (b) Natural Resources Wales<sup>(2)</sup>;
- (c) a lead local flood authority in Wales;
- (d) a lead local flood authority in England.

(2) In sub-paragraph (1), “flood and coastal erosion risk management” and “lead local flood authority” have the meaning given by the Flood and Water Management Act 2010<sup>(3)</sup>.

**3.** A worker engaged in essential or emergency works relating to current or former mining operations on behalf of—

- (a) the Coal Authority<sup>(4)</sup>;
- (b) a council for a county or county borough in Wales;
- (c) Natural Resources Wales.

**4.—**(1) A worker engaged in essential or emergency works—

- (a) related to—
  - (i) a generating station,
  - (ii) an electricity interconnector,
  - (iii) a district heat network as defined in regulation 2 of the Heat Network (Metering and Billing) Regulations 2014<sup>(5)</sup>,
  - (iv) communal heating as defined in regulation 2 of the Heat Network (Metering and Billing) Regulations 2014,
  - (v) automated ballast cleaning and track relaying systems on a network, or
  - (vi) the commissioning, maintenance and repair of industrial machinery for use on a network, or
- (b) carried out by, for, or on behalf of—
  - (i) the national system operator,
  - (ii) a person holding a transmission licence,

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(1) The Environment Agency is a body corporate established under section 1 of the Environment Act 1995 (c. 25).  
 (2) Natural Resources Wales is a body corporate established under article 3 of the Natural Resources Body for Wales (Establishment) Order 2012 (S.I. 2012/1903 (W. 230)).  
 (3) 2010 c. 29.  
 (4) The Coal Authority is a body corporate established under section 1 of the Coal Industry Act 1994 (c. 21).  
 (5) S.I. 2014/3120. There are no relevant amending instruments.

- (iii) a person holding a distribution licence,
- (iv) a person holding a licence under sections 7 and 7ZA of the Gas Act 1986(1),
- (v) a LNG import or export facility as defined in section 48 of the Gas Act 1986(2), or
- (vi) a person holding a network licence under section 8 of the Railways Act 1993(3),

where the worker has travelled to the United Kingdom for the purposes of the work.

(2) For the purposes of sub-paragraph (1)—

- (a) “distribution licence” means a licence granted under section 6(1)(c) of the Electricity Act 1989(4);
- (b) “essential or emergency works” includes commissioning, inspections, maintenance, repairs, and asset replacement activities;
- (c) “national system operator” means the person operating the national transmission system for Great Britain;
- (d) “network” has the meaning given in section 83(1) of the Railways Act 1993(5);
- (e) “transmission licence” means a licence granted under section 6(1)(b) of the Electricity Act 1989;
- (f) “electricity interconnector”, “generating station” and “transmission system” have the meanings given in section 64(1) of the Electricity Act 1989(6).

5.—(1) A person who is—

- (a) nuclear personnel, and who is essential to the safe and secure operation of a site in respect of which a nuclear site licence has been granted,
- (b) a nuclear emergency responder, or
- (c) an agency inspector,

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(1) 1986 c. 44. Section 7ZA was inserted by section 149(6) of the Energy Act 2004.

(2) The definition was inserted by S.I. 2011/2704.

(3) 1993 c. 43.

(4) 1989 c. 29.

(5) There are amendments to section 83(1) but none is relevant.

(6) The definition of “electricity interconnector” was inserted by section 147(7) of the Energy Act 2004. The definition of “transmission system” was substituted by paragraph 15 of Schedule 19 to the 2004 Act.

where the person travelled to the United Kingdom in the course of the person's work.

(2) For the purposes of sub-paragraph (1)—

- (a) “agency inspector” has the meaning given in section 1(1) of the Nuclear Safeguards Act 2000(1);
- (b) “nuclear emergency responder” means a person providing assistance to the United Kingdom in accordance with the Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency done at Vienna on 26 September 1986, who has been duly notified to and accepted by the United Kingdom, where the United Kingdom has requested assistance under that Convention;
- (c) “nuclear personnel” means—
  - (i) a worker who is employed to carry out work on or in relation to a site in respect of which a nuclear site licence has been granted, or
  - (ii) an employee of the Nuclear Decommissioning Authority(2);
- (d) “nuclear site licence” has the meaning given in section 1 of the Nuclear Installations Act 1965(3).

6. An inspector from the Organisation for the Prohibition of Chemical Weapons, within the meaning given to “inspector” by section 24(e) of the Chemical Weapons Act 1996(4), who has travelled to the United Kingdom for the purposes of an inspection.

7.—(1) A person who is—

- (a) carrying out a critical function at a space site,
- (b) a spacecraft controller responsible for command and control of a launch vehicle or spacecraft for nominal operations, collision avoidance or anomalies, or
- (c) employed by, or contracted to provide services to, a person who operates or

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(1) 2000 c. 5.  
 (2) The Nuclear Decommissioning Authority was established by section 1 of the Energy Act 2004.  
 (3) 1965 c. 57. Section 1 was substituted by paragraph 17 of Schedule 2 to the Energy Act 2013 (c. 32); by virtue of section 1(2), a licence described in section 1(1) is referred to as a “nuclear site licence”.  
 (4) 1996 c. 6.

maintains space situational awareness capabilities,

where the person has travelled to the United Kingdom in the course of the work.

(2) For the purposes of sub-paragraph (1)—

- (a) “space site” has the meaning given in paragraph 5(3) of Schedule 4 to the Space Industry Act 2018<sup>(1)</sup>;
- (b) “space situational awareness capabilities” means the sensors, systems and analytical services needed to provide time-sensitive warnings of space weather events, orbital collisions, orbital fragmentations or the re-entry of man-made objects from orbit;
- (c) “spacecraft” has the meaning given in section 2(6) of the Space Industry Act 2018;
- (d) “spacecraft controller” means a person competent, authorised and responsible for maintaining the safe and secure operation of spacecraft through monitoring the status of a spacecraft, issuing manoeuvre commands or controlling other aspects of the spacecraft that influence its behaviour including its motion in space.

**8.**—(1) A specialist aerospace engineer, or a specialist aerospace worker, where the engineer or worker has travelled to the United Kingdom in the course of their work.

(2) For the purposes of sub-paragraph (1)—

- (a) “specialist aerospace engineer” means a person who is employed or otherwise engaged to provide engineering services for the purpose of ensuring the continued operation of aviation activities (including but not limited to the provision of maintenance and repair services for production lines, aviation components, grounded aircraft and new aircraft);
- (b) “specialist aerospace worker” means a person who is employed or otherwise engaged to provide services for the purpose of ensuring safety management and quality assurance as required by relevant standards, guidance and publications on aviation safety produced by the Civil Aviation

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(1) 2018 c. 5.

Authority or the European Union Aviation Safety Agency<sup>(1)</sup>.

**9.**—(1) A person engaged in operational, maintenance or safety activities of a downstream oil facility that has a capacity in excess of 20,000 tonnes, where—

- (a) the downstream oil facility is engaged in a specified activity carried on in the United Kingdom in the course of a business, and contributes (directly or indirectly) to the supply of crude oil based fuels to consumers in the United Kingdom or persons carrying on business in the United Kingdom, and
- (b) the activities are required to ensure continued safe operation of the facility,

where the person has travelled to the United Kingdom in the course of the person's work.

(2) For the purposes of sub-paragraph (1)—

- (a) a facility has a capacity in excess of 20,000 tonnes at any time if it was used in the previous calendar year for the purposes of downstream oil sector activities in relation to more than that number of tonnes of oil;
- (b) “specified activities” are—
  - (i) storing oil;
  - (ii) handling oil;
  - (iii) the carriage of oil by sea or inland water;
  - (iv) conveying oil by pipes;
  - (v) refining or otherwise processing oil.

**10.**—(1) A worker required to undertake or commence within the period during which they would, but for this paragraph, have been subject

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(1) The Civil Aviation Authority was established under section 1(1) of the Civil Aviation Act 1971 (c. 75). That Act was replaced by a consolidating statute, the Civil Aviation Act 1982 (c. 16), section 2(1) of which provides for the continued existence of the Civil Aviation Authority. There are amendments to section 2 but none is relevant. The European Union Aviation Safety Agency was established by Regulation (EU) 2018/1139 of the European Parliament and of the Council of 4 July 2018 on common rules in the field of civil aviation and establishing a European Union Aviation Safety Agency, and amending Regulations (EC) No 2111/2005, (EC) No 1008/2008, (EU) No 996/2010, (EU) No 376/2014 and Directives 2014/30/EU and 2014/53/EU of the European Parliament and of the Council, and repealing Regulations (EC) No 552/2004 and (EC) No 216/2008 of the European Parliament and of the Council and Council Regulation (EEC) No 3922/91.

to an isolation requirement (within the meaning of regulation 10(2) of these Regulations)—

- (a) activities on or in relation to an offshore installation,
- (b) activities on or in relation to upstream petroleum infrastructure,
- (c) critical safety work on an offshore installation or well that is being decommissioned or preserved pending demolition or reuse, or
- (d) activities for the provision of workers, goods, materials or equipment or other essential services required to support the safe operation of the activities referred to in paragraphs (a) to (c),

where they have travelled to the United Kingdom in the course of their work.

(2) For the purposes of sub-paragraph (1)—

- (a) “offshore installation” has the meaning given in section 44 of the Petroleum Act 1998(1);
- (b) “upstream petroleum infrastructure” has the meaning given in section 9H of the Petroleum Act 1998(2);
- (c) “well” has the meaning given in section 45A(10) of the Petroleum Act 1998(3).

**11.** A postal operator, as defined in section 27(3) of the Postal Services Act 2011(4), where the operator has travelled to the United Kingdom in the course of their work.

**12.** A worker with specialist technical skills, where those specialist technical skills are required for essential or emergency works or services (including commissioning, maintenance and repairs and safety checks) to ensure the continued production, supply, movement, manufacture, storage or preservation of goods, where the worker has travelled to the United Kingdom in the course of their work or otherwise to commence or resume their work.

**13.** A worker with specialist technical skills, where those specialist technical skills are required for essential or emergency works

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(1) 1998 c. 17. Section 44 was amended by paragraph 11 of Schedule 1 to the Energy Act 2008 (c. 32).

(2) Section 9H was substituted by section 74(2) of the Energy Act 2016 (c. 20).

(3) Section 45A was inserted by section 75(1) of the Energy Act 2008. There are amendments to section 45A(10) but none is relevant.

(4) 2011 c. 5.

(including construction, commissioning, installation, maintenance, repairs and safety checks) or to fulfil contractual obligations or warranty specifications in, or in connection with, waste management facilities used for the management, sorting, treatment, recovery, or disposal of waste (including energy from waste), where the worker has travelled to the United Kingdom in the course of their work.

**14.**—(1) A person who has travelled to the United Kingdom for the purpose of transporting material which consists of, or includes, human cells or blood and which is to be used for the provision of a health service by a provider of health services.

(2) For the purposes of sub-paragraph (1)—

- (a) “blood” includes blood components;
- (b) “health service” has the meaning given by regulation 10(8).

**15.** A person who is an “inspector” within the meaning given in regulation 8(1) of the Human Medicines Regulations 2012<sup>(1)</sup> who has travelled to the United Kingdom to undertake activities in relation to their role as such a person.

**16.**—(1) A person who—

- (a) has travelled to the United Kingdom to—
  - (i) conduct a clinical trial within the meaning of “conducting a clinical trial” in regulation 2(1) of the Medicines for Human Use (Clinical Trials) Regulations 2004<sup>(2)</sup>,
  - (ii) undertake such activities as are necessary or expedient to prepare for the conduct of a clinical trial, or
  - (iii) carry out any necessary compliance activity in relation to a clinical trial that cannot be conducted remotely,
- (b) is a “qualified person” within the meaning of regulation 43 of those Regulations, where they have travelled to the United Kingdom in order to undertake activities in relation to their role as such a person, or

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(1) S.I. 2012/1916.

(2) S.I. 2004/1031, to which there are amendments not relevant to these Regulations.

- (c) is a “sponsor” within the meaning given in regulation 2(1) of those Regulations of a clinical trial, or carries out the functions or duties of such a sponsor, and has travelled to the United Kingdom to undertake activities in relation to the clinical trial.

(2) For the purposes of sub-paragraph (1), “clinical trial” has the meaning given in regulation 2(1) of the Medicines for Human Use (Clinical Trials) Regulations 2004.

**17.** A person who has travelled to the United Kingdom to conduct a “clinical investigation” within the meaning of the Medical Devices Regulations 2002<sup>(1)</sup>, or to undertake such activities as are necessary or expedient to prepare for the conduct of a clinical investigation or carry out any other necessary compliance activity in relation to a clinical investigation that cannot be conducted remotely.

**18.—**(1) A person who is—

- (a) a “qualified person” within the meaning of regulation 41(2) of the Human Medicines Regulations 2012<sup>(2)</sup>,
- (b) a “responsible person” within the meaning of regulation 45(1) of those Regulations, or
- (c) “an appropriately qualified person responsible for pharmacovigilance” within the meaning of regulation 182(2)(a) of those Regulations,

where the person has travelled to the United Kingdom in order to undertake activities in relation to their role as such a person.

**19.—**(1) A person who has travelled to the United Kingdom for the purposes of their work in essential infrastructure industries including—

- (a) a person involved in essential maintenance and repair of data infrastructure required to reduce and resolve outages, or in the provision of goods and services to support these activities, and
- (b) an information technology or telecommunications professional (including information technology consultant, quality analyst, software tester, systems tester, and

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(1) S.I. 2002/618.  
(2) S.I. 2012/1916.

telecommunications planner), whose expertise is required to—

- (i) provide an essential or emergency response to threats and incidents relating to the security of any network and information system, and
- (ii) ensure the continued operation of any network and information system.

(2) For the purposes of sub-paragraph (1), “network and information system” has the meaning in regulation 1(2) of the Network and Information Systems Regulations 2018<sup>(1)</sup>.

**20.** A person who is engaged in urgent or essential work—

- (a) that is necessary for the continued operation of—
  - (i) electronic communications networks and services as defined in section 32 of the Communications Act 2003<sup>(2)</sup>, or
  - (ii) the BBC's broadcasting transmission network and services,
- (b) in supply chain companies that maintain the confidentiality, integrity, and availability of the electronic communications networks and services and the BBC transmission network and services,

where the person has travelled to the United Kingdom in the course of their work.

**21.**—(1) A person habitually resident in the United Kingdom who—

- (a) is an elite athlete who participated in an overseas elite competition,
- (b) provided coaching or other support to an elite athlete at an overseas elite competition,
- (c) officiated at, or was involved in running, an overseas elite competition,
- (d) is an elite athlete who attended an overseas training programme for the purpose of training or preparing for participation in an elite competition,
- (e) provided coaching or other support to an elite athlete at an overseas training

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<sup>(1)</sup> S.I. 2018/506.

<sup>(2)</sup> 2003 c. 21. The definition of “electronic communications network” was amended by S.I. 2011/1210.

programme for the purpose of training or preparing that elite athlete for participation in an elite competition,

where the person has travelled to the United Kingdom to return from the overseas elite competition or the overseas training programme.

(2) For the purposes of sub-paragraph (1)—

- (a) “elite athlete” means a person—
  - (i) who derives a living from competing in a sport,
  - (ii) who is designated as such for the purposes of these Regulations by the Sports Council for Wales,
  - (iii) who is designated as such for the purposes of the Health Protection (Coronavirus Restrictions) (No. 2) (Wales) Regulations 2020 (despite the revocation of those Regulations), or
  - (iv) not falling within sub-paragraph (i), (ii) or (iii) who participates in the UEFA Champions' league or UEFA Europa league;
- (b) “elite competition” means a sporting competition at which any of the participants compete—
  - (i) to derive a living, or
  - (ii) to qualify for, or as part of a selection process for, the Olympics, Paralympics or Commonwealth Games;
- (c) “overseas elite competition” means an elite competition taking place outside the United Kingdom; and a person is to be treated as having returned from such a competition if the person has within the period of 10 days ending with the person's last day of isolation, been in a non-exempt country or territory for the purposes of such a competition.

**22.** A person—

- (a) who is engaged in the installation, maintenance or repair of subsea fibre optic telecommunications infrastructure,
- (b) whose role directly supports the installation, maintenance or repair of subsea fibre optic telecommunications infrastructure,

where they have travelled to the United Kingdom in the course of their work.”

**Amendment to regulation 10 of the International Travel Regulations (isolation requirements: exceptions)**

**15.**—(1) Regulation 10 of the International Travel Regulations (isolation requirements: exceptions) is amended as follows.

(2) In regulation 10(4), after sub-paragraph (k) insert—

“(l) for the purpose of obtaining a test for coronavirus provided or administered under the National Health Service (Wales) Act 2006;

(m) where P is a person falling within any of the paragraphs in Schedule 5, in order to travel directly to or from any place where P’s presence is required for the purposes of P’s work, or for the purposes of an activity to which the relevant paragraph in Schedule 5 relates (as the case may be), and when P is in attendance at that place.”

**PART 7**

**Miscellaneous amendments to the International Travel Regulations regarding the removal of provisions from Schedule 2 and the addition of Schedule 5**

**Amendments to the International Travel Regulations regarding the removal of certain provisions from Schedule 2 and the addition of Schedule 5**

**16.** In regulation 3, omit paragraphs (2)(b) and (3)(f).

**17.**—(1) Regulation 6A is amended as follows.

(2) In paragraph (4)(a)—

(a) omit “12 or 28”;

(b) after “10,” insert “or”.

(3) After paragraph (4)(c) insert—

“(d) a person described in paragraph 24 of Schedule 5.”

**18.** In regulation 9(2)(b), for “paragraphs 2 to 39 of Schedule 2”, substitute “paragraphs 2 to 16 and 36 of Schedule 2”.

**19.**—(1) Regulation 10(8) is amended as follows.

(2) In the definition of “elite athlete”, for “paragraph 38(2)(a) of Schedule 2” substitute “paragraph 31(2)(a) of Schedule 5”.

(3) In the definition of “elite competition”, for “paragraph 38(2)(b) of Schedule 2” substitute “paragraph 31(2)(b) of Schedule 5”.

## PART 8

### Amendments to the list of sporting events in Schedule 4 to the International Travel Regulations

#### **Amendments to the list of specified sporting events**

**20.**—(1) Schedule 4 (specified sporting events) to the International Travel Regulations is amended as follows.

(2) For paragraphs 1 to 25 substitute—

“Betfred Super League Rugby Football  
League Fixtures,

England & Wales Cricket Board  
International Cricket Fixtures,

European Professional Club Rugby  
Fixtures,

FIH Pro League Hockey Fixtures,

Football Association International Fixtures,

Guinness PRO14 Rugby Football Union  
Fixtures,

Matchroom – Boxing Championship  
Matches,

Olympic, Paralympic and Commonwealth  
Games Qualification Events,

Professional Darts Corporation – Players  
Championship,

Rugby Football Union International  
Fixtures,

Rugby League Challenge Cup,

UEFA Champions League and UEFA  
Europa League Fixtures,

World Snooker Tour – Shoot Out,

Cage Warriors Trilogy Series,

England & Wales Cricket Board – T20  
Blast,

England & Wales Cricket Board – The  
Rachael Heyhoe Flint Trophy,

Matchroom – Championship League  
Snooker Tournament,

International Championship Boxing – Queensberry Promotions,  
Motorsport UK – British Kart Championships,  
International Boxing Championship Matches – MTK Promotions,  
Yonex All England Open Badminton Championships,  
GB Taekwondo Fight Night I – International Taekwondo, Para Taekwondo and Karate Event,  
GB Taekwondo Fight Night II – International Taekwondo, Para Taekwondo and Karate Event,  
Curling Euro Super Series,  
Matchroom – World Pool Championship,  
Hennessy Sports – International Boxing Championship Matches,  
British Judo – British Closed Senior Invitational Competition,  
British Swimming International Meet,  
Motorsport UK – British Rallycross Championship and Support Championship,  
Professional Darts Corporation - Ladbrokes Masters,  
Professional Darts Corporation - Unibet Premier League,  
World Snooker Tour - German Masters,  
World Snooker Tour - Players Championship,  
World Snooker Tour - Welsh Open,  
Betfair Ascot Chase Day horse-racing,  
Betfair Hurdle Day horse-racing,  
Billie Jean King Cup Play-offs by BNP Paribas - Great Britain v Mexico,  
Bolton Indoor ITF Wheelchair Tennis events,  
FIG Gymnastics World Cup,  
GB Taekwondo Olympic and Paralympic Test Matches,  
Grand National Trial Day horse-racing,  
Imperial Cup meeting horse-racing,  
Lincoln Handicap meeting horse-racing,  
Matchroom - Championship League Pool,  
Matchroom - Superstars of Gymnastics,  
Matchroom - World Ping Pong Masters,  
Midlands National meeting horse-racing,

Modern Pentathlon Test Event,  
Para Powerlifting World Cup,  
Professional Darts Corporation - Challenge  
Tour,  
Professional Darts Corporation -  
Development Tour,  
Professional Darts Corporation - UK Open,  
Rugby League Betfred Championship,  
The Festival at Cheltenham horse-racing,  
Wheelchair Rugby Quad Nations,  
Women's Invitational International Football  
Tournament (hosted by the FA),  
World Snooker Tour - Pro Tour Series,  
World Snooker Tour - Gibraltar Open,  
World Snooker Tour - Tour Championship,  
Professional Darts Corporation - Q School,  
International Boxing - Dennis Hobson  
Promotions,  
Super League Triathlon Arena Games  
London,  
British Showjumping's Winter Classic  
series qualifiers,  
British Dressage - Keysoe International,  
British Eventing Elite Pathway Events,  
Manchester Squash Open 2021,  
Boxing Road to Tokyo,  
Track Cycling Nations Cup,  
Cage Warriors 120,  
Vitality Big Half,  
World Snooker Tour - Betfred World  
Championship (including qualifiers),  
Matchroom - World Pool Masters,  
All-Weather Finals Day horse-racing,  
Challenger Series Finals Day horse-racing,  
Aintree Grand National Meeting horse-  
racing,  
Craven Meeting horse-racing,  
Cheltenham April Meeting horse-racing,  
Scottish National Meeting horse-racing,  
Greenham Meeting horse-racing,  
Classic Trial Day & Jumps Finale Day  
horse-racing,  
Burnham Market International.”

## PART 9

### Transitional Provision

#### **Transitional provision**

**21.** Nothing in these Regulations applies in relation to a person who arrived in Wales before 15 February 2021.

*Vaughan Gething*  
Minister for Health and Social Services, one of the  
Welsh Ministers  
13 February 2021

## **Explanatory Memorandum to the Health Protection (Coronavirus, International Travel) (Wales) (Amendment) (No. 3) Regulations 2021**

This Explanatory Memorandum has been prepared by the Welsh Government and is laid before Senedd Cymru in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

### **Minister's Declaration**

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Health Protection (Coronavirus, International Travel) (Wales) (Amendment) (No. 3) Regulations 2021.

**Vaughan Gething**  
**Minister for Health and Social Services**

15 February 2021

## **1. Description**

Subject to specified exemptions, until 10 July 2020, the Health Protection (Coronavirus, International Travel) (Wales) Regulations 2020 (“the International Travel Regulations”) required all passengers arriving in Wales from outside of the Common Travel Area (i.e. the open borders area comprising the United Kingdom, the Channel Islands, the Isle of Man and the Republic of Ireland) to provide their contact details and travel information and to isolate for a period of 14 days. As of 10 December 2020, the isolation period was reduced to 10 days.

The International Travel Regulations were amended by the Health Protection (Coronavirus, International Travel and Public Health Information to Travellers) (Wales) (Amendment) Regulations 2020 so as to (among other things) introduce an exemption from the isolation requirement for passengers arriving from specified countries and territories, known as “exempt countries”.

These Regulations amend the International Travel Regulations to respond to the risk posed by and difficulties assessing the risk of imported variant strains of SARS-COV-2 (“coronavirus”), which is necessary for the protection of public health.

## **2. Matters of special interest to the Legislation, Justice and Constitution Committee**

### *Coming into force*

In accordance with section s4(1) and 11A(4) of the Statutory Instruments Act 1946, the Llywydd has been informed that the Regulations have come into force before they were laid, and do not adhere to the 21 day convention. This was necessary owing to the risk posed in relation to coronavirus and in particular variant strains of the same, from passengers travelling to the UK. The nature of these new enhanced measures requires a four nation approach and it is necessary to introduce them in alignment with England and the other nations.

### *European Convention on Human Rights*

The amendments contained in these Regulations do not change the engagement under the International Travel Regulations of individual rights under the Human Rights Act 1998 and the European Convention of Human Rights; the Government considers that they are justified for the purpose of preventing the spreading of infectious diseases and/or the interference is permitted on the basis that it is in pursuit of a legitimate aim, namely of protecting public health, and are proportionate.

## **3. Legislative background**

The Public Health (Control of Disease) Act 1984 (“the 1984 Act”), and regulations made under it, provide a legislative framework for health protection in England and Wales. The Regulations are made in reliance on the powers in sections 45B, 45F(2) and 45P(2) of the 1984 Act. The Explanatory Memorandum to the International Travel Regulations provides further information on these powers.

#### **4. Purpose and intended effect of the legislation**

The International Travel Regulations were made on 5 June 2020 and came into force on 8 June 2020 in response to the serious and imminent threat to public health which is posed by the incidence and spread of severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2).

The International Travel Regulations are kept under review, and on 18 January the travel corridors were suspended. The current arrangements for travel within the Common Travel Area (CTA) (UK, Ireland, Isle of Man and the Channel Islands) are unchanged so travel without isolation is still permitted.

Advice which has now been received from the Joint Biosecurity Centre indicates that it is difficult to fully assess the public health risk posed by the incidence and spread of variant strains of coronavirus. On the basis of this advice and with a view to taking a four nations approach in relation to international travel, the Welsh Government consider that enhanced measures need to be introduced into the regulations.

This will mean that a new testing system is in place for persons aged 5 years or over arriving into Wales (subject to a limited number of exemptions), requiring them to book and undertake testing on day 2 and 8 of their isolation period. Failure to do so will be a criminal offence, liable to a fine. Failure to undertake both tests will also mean that the isolation period is extended to 14 days.

Moreover, further measures are being taken in relation to countries that have already been identified as an enhanced risk due to links with variant strains of coronavirus (“red list countries”) in order to further protect against the risk of community transmission of variant strains. In addition to the existing ban on direct flights and vessels from red list countries, no person who has been in a red list country in the last 10 days will be able to enter Wales from 4am on 15 February and failure to comply with this restriction will be a criminal offence, liable to a fine. Should such travellers arrive at a designated port in England or Scotland, they will be required to enter into a managed quarantine period in accordance with the regulations in force there.

For arrivals from “amber list countries” sectoral exemptions apply for certain categories of workers for which no isolation is required. These are being made more restrictive and will be amended to become sectoral exceptions so that isolation is required but a person may leave isolation for a limited period for work purposes.

The enhanced management of isolation requirements came into effect for travellers arriving into Wales from 4am today, Monday 15 February.

These amendments to the International Travel Regulations do not affect the requirements under those Regulations for persons arriving into Wales before the coming into force of these amendments.

The Welsh Ministers consider that these amendments are proportionate to what they seek to achieve, which is to respond to a serious and imminent threat to public health.

## **5. Consultation**

Given the serious and imminent threat arising from coronavirus and the need for an urgent public health response, there has been no public consultation in relation to these Regulations.

## **6. Regulatory Impact Assessment (RIA)**

There has been no regulatory impact assessment in relation to these Regulations due to the need to put them in place urgently to deal with a serious and imminent threat to public health.



Ein cyf/Our ref: MA/VG/0538/21

Llywodraeth Cymru  
Welsh Government

Elin Jones, MS  
Llywydd  
Senedd Cymru  
Cardiff Bay  
CF99 1SN

13 February 2021

Dear Elin,

**The Health Protection (Coronavirus, International Travel) (Wales) (Amendment) (No. 3) Regulations 2021**

In accordance with sections 4(1) and 11A(4) of the Statutory Instruments Act 1946 I am notifying you that this Statutory Instrument has not adhered to the 21 day convention and will come into force before it can be laid. I attach a copy of the statutory instrument and I intend to lay this and an accompanying Explanatory Memorandum on Monday 15 February.

This statutory instrument introduces enhanced measures into the Health Protection (Coronavirus, International Travel) (Wales) Regulations 2020 to address the public health risk posed by the incidence and spread of variant strains of coronavirus.

These enhanced measures include a new testing system is in place for persons aged 5 years or over arriving into Wales (subject to a limited number of exemptions), requiring them to book and undertake testing on day 2 and 8 of their isolation period. Failure to do so will be a criminal offence, liable to a fine. Failure to undertake both tests will also mean that the isolation period is extended to 14 days.

Moreover, further measures are being taken in relation to countries that have already been identified as an enhanced risk due to links with variant strains of coronavirus ("red list countries") in order to further protect against the risk of community transmission of variant strains. This includes prohibiting a person who has been in a red list country in the last 10 days from entering Wales from 4am on 15 February and failure to comply with this restriction will be a criminal offence, liable to a fine. Should such travellers arrive at a designated port in England or Scotland, they will be required to enter into a managed quarantine period in accordance with the regulations in force there which come into force on Monday 15 February 2021.

Not adhering to the 21 day convention, and bringing them into force before they are laid, allows these Regulations to come into force at the earliest opportunity and continue the four nation approach to international travel; in view of the changing evidence on risk in relation to

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[Gohebiaeth.Vaughan.Gething@llyw.cymru](mailto:Gohebiaeth.Vaughan.Gething@llyw.cymru)  
[Correspondence.Vaughan.Gething@gov.wales](mailto:Correspondence.Vaughan.Gething@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.

this disease this is considered necessary and justifiable in this case.

Due to the immediacy of the Regulations they have not been subject to consultation.

I am copying this letter to the Minister for Finance and Trefnydd, Mick Antoniw MS, Chair of the Legislation, Justice and Constitution Committee, Siwan Davies, Director of Senedd Business, Sian Wilkins, Head of Chamber and Committee Services and Julian Luke, Head of Policy and Legislation Committee Service.

Yours sincerely,

A handwritten signature in black ink that reads "Vaughan Gething". The signature is written in a cursive style with a large initial 'V'.

**Vaughan Gething AS/MS**

Y Gweinidog Iechyd a Gwasanaethau Cymdeithasol  
Minister for Health and Social Services



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**WRITTEN STATEMENT**  
**BY**  
**THE WELSH GOVERNMENT**

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**TITLE** Amendments to the Health Protection (Coronavirus, International Travel) (Wales) Regulations 2020  
**DATE** 13 February 2021  
**BY** Vaughan Gething, Minister for Health and Social Services

Members will be aware that the Welsh Government made provision in the Health Protection (Coronavirus, International Travel) (Wales) Regulations 2020 to ensure that travellers entering Wales from overseas countries and territories must isolate for 10 days and provide passenger information, to prevent the further spread of coronavirus. These restrictions came into force on 8 June 2020.

Advice which has now been received from the Joint Biosecurity Centre indicates that it is difficult to fully assess the public health risk posed by the incidence and spread of variant strains of coronavirus. On the basis of this advice and with a view to taking a four nations approach in relation to international travel, I have decided that enhanced measures need to be introduced to manage those risks.

These enhanced measures include a new testing system is in place for persons aged 5 years or over arriving into Wales (subject to a limited number of exemptions), requiring them to book and undertake testing on day 2 and 8 of their isolation period. Failure to do so will be a criminal offence, liable to a fine. Failure to undertake both tests will also mean that the isolation period is extended to 14 days.

Moreover, further measures are being taken in relation to countries that have already been identified as an enhanced risk due to links with variant strains of coronavirus (“red list countries”) in order to further protect against the risk of community transmission of variant stains. This includes prohibiting a person who has been in a red list country in the last 10 days from entering Wales from 4am on 15 February. Failure to comply with this restriction will be a criminal offence, liable to a fine. Should such travellers arrive at a designated port in England or Scotland, they will be required to enter into a managed quarantine period in accordance with the regulations in force there which come into force on Monday 15 February 2021.

For arrivals from “amber list countries” sectoral exemptions apply for certain categories of workers for which no isolation is required. These are being made more restrictive and

will be amended to become sectoral exceptions which means that isolation is required but a person may leave that isolation for a limited period for work purposes.

Amendments are also being made to the list of sporting events to remove those have taken place and add those that are scheduled over the next few months.

The necessary regulations will come into force at 04:00 hours Monday 15 February.

# Agenda Item 3.3

## **SL(5)753 – The Health Protection (Coronavirus, Operator Liability and Public Health Information to Travellers) (Wales) (Amendment) Regulations 2021**

### **Background and Purpose**

These Regulations amend the Health Protection (Coronavirus, Public Health Information for Persons Travelling to Wales etc.) Regulations 2020 (“the Public Health Information Regulations”) and the Health Protection (Coronavirus, International Travel, Pre-Departure Testing and Operator Liability) (Wales) (Amendment) Regulations 2021 (“the Operator Liability Regulations”) by placing corresponding and complimentary duties on operators as a consequence of the additional restrictions placed on passengers by the Health Protection (Coronavirus, International Travel) (Wales) Regulations 2020 (“the International Travel Regulations”).

In particular, these Regulations:

- amend the Public Health Information Regulations to require operators to inform passengers of the new duty to arrange post arrival tests in accordance with the International Travel Regulations; and
- amend the Operator Liability Regulations so that:
  - (a) operators will be required to check that persons arriving into Wales from outside the common travel area on a commercial transport service via a seaport, heliport or airport in Wales have, before they arrive in Wales, made arrangements to take coronavirus tests on days 2 and 8 after their arrival in Wales; and
  - (b) operators are required to take reasonable steps to ensure that persons, who are not exempt persons, do not arrive on a transport service to a port in Wales from outside the common travel area if they have been in a red list country in the past 10 days.

### **Procedure**

Negative.

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**

No points are identified for reporting under Standing Order 21.2 in respect of this instrument.



## Merits Scrutiny

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

### **1. 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**

We note the breach of the 21-day rule (i.e. the rule that 21 days should pass between the date a “made negative” instrument is laid before the Senedd and the date the instrument comes into force), and the explanation for the breach provided by Rebecca Evans MS, Minister for Finance and Trefnydd, in a [letter](#) to the Llywydd dated 19 February 2021.

In particular, we note the following in the letter:

*“Not adhering to the 21 day convention allows these Regulations to come into force at the earliest opportunity. This was necessary in view of the need to act swiftly and on a four nations basis in order to support the further safeguards that have been introduced in the effort to prevent danger to public health from persons travelling to Wales from outside the common travel area.”*

### **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**

We note the Welsh Government’s justification for any potential interference with human rights. In particular, we note the following paragraph in the Explanatory Memorandum:

*“The amendments contained in these Regulations do not change the engagement under the Public Health Information Regulations or the Operator Liability Regulations of individual rights under the Human Rights Act 1998 and the European Convention on Human Rights. The Government considers that the amendments contained in these Regulations are justified for the purpose of preventing the spreading of infectious diseases and/or the interference is permitted on the basis that it is in pursuit of a legitimate aim, namely of protecting public health, and are proportionate.”*

### **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**

We note there has been no formal consultation on these Regulations. In particular, we note the following paragraph in the Explanatory Memorandum:

*“Given the serious and imminent threat arising from coronavirus and the need for an urgent public health response, there has been no public consultation in relation to these Regulations.”*



#### **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**

We note there has been no formal regulatory impact assessment in relation to these Regulations. In particular, we note the following paragraphs in the Explanatory Memorandum:

*"There has been no regulatory impact assessment in relation to these Regulations due to the need to put them in place urgently to deal with a serious and imminent threat to public health."*

#### **Welsh Government response**

A Welsh Government response is not required.

#### **Legal Advisers**

**Legislation, Justice and Constitution Committee**

**24 February 2021**



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W E L S H S T A T U T O R Y  
I N S T R U M E N T S

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**2021 No. 171 (W. 39)**

**PUBLIC HEALTH, WALES**

**The Health Protection  
(Coronavirus, Operator Liability  
and Public Health Information to  
Travellers) (Wales) (Amendment)  
Regulations 2021**

**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

The Health Protection (Coronavirus, Public Health Information for Persons Travelling to Wales etc.) Regulations 2020 (S.I. 2020/595 (W. 136)) ("the Public Health Information Regulations") impose requirements on operators of international passenger services coming from outside the common travel area to an airport, heliport or seaport in Wales ("operators"), to provide passengers with specified public health information.

These Regulations amend the Public Health Information Regulations to update the information that operators are required to provide to passengers who arrive in Wales. The updated information that operators are required to provide includes information about the requirement under regulation 6B of the Health Protection (Coronavirus, International Travel) (Wales) Regulations 2020 (S.I. 2020/574 (W. 132)) ("the International Travel Regulations"), to arrange post arrival testing (Regulation 2).

These Regulations also amend the Health Protection (Coronavirus, International Travel, Pre-Departure Testing and Operator Liability) (Wales) (Amendment) Regulations 2021 (S.I. 2021/48 (W. 11)) ("the Operator Liability Regulations") in consequence of amendments made to the International Travel Regulations on 15 February 2021.

Regulation 3 amends the Operator Liability Regulations so as to—

- (a) require operators to ensure that passengers who arrive in Wales from outside the common

travel area on international passenger services have made arrangements for post arrival testing in accordance with regulation 6B of the International Travel Regulations;

- (b) require persons operating transport services (which includes flights by means of private aircraft) for passengers travelling to Wales from outside the common travel area, to take reasonable steps to ensure that passengers who have been in a country or territory listed in Schedule 3A to the International Travel Regulations (commonly referred to as the red list countries) do not arrive into a port in Wales, unless they are persons to whom regulation 12E(2) and (3) of those Regulations applies (i.e. exempted persons);
- (c) create offences for the breach of those requirements; and
- (d) make consequential amendments.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, a regulatory impact assessment has not been prepared as to the likely cost and benefit of complying with these Regulations

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W E L S H S T A T U T O R Y  
I N S T R U M E N T S

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**2021 No. 171 (W. 39)**

**PUBLIC HEALTH, WALES**

**The Health Protection  
(Coronavirus, Operator Liability  
and Public Health Information to  
Travellers) (Wales) (Amendment)  
Regulations 2021**

*Made* at 2.55 p.m. on 19 February 2021

*Laid* before *Senedd*  
*Cymru* at 5.30 p.m. on 19 February 2021

*Coming* into  
*force* at 4.00 a.m. on 20 February 2021

The Welsh Ministers, in exercise of the powers conferred on them by sections 45B, 45F(2) and 45P(2) of the Public Health (Control of Disease) Act 1984(1), make the following Regulations.

**Title, coming into force and interpretation**

1.—(1) The title of these Regulations is the Health Protection (Coronavirus, Operator Liability and Public Health Information to Travellers) (Wales) (Amendment) Regulations 2021.

(2) These Regulations come into force at 4.00 a.m. on 20 February 2021.

(3) In these Regulations—

“the Public Health Information Regulations” (“*y Rheoliadau Gwybodaeth Iechyd y Cyhoedd*”) means the Health Protection (Coronavirus, Public

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(1) 1984 c.22. Part 2A was inserted by section 129 of the Health and Social Care Act 2008 (c. 14). The function of making regulations under Part 2A is conferred on “the appropriate Minister”. Under section 45T(6) of the 1984 Act the appropriate Minister as respects Wales, is the Welsh Ministers.

Health Information for Persons Travelling to Wales etc.) Regulations 2020(1);

“the Operator Liability Regulations” (“*y Rheoliadau Atebolrwydd Gweithredwyr*”) means the Health Protection (Coronavirus, International Travel, Pre-Departure Testing and Operator Liability) (Wales) (Amendment) Regulations 2021(2).

### **Amendment of the Public Health Information Regulations**

**2.**—(1) The Public Health Information Regulations are amended as follows.

(2) In regulation 3 (provision of information before booking and at check-in)—

- (a) in paragraph (2)(a)(v), omit “and”;
- (b) in paragraph (2)(a)(vi), for “;” substitute “, and”;
- (c) after sub-paragraph (2)(a)(vi) insert—
  - “(vii) [www.gov.uk/travel-quarantine-and-testing](http://www.gov.uk/travel-quarantine-and-testing) (referred to in Part 1 of the Schedule);”;
- (d) in paragraph (2)(b)(v), omit “and”;
- (e) in paragraph (2)(b)(vi), for “;” substitute “, and”;
- (f) after paragraph (2)(b)(vi) insert—
  - “(vii) [www.gov.uk/travel-quarantine-and-testing](http://www.gov.uk/travel-quarantine-and-testing) (referred to in Part 1 of the Schedule);”;
- (g) in paragraph (2)(c)(ii)(bb), omit “and”;
- (h) for paragraph (2)(c)(ii)(cc) substitute—
  - “(cc) the requirement to arrange tests before arriving in Wales in accordance with regulation 6B of the International Travel Regulations, and
  - (dd) the requirement to isolate;”.

(3) In regulation 3A (provision of information prior to departure)—

- (a) in paragraph (4)(a)(iv), omit “and”;
- (b) in paragraph (4)(a)(v), for “;” substitute “, and”;
- (c) after paragraph (4)(a)(v), insert—

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(1) S.I. 2020/595 (W. 136) amended by S.I. 2020/714 (W.160), S.I. 2020/1118 (W.253), S.I. 2020/1521 (W. 325) and S.I. 2021/72 (W. 18).

(2) S.I. 2021/48 (W. 11) amended by S.I. 2021/72 (W. 18).

“(vi) informs P of the requirement to arrange tests before arriving in Wales in accordance with regulation 6B of the International Travel Regulations;”;

- (d) in paragraph (4)(b)(v), omit “and”;
- (e) in paragraph (4)(b)(vi), for “;” substitute “, and”;
- (f) after paragraph (4)(b)(vi) insert—

“(vii) [www.gov.uk/travel-quarantine-and-testing](http://www.gov.uk/travel-quarantine-and-testing) (referred to in Part 1 of the Schedule);”.

(4) In Part 1 of the Schedule (information to be provided for the purposes of regulations 3(2)(a)(i), (3)(2)(b)(i), 3(2)(c)(i), 3A(4)(b)(i) and 3A(4)(c))—

- (a) for “3) All arrivals must self-isolate for 10 days unless exempt. Check the list of exempt countries immediately before travel and the list of work-related exemptions if travelling for work.” substitute—

“3) All arrivals must quarantine for 10 days unless exempt. If you have travelled through a red list country in the last 10 days, you must have a valid Managed Quarantine Facility booked prior to departure. For information please visit: [www.gov.uk/travel-quarantine-and-testing](http://www.gov.uk/travel-quarantine-and-testing). Check the list of exempt countries immediately before travel and the list of work-related exemptions if travelling for work.

4) Everyone is required to take a coronavirus test on days 2 and 8 of their quarantine. You must have this booked prior to departure. For information please visit: <https://gov.wales/coronavirus-covid-19-testing-people-travelling-wales>.”;

- (b) for “4) It” substitute “5) It”;
- (c) for “5) If you self-isolate” substitute “5) If you quarantine”.

(5) In Part 2 of the Schedule (statement to be provided for the purposes of regulation 4)—

- (a) in paragraph (a) (Welsh language version), from the words “Cyn cael mynediad i'r Deyrnas Unedig” to “Ewch i [gov.uk](http://gov.uk) i gael rhagor o wybodaeth.” substitute—

“Cyn dod i'r DU, rhaid ichi lenwi ffurflen lleoli teithwyr ar lein, ni waeth o ble yr ydych yn cyrraedd. Rhaid ichi hefyd fynd i gwarantín am y 10 niwrnod cyntaf ar ôl ichi

gyrraedd, oni bai eich bod mewn categori esempt. Mae hyn er mwyn eich gwarchod chi ac eraill. Mae hyn yn cynnwys archebu cwarantín mewn gwesty os ydych wedi teithio drwy wlad sydd ar y rhestr goch yn ystod y 10 niwrnod diwethaf, neu archebu profion cwarantín yn y cartref os ydych wedi teithio mewn unrhyw wlad arall.

Ewch i [gov.uk/coronavirus](http://gov.uk/coronavirus) i gael rhagor o wybodaeth.”

- (b) in paragraph (b) (English language version), from the words “Before entering the UK” to “Visit [gov.uk](http://gov.uk) for more information.” substitute—

“Before entering the UK, you must complete a passenger locator form online, regardless of where you are arriving from. You must also quarantine for the first 10 days after you arrive, unless you are in an exempt category. This is to protect yourself and others. This includes booking hotel quarantine if you have travelled through a red list country in the last 10 days, or booking home quarantine tests if you have travelled in any other country.

Visit [gov.uk/coronavirus](http://gov.uk/coronavirus) for more information.”

### **Amendment of the Operator Liability Regulations**

**3.—**(1) Part 3 of the Operator Liability Regulations (operator liability in respect of arrivals) is amended as follows.

(2) In regulation 4 (interpretation),

- (a) in the definition of “authorised person”, for “means” substitute “, other than in regulation 5B, means”;
- (b) in the appropriate place, insert ““notification of post arrival testing arrangements” (“*ystyr “hysbysu am drefniadau profion ar ôl cyrraedd*”) means notification of the arrangements made in accordance with regulation 6B of the International Travel Regulations for a passenger to undertake tests for the detection of coronavirus”;
- (c) in the definition of “operator”, for “means” substitute “, other than in regulation 5B, means”;
- (d) for the definition of “relevant passenger”, substitute—

“relevant passenger” (*“teithiwr perthnasol”*) means—

- (a) a passenger who, without reasonable excuse fails—
  - (i) to produce a valid notification of a negative result from a qualifying test when requested to do so by an immigration officer pursuant to regulation 6A(2) of the International Travel Regulations, or
  - (ii) to provide a test reference number or other evidence that tests for the detection of coronavirus have been arranged in respect of the passenger to an immigration officer pursuant to regulation 6B(8) of the International Travel Regulations, or
- (b) arrives in a port in Wales in contravention of regulation 12E(1) of the International Travel Regulations;”.

(3) After regulation 5 (requirement to ensure passengers possess notification of a negative test result), insert—

**“Requirement to ensure passengers possess notification of post arrival testing arrangements**

**5A.**—(1) An operator must ensure that a passenger who arrives in Wales on an international passenger service is in possession of a notification of post arrival testing arrangements.

(2) Paragraph (1) does not apply in relation to a passenger—

- (a) whom the operator, or a person acting on behalf of the operator, reasonably believes is not required to comply with the requirement in regulation 6B of the International Travel Regulations (requirement to arrange tests before arriving in Wales) or has a reasonable excuse for failing to comply with that requirement; or
- (b) who is a child, travelling without a responsible individual.

**Requirement to ensure that certain passengers do not arrive at ports in Wales**

**5B.**—(1) An operator must take all reasonable steps to ensure that a Schedule 3A passenger

does not arrive on a relevant transport service to a port in Wales.

(2) Paragraph (1) does not apply where—

- (a) it is necessary for a pilot in command of an aircraft to land the aircraft by means of which the transport service is provided in Wales to secure—
  - (i) the safety or security of the aircraft, or
  - (ii) the safety of any person aboard the aircraft;
- (b) an aircraft is an air ambulance and it lands in Wales for the purposes of transporting a person for medical treatment;
- (c) the pilot in command of an aircraft is instructed by an authorised person to land the aircraft in Wales.

(3) In this regulation—

“authorised person” (*“person awdurdodedig”*) means—

- (a) a constable,
- (b) the Civil Aviation Authority,
- (c) the Secretary of State, or
- (d) a person authorised by the Civil Aviation Authority or the Secretary of State under the Air Navigation Order 2016<sup>(1)</sup>;

“operator” (*“gweithredwr”*), in relation to a transport service provided by means of an aircraft, has the meaning given in article 4 of the Air Navigation Order 2016;

“pilot in command” (*“peilot sydd â rheolaeth”*) and “private aircraft” (*“awyren breifat”*) have the meaning given in the Air Navigation Order 2016 (see Schedule 1 to that Order);

“relevant transport service” (*“gwasanaeth trafndiaeth perthnasol”*), in relation to an operator, means a transport service provided by or on behalf of that operator;

“Schedule 3A passenger” (*“teithiwr Atodlen 3A”*) means a person who has been in a country or territory listed in Schedule 3A to the International Travel Regulations and who is not a person to whom regulation 12E(2) and (3) of those regulations applies;

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(1) S.I. 2016/765; to which there are amendments not relevant to these regulations.

“transport service” (*“gwasanaeth trafnidiaeth”*) means—

- (a) an international passenger service,
- (b) a service (other than an international passenger service) which—
  - (i) is carrying passengers travelling to Wales from outside the common travel area (whether for payment or valuable consideration or otherwise), and
  - (ii) is provided by means of an aircraft (other than a private aircraft), or
- (c) a flight which —
  - (i) is carrying passengers travelling to Wales from outside the common travel area (whether for payment or valuable consideration or otherwise), and
  - (ii) is provided by means of a private aircraft.”

(4) In regulation 6 (offences),—

- (a) for in paragraph (1), substitute

“(1) An operator who fails to comply with a requirement in—

- (a) regulation 5(1),
  - (b) regulation 5A(1), or
  - (c) regulation 5B(1),
- commits an offence.”;

- (b) in paragraph (3), for “(1)” substitute “(1)(a)”;

- (c) after paragraph (3), insert—

“(4) In relation to an offence in paragraph (1)(b), it is a defence for an operator to show that the operator, or a person acting on behalf of the operator, could not reasonably have been expected to know that a notification of post arrival testing arrangements provided in respect of a relevant passenger was false or incorrect in any respect.

(5) In relation to an offence in paragraph (1)(c), it is a defence for an operator to show that the operator, or a person acting on behalf of the operator, could not have reasonably been expected to know that a relevant passenger was a Schedule 3A passenger.”

(5) In regulation 9 (power to use and disclose information), in paragraph (2)(a), for “6A” substitute “6A, 6B or 12E(1)”.

(6) In regulation 10 (review), for “regulation 5” substitute “regulations 5, 5A and 5B”.

*Vaughan Gething*  
Minister for Health and Social Services, one of the  
Welsh Ministers  
At 2.55 p.m. on 19 February 2021

## **Explanatory Memorandum to the Health Protection (Coronavirus, Operator Liability and Public Health Information to Travellers) (Wales) (Amendment) Regulations 2021**

This Explanatory Memorandum has been prepared by the Welsh Government and is laid before Senedd Cymru in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

### **Minister's Declaration**

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Health Protection (Coronavirus, International Travel, Operator Liability and Public Health Information to Travellers) (Wales) (Amendment) Regulations 2021.

**Vaughan Gething**  
**Minister for Health and Social Services**

19 February 2021

## **1. Description**

These Regulations make amendments to the:

- Health Protection (Coronavirus, Public Health Information for Persons Travelling to Wales etc.) Regulations 2020 (“the Public Health Information Regulations”); and
- the Health Protection (Coronavirus, International Travel, Pre-Departure Testing and Operator Liability) (Wales) (Amendment) Regulations 2021 (“the Operator Liability Regulations”).

## **2. Matters of special interest to the Legislation, Justice and Constitution Committee**

### *Coming into force*

In accordance with section 11A(4) of the Statutory Instruments Act 1946, the Llywydd has been informed that the Regulations will come into force less than 21 days after the instrument has been laid. This was necessary in view of the need to act swiftly and on a four nations basis in order to support the further safeguards that have been introduced in the effort to prevent danger to public health from persons travelling to Wales from outside the common travel area.

The amendments contained in these Regulations do not change the engagement under the Public Health Information Regulations or the Operator Liability Regulations of individual rights under the Human Rights Act 1998 and the European Convention on Human Rights. The Government considers that the amendments contained in these Regulations are justified for the purpose of preventing the spreading of infectious diseases and/or the interference is permitted on the basis that it is in pursuit of a legitimate aim, namely of protecting public health, and are proportionate.

## **3. Legislative background**

The Public Health (Control of Disease) Act 1984 (“the 1984 Act”), and regulations made under it, provide a legislative framework for health protection in England and Wales. These Regulations are made in reliance on the powers in sections 45B, 45F(2) and 45P(2) of the 1984 Act. The Explanatory Memorandum to the Public Health Information Regulations provides further information on these powers.

The Regulations are required as a consequence of the Health Protection (Coronavirus, International Travel) (Wales) (Amendment) (No. 3) Regulations 2021 which were made on 13 February 2021 and came into force on 15 February 2021. Those regulations were made by the Minister for Health and Social Services and amended the Health Protection (Coronavirus, International Travel) (Wales) Regulations 2020 (the “International Travel Regulations”) to, amongst other things:

- a) require passengers to book and pay for coronavirus tests to be taken on day 2 and day 8 after arriving in Wales, if they have travelled to Wales from non-exempt countries which are outside the common travel area; and
- b) prohibit persons from entering Wales from outside the common travel area via a port in Wales if they have been in a red list country (i.e. a country or territory

listed in Schedule 3A to the International Travel Regulations) in the past 10 days, unless they are exempt persons as prescribed in the International Travel Regulations

#### **4. Purpose and intended effect of the legislation**

The purpose of these Regulations is to amend:

- the Public Health Information Regulations which were made on 15 June 2020 and came into force on 17 June 2020; and
- the Operator Liability Regulations which were made on the 15 January 2021 and came into force on 18 February 2021.

Amendments to the Public Health Information Regulations and the Operator Liability Regulations are required to place corresponding and complimentary duties on operators as a consequence of the additional restrictions placed on passengers in the International Travel Regulations (as amended).

##### *Public Health Information Regulations*

These regulations amend the Public Health Information Regulations to require operators to inform passengers of the new duty to arrange post arrival tests in accordance with the International Travel Regulations. They must do this at the pre-departure stages, namely at booking, check-in and 24 to 48 hours before travelling. In accordance with the amendments, operators will also provide information in relation to the Managed Quarantine requirements that apply elsewhere in the UK<sup>1</sup>. Finally, the Regulations amend the on-board announcement that is made during journeys arriving into Wales from outside the common travel area so that passengers are provided with up to date information on the public health restrictions that apply in Wales.

##### *The Operator Liability Regulations*

The Operator Liability Regulations are amended so that:

1. Operators will be required to check that persons arriving into Wales from outside the common travel area on a commercial transport service via a seaport, heliport or airport in Wales have, before they arrive in Wales, made arrangements to take coronavirus tests on days 2 and 8 after their arrival in Wales.
2. Operators are required to take reasonable steps to ensure that persons, who are not exempt persons, do not arrive on a transport service to a port in Wales from

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<sup>1</sup> The Health Protection (Coronavirus, International Travel) (England) (Amendment) (No. 7) Regulations 2021 amended the Health Protection (Coronavirus, International Travel) (England) Regulations 2020 so as to impose a managed quarantine requirement for travellers arriving in England from countries listed in Schedule B1 (known commonly as the red list countries). This requires such travellers to obtain a quarantine package comprising a booking for 10 days in accommodation designated by the Secretary of State, transportation to the accommodation and for tests for the coronavirus on day 2 and day 8 after the traveller's arrival in England. There is currently no managed quarantine in Wales as travellers who have been in red list countries in the previous 10 days are currently prohibited from entering Wales via a port in Wales.

outside the common travel area if they have been in a red list country in the past 10 days. For the purpose of this obligation transport services include not only commercial transport services but also private flights.

It will be an offence for an operator to be in breach of either of these new obligations unless they have a defence as set out in the Operator Liability Regulations. A fixed penalty notice can be offered in lieu of prosecution for these offences, and the amount of the fixed penalty notice is set at £1,000 for each separate offence.

### *Coming into force*

The changes made by these Regulations will come into force at 4.00am on 20 February 2021.

None of the amendments made by these Regulations will affect the requirements under the Regulations being amended, for persons arriving into the common travel area before the coming into force of these amendments.

The Welsh Ministers consider that these amendments are proportionate to what they seek to achieve, which is to respond to a serious and imminent threat to public health.

## **5. Consultation**

Given the serious and imminent threat arising from coronavirus and the need for an urgent public health response, there has been no public consultation in relation to these Regulations.

## **6. Regulatory Impact Assessment (RIA)**

There has been no regulatory impact assessment in relation to these Regulations due to the need to put them in place urgently to deal with a serious and imminent threat to public health.

Rebecca Evans AS/MS  
Y Gweinidog Cyllid a'r Trefnydd  
Minister for Finance and Trefnydd



Llywodraeth Cymru  
Welsh Government

Ein cyf/Our ref: MA-VG-0755-21

Elin Jones, MS  
Llywydd  
Senedd Cymru

19 February 2021

Dear Llywydd,

**The Health Protection (Coronavirus, Operator Liability and Public Health Information to Travellers) (Wales) (Amendment) Regulations 2021**

In accordance with section 11A(4) of the Statutory Instruments Act 1946 I am notifying you that this Statutory Instrument will come into force less than 21 days after it has been laid. The Explanatory Memorandum that accompanies the Regulations is attached for your information.

The Regulations made today amend the Health Protection (Coronavirus, Public Health Information for Persons Travelling to Wales etc.) Regulations 2020; and the Health Protection (Coronavirus, International Travel, Pre-Departure Testing and Operator Liability) (Wales) (Amendment) Regulations 2021.

Not adhering to the 21 day convention allows these Regulations to come into force at the earliest opportunity. This was necessary in view of the need to act swiftly and on a four nations basis in order to support the further safeguards that have been introduced in the effort to prevent danger to public health from persons travelling to Wales from outside the common travel area.

Due to the immediacy of the Regulations they have not been subject to consultation.

I am copying this letter to Mick Antoniw MS as Chair of the Legislation, Justice and Constitution Committee, Siwan Davies, Director of Senedd Business, Sian Wilkins, Head of Chamber and Committee Services and Julian Luke, Head of Policy and Legislation Committee Service.

Yours sincerely,

**Rebecca Evans AS/MS**  
Y Gweinidog Cyllid a'r Trefnydd  
Minister for Finance and Trefnydd

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:  
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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.



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**WRITTEN STATEMENT**  
**BY**  
**THE WELSH GOVERNMENT**

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**TITLE**            **The Health Protection (Coronavirus, Operator Liability and Public Health Information to Travellers) (Wales) (Amendment) Regulations 2021**

**DATE**            **19 February 2021**

**BY**                **Vaughan Gething, Minister for Health and Social Services**

Regulations relating to International Travel

Members will be aware that the Welsh Government made provision in the Health Protection (Coronavirus, International Travel) (Wales) (Amendment) (No.3) Regulations 2021 which amended the Health Protection (Coronavirus, International Travel) (Wales) Regulations 2020 (“the International Travel Regulations”).

The changes to the International Travel Regulations mean that passengers are now required to book and pay for coronavirus tests to be taken on day 2 and day 8 after arriving in Wales, if they have travelled from non-exempt countries which are outside the common travel area. Persons are also now prohibited from entering Wales from outside the common travel area if they have visited a red list country in the last 10 days, unless they are exempt persons as prescribed in the International Travel Regulations. These additional restrictions came into force on 15 February 2021.

Today, I have laid the Health Protection (Coronavirus, Operator Liability and Public Health Information to Travellers) (Wales) (Amendment) Regulations 2021. These Regulations are required to implement corresponding duties on operators. They will amend the Health Protection (Coronavirus, Public Health Information for Persons Travelling to Wales etc.) Regulations 2020 and the Health Protection (Coronavirus, International Travel, Pre-Departure Testing and Operator Liability) (Wales) (Amendment) Regulations.

Regulations for Public Health Information

The Health Protection (Coronavirus, Public Health Information for Persons Travelling to Wales etc.) Regulations 2020 (“the Public Health Information Regulations”) require operators of international passenger services coming from outside the common travel area to an airport, heliport or seaport in Wales to provide passengers using those

services with prescribed public health information. This information relates to measures being taken in the United Kingdom in response to the incidence and spread of coronavirus, including the measures required by the International Travel Regulations.

The Regulations laid today amend the Public Health Information Regulations to require operators to inform passengers before they travel of the new duty to arrange post arrival tests in accordance with the International Travel Regulations. In accordance with the amendments, operators will also provide information in relation to the Managed Quarantine requirements that apply elsewhere in the UK. This additional information will have be provided to passengers when they make a booking, when they check-in and 24 to 48 hours prior to travelling. The regulations laid to today also amend the on-board announcement that is made during journeys into Wales so that passengers are provided with up to date information on the public health restrictions that apply in Wales.

### The Operator Liability Regulations

The Health Protection (Coronavirus, International Travel, Pre-Departure Testing and Operator Liability) (Wales) (Amendment) Regulations 2021 currently place an obligation on operators of international passenger services coming to Wales from outside the common travel area to ensure that passengers travelling on those services are in possession of a negative coronavirus test result.

The Regulations laid today amend the Operator Liability Regulations by imposing additional obligations on operators. Operators will now also be required to check that persons arriving into Wales from outside the Common Travel Area on a commercial transport service via a seaport, heliport or airport in Wales have, before they arrive in Wales, made arrangements to take coronavirus tests on days 2 and 8 after their arrival in Wales.

Operators will also now be required to take reasonable steps to ensure that persons, who are not exempt persons, do not arrive on a transport service to a port in Wales from outside the common travel area if they have been in a red list country in the past 10 days. A red list country is a country or territory listed in Schedule 3A to the International Travel Regulations. For the purpose of this obligation, transport services include not only international passenger services but also private flights.

It will be an offence for an operator to be in breach of either of these new obligations unless they have a defence as set out in the regulations. A fixed penalty notice can be offered in lieu of prosecution for these offences, and the amount of the fixed penalty notice is set at £1,000 for each separate offence.

The amendments being made by the Regulations being laid today will come into force at 4.00am on the 20 February 2021.

# Agenda Item 3.4

## **SL(5)744 – The Local Government and Elections (Wales) Act 2021 (Consequential Amendments) Regulations 2021**

### **Background and Purpose**

These Regulations make consequential amendments to primary and secondary legislation arising from the commencement on 1 April 2021 of the provisions in Chapter 1 of Part 6 of the Local Government and Elections (Wales) Act 2021 (“the 2021 Act”), which relate to the performance and governance of principal councils (defined in section 171 of the 2021 Act as a council for a county in Wales or a council for a county borough in Wales), and from the disapplication of the Local Government (Wales) Measure 2009 (“the 2009 Measure”) to principal councils and National Park authorities for a National Park in Wales. The amendments in these Regulations also facilitate the future repeal of the 2009 Measure, which is provided for by section 170 of the 2021 Act.

Under the 2009 Measure, principal councils (referred to in the 2009 Measure as county councils and county borough councils), National Park authorities and fire and rescue authorities were known as “Welsh improvement authorities”. That term was subsequently used in some legislation as a way of referring to these authorities.

The 2009 Measure is disapplied to principal councils by section 113 and to National Park authorities by section 169 of the 2021 Act, which the Explanatory Memorandum to the Regulations states will be brought into force on 1 April 2021 by the Local Government and Elections (Wales) Act 2021 (Commencement No. 2 and Saving Provisions) Order 2021.

Chapter 1 of Part 6 of the 2021 Act establishes a new regime for assessing the performance and governance of principal councils in Wales, replacing the regime which applied to those councils under Part 1 of the 2009 Measure. The regime in Chapter 1 of Part 6 of the 2021 Act does not apply to fire and rescue authorities or National Park authorities.

The amendments contained in these regulations are necessary in consequence of, and for giving full effect to, Chapter 1 of Part 6 and section 169 of the 2021 Act. These amendments are also necessary to pave the way for the repeal of the 2009 Measure as provided for in section 170 of the 2021 Act.

The amendments within these Regulations:

- a) amend enactments reliant upon the operation of the 2009 Measure;
- b) amend enactments to remove references to Part 1 of the 2009 Measure and, in some cases, replace them with reference to Part 6 of the 2021 Act;
- c) amend enactments to remove reference to “Welsh improvement authority” and, in some cases, replace those references with a reference to principal councils and/or fire and rescue authorities and/or National Parks authorities.



## 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

No points are identified for reporting under Standing Order 21.2 in respect of this instrument.

## Merits Scrutiny

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

### **1. 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(3) inserts wording into section 33(3)(b) of the Local Government Act 1999 which will, amongst other things, permit grants to be made by the Welsh Ministers to the Wales Audit Office in respect of expenditure incurred or to be incurred by the Auditor General for Wales under Chapter 3 of Part 6 of the 2021 Act. Chapter 3 of Part 6 of the 2021 Act is not yet in force. The Explanatory Memorandum to the Regulations refers only to Chapter 1 of Part 6 being brought into force on 1 April 2021 by the Local Government and Elections (Wales) Act 2021 (Commencement No. 2 and Saving Provisions) Order 2021 (“the 2021 Order”). In order to confirm the effect of regulation 4(3), the Welsh Government is asked to confirm when and how Chapter 3 of Part 6 of the 2021 Act is to be brought into force.

### **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 to the Regulations refers to the 2021 Order which is to bring into force Chapter 1 of Part 6 of the 2021 Act (performance and governance of principal councils) and section 169 of the 2021 Act (disapplying the 2009 Measure to National Park Authorities). The Committee notes that at the time of writing the 2021 Order has not yet been made and invites the Welsh Government to confirm when this is expected to occur.

## Welsh Government response

A Welsh Government response is required.

### **Legal Advisers**

**Legislation, Justice and Constitution Committee**

**23 February 2021**



*Draft Regulations laid before Senedd Cymru under section 174 of the Local Government and Elections (Wales) Act 2021, for approval by resolution of Senedd Cymru.*

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DRAFT WELSH STATUTORY  
INSTRUMENTS

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**2021 No. (W.)**

**LOCAL GOVERNMENT,  
WALES**

**The Local Government and  
Elections (Wales) Act 2021  
(Consequential Amendments)  
Regulations 2021**

**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations make amendments which are consequential on Chapter 1 of Part 6 of the Local Government and Elections (Wales) Act 2021 (asc 1) (“the 2021 Act”), and on the disapplication and repeal of the Local Government (Wales) Measure 2009 (nawm 2) (“the 2009 Measure”) by the 2021 Act.

Chapter 1 of Part 6 of the 2021 Act establishes a new system for assessing the performance and governance of county councils and county borough councils in Wales, replacing the system which applied to those councils under Part 1 of the 2009 Measure. The system in Part 1 of the 2009 Measure also applied to National Park authorities in Wales and fire and rescue authorities in Wales (and will continue to apply to fire and rescue authorities until provisions in the 2021 Act disapplying it in relation to those authorities come into force). The system in Chapter 1 of Part 6 of the 2021 Act does not apply to fire and rescue authorities or National Park authorities.

County councils and county borough councils, National Park authorities and fire and rescue authorities were known under the 2009 Measure as “Welsh improvement authorities”. That term was subsequently used in some legislation as a way of referring to county councils, county borough councils, National Park authorities and fire and rescue authorities.

The 2009 Measure is disapplied in relation to county councils and county borough councils by section 113 of the 2021 Act. It is disapplied in relation to fire and rescue authorities by section 168 of that Act. It is disapplied in relation to National Park authorities by section 169 of that Act. The 2009 Measure is repealed in full by section 170 of that Act.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, it was not considered necessary to carry out a regulatory impact assessment as to the likely costs and benefits of complying with these Regulations.

*Draft Regulations laid before Senedd Cymru under section 174 of the Local Government and Elections (Wales) Act 2021, for approval by resolution of Senedd Cymru.*

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DRAFT WELSH STATUTORY  
INSTRUMENTS

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**2021 No. (W.)**

**LOCAL GOVERNMENT,  
WALES**

**The Local Government and  
Elections (Wales) Act 2021  
(Consequential Amendments)  
Regulations 2021**

*Made*

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*Coming into force*

*1 April 2021*

The Welsh Ministers, in exercise of the powers conferred by section 173 of the Local Government and Elections (Wales) Act 2021<sup>(1)</sup>, make the following Regulations.

A draft of these Regulations has been approved by a resolution of Senedd Cymru in accordance with section 174(4) and (5)(t) of that Act.

**Title and commencement**

**1.**—(1) The title of these Regulations is the Local Government and Elections (Wales) Act 2021 (Consequential Amendments) Regulations 2021.

(2) These Regulations come into force on 1 April 2021.

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<sup>(1)</sup> 2021 asc 1.

## Local Government, Planning and Land Act 1980

2. In the Local Government, Planning and Land Act 1980(1), in section 2 (duty of authorities to publish information), in subsection (1) —

(a) after paragraph (h) insert—

“(ha) a National Park authority for a National Park in Wales;”;

(b) omit “or a Welsh improvement authority for the purposes of Part 1 of the Local Government (Wales) Measure 2009”(2).

## Social Security Administration Act 1992

3.—(1) The Social Security Administration Act 1992(3) is amended in accordance with paragraphs (2) to (4).

(2) In section 139A (persons to report on administration of housing benefit), in subsection (2), in paragraph (b) for “or Part 1 of the Local Government (Wales) Measure 2009”(4) substitute “or the performance requirements set out in section 89 of the Local Government and Elections (Wales) Act 2021”.

(3) In section 139C (reports), in subsection (1), in paragraph (b) for “or Part 1 of the Local Government (Wales) Measure 2009”(5) substitute “or the performance requirements set out in section 89 of the Local Government and Elections (Wales) Act 2021”.

(4) In section 139D (directions), in subsection (1), for paragraph (ca)(6) substitute—

“(ca) a copy of a report has been sent to a local authority under section 95(7)(b)(i) of the Local Government and Elections (Wales) Act 2021 and to the Secretary of State under subsection (9) of that section.”

(5) Paragraphs (1) to (4) cease to have effect when the provision in Part 1 of Schedule 14 to the Welfare

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(1) 1980 c. 65.

(2) The words to be omitted were inserted by paragraph 2 of Schedule 1 to the Local Government (Wales) Measure 2009 (nawm 2) (“the 2009 Measure”). There are other amendments to the subsection not relevant to this amendment.

(3) 1992 c. 5.

(4) The words to be omitted were inserted by paragraph 4 of Schedule 1 to the 2009 Measure. There are other amendments to the subsection not relevant to this amendment.

(5) The words to be omitted were inserted by paragraph 5 of Schedule 1 to the 2009 Measure. There are other amendments to the subsection not relevant to this amendment.

(6) Paragraph (ca) was originally inserted by section 39(3) of the Welfare Reform Act 2007 (c. 5) and was substituted by paragraph 6 of Schedule 1 to the 2009 Measure.

Reform Act 2012<sup>(1)</sup> (repeals relating to abolition of benefits superseded by universal credit) which repeals sections 139A, 139C and 139D of the Social Security Administration Act 1992 comes fully into force.

### **Local Government Act 1999**

**4.**—(1) The Local Government Act 1999<sup>(2)</sup> is amended as follows.

(2) In section 19<sup>(3)</sup> (contracts: exclusion of non-commercial considerations), in subsection (5)—

(a) for paragraph (aa)<sup>(4)</sup> substitute—

“(aa) a county council or county borough council in Wales,”;

(b) after paragraph (aa) insert—

“(ab) a National Park authority for a National Park in Wales,

(ac) a fire and rescue authority in Wales, constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies.”.

(3) In section 33 (finance), in subsection (3)<sup>(5)</sup>, in paragraph (b), at the end insert “or Chapter 1 or 3 of Part 6 of the Local Government and Elections (Wales) Act 2021”.

### **Local Government Act 2003**

**5.**—(1) The Local Government Act 2003<sup>(6)</sup> is amended as follows.

(2) In section 36 (grants in connection with designation for service excellence)—

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(1) 2012 c. 5. The provision in Part 1 of Schedule 14 to the Welfare Reform Act 2012 which repeals sections 138 to 140G of the Social Security Administration Act 1992, in so far as that repealing provision relates to the abolition of council tax benefit, was brought into force on 1 April 2013 by article 8(c) of and Schedule 4 to the Welfare Reform Act 2012 (Commencement No.8 and Savings and Transitional Provisions) Order 2013 (S.I. 2013/358).

(2) 1999 c. 27.

(3) Section 19 was placed under a new cross-heading “Exclusion of non-commercial considerations” by paragraph 2 of Schedule 7 to the Local Government and Public Involvement in Health Act 2007 (c. 28), which also inserted subsection (5) into section 19.

(4) Paragraph (aa) was inserted by paragraph 18 of Schedule 1 to the 2009 Measure.

(5) Subsection (3) was amended by paragraph 17 of Schedule 1 to the Public Audit (Wales) Act 2004 (c. 23) and section 36 of the 2009 Measure. Paragraph (b) of subsection (3) was substituted by paragraph 16 of Schedule 4 to the Public Audit (Wales) Act 2013 (anaw 3). There are other amendments to the subsection not relevant to these regulations.

(6) 2003 c. 26.

(a) in subsection (1) for “or to a Welsh improvement authority within the meaning of section 1 of the Local Government (Wales) Measure 2009”(1) substitute “or to a relevant Welsh authority”;

(b) after subsection (3) insert—

“(4) In subsection (1) “relevant Welsh authority” means—

(a) a county council or county borough council in Wales;

(b) a National Park authority for a National Park in Wales;

(c) a fire and rescue authority in Wales, constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies.”

(3) In section 36A(2) (grants by Ministers of the Crown in respect of best value authorities etc.)—

(a) in subsection (1) for “or a Welsh improvement authority or Welsh improvement authorities”(3) substitute “or a relevant Welsh authority or relevant Welsh authorities”;

(b) in subsection (2), in paragraph (b) for “Welsh improvement authority”(4) substitute “relevant Welsh authority”;

(c) in subsection (3) for “or a Welsh improvement authority”(5) substitute “or a relevant Welsh authority”;

(d) in subsection (7) for the definition of “Welsh improvement authority”(6) substitute—

““relevant Welsh authority” means—

(a) a county council or county borough council in Wales;

(b) a National Park authority for a National Park in Wales;

(c) a fire and rescue authority in Wales, constituted by a scheme under section

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(1) The words to be omitted were inserted by paragraph 24 of Schedule 1 to the 2009 Measure. There are other amendments to subsection (1) not relevant to these regulations.

(2) Section 36A was added by section 143(1) of the Local Government and Public Involvement in Health Act 2007.

(3) The words to be omitted were inserted by paragraph 25(a) of Schedule 1 to the 2009 Measure.

(4) The words to be omitted were inserted by paragraph 25(b) of Schedule 1 to the 2009 Measure.

(5) The words to be omitted were inserted by paragraph 25(c) of Schedule 1 to the 2009 Measure.

(6) The definition of “Welsh improvement authority” was inserted by paragraph 25(d) of Schedule 1 to the 2009 Measure.

2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies.”

(4) In section 36B(1) (grants by Welsh Ministers in respect of Welsh best value authorities)—

- (a) in subsection (1) for the words from “compliance by a Welsh improvement authority” to the end(2) substitute “compliance by a Welsh principal council or Welsh principal councils with the performance requirements set out in section 89 of the Local Government and Elections (Wales) Act 2021 or the requirements of, or any requirements imposed under, Chapter 1 of Part 6 of that Act”;
- (b) in subsection (2) for “or Welsh improvement authority”(3) substitute “or Welsh principal council”;
- (c) in subsection (6) for the definition of “Welsh improvement authority”(4) substitute—

““Welsh principal council” means a county council or county borough council in Wales.”;
- (d) in the heading, for “best value authorities” substitute “principal councils”.

(5) In section 95 (power to trade in function-related activities through a company), in subsection (7), in the definition of “relevant authority”—

- (a) for paragraph (aa)(5) substitute—

“(aa) a county council or county borough council in Wales;”;
- (b) after paragraph (ac)(6) insert—

“(ad) a fire and rescue authority in Wales, constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies;

(ae) a National Park authority for a National Park in Wales;”.

(6) In section 97 (power to modify enactments in connection with charging or trading), in subsection

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- (1) Section 36B was inserted by section 143(1) of the Local Government and Public Involvement in Health Act 2007.
  - (2) The words to be omitted were inserted by paragraph 26(a) of Schedule 1 to the 2009 Measure.
  - (3) The words to be omitted were inserted by paragraph 26(b) of Schedule 1 to the 2009 Measure.
  - (4) The definition of “Welsh improvement authority” was inserted by paragraph 26(c) of Schedule 1 to the 2009 Measure.
  - (5) Paragraph (aa) was inserted by paragraph 28 of Schedule 1 to the 2009 Measure.
  - (6) Paragraph (ac) was inserted by paragraph 83(4) of Schedule 1 to the Policing and Crime Act 2017 (c. 3).

(11), in the definition of “relevant authority”(1), for paragraph (b) substitute—

“(b) in relation to Wales—

- (i) a county council or county borough council in Wales;
- (ii) a community council;
- (iii) a National Park authority for a National Park in Wales;
- (iv) a fire and rescue authority in Wales, constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies.”

(7) In section 101 (staff transfer matters: general)—

(a) omit subsection (5A)(2);

(b) in subsection (7A)(3)—

(i) for paragraph (aa)(4) substitute—

“(aa) a county council or county borough council in Wales;”;

(ii) after paragraph (aa) insert—

“(ab) a National Park authority for a National Park in Wales;

(ac) a fire and rescue authority in Wales, constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies;”.

(8) In section 124 (general interpretation) omit the definition of “Welsh improvement authority”(5).

#### **Public Audit (Wales) Act 2004**

**6.**—(1) The Public Audit (Wales) Act 2004(6) is amended as follows.

(2) In section 41 (studies for improving economy etc. in services), in subsection (1), in paragraph (a)(7)

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- (1) The definition of “relevant authority” was substituted by article 40(2)(g)(ii) of the Welsh Ministers (Transfer of Functions) Order 2018 (S.I. 2018/644).
  - (2) Subsection (5A) was inserted by paragraph 30(a) of Schedule 1 to the 2009 Measure.
  - (3) Subsection (7A) was inserted by paragraph 3(9)(c) of Schedule 7 to the Local Government and Public Involvement in Health Act 2007.
  - (4) Paragraph (aa) was inserted by paragraph 30(b) of Schedule 1 to the 2009 Measure.
  - (5) The definition of “Welsh improvement authority” was inserted by paragraph 31 of Schedule 1 to the 2009 Measure.
  - (6) 2004 c. 23.
  - (7) Paragraph (a) was amended by paragraph 27(2) of Schedule 8 to the Local Government and Public Involvement in Health Act 2007, paragraph 35 of Schedule 1 to the 2009 Measure and paragraph 46 of Schedule 4 to the Public Audit (Wales) Act 2013.

for “local government bodies in Wales that are Welsh improvement authorities for the purposes of Part 1 of the Local Government (Wales) Measure 2009” substitute “—

- (i) county councils and county borough councils in Wales;
- (ii) fire and rescue authorities in Wales constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies;
- (iii) National Park authorities for National Parks in Wales;”.

(3) In section 54 (restriction on disclosure of information)—

- (a) in subsection (1)(1)—
  - (i) in paragraph (aa)(2) after “pursuant to” insert “a provision of Chapter 1 of Part 6 or”;
  - (ii) in paragraph (b)(3) after “Local Government (Wales) Measure 2009” insert “or Chapter 1 of Part 6 of the Local Government and Elections (Wales) Act 2021”;
- (b) in subsection (2)(4), in paragraph (b)(5), after “Local Government (Wales) Measure 2009” insert “or Chapter 1 of Part 6 of the Local Government and Elections (Wales) Act 2021”.

### **Local Government and Public Involvement in Health Act 2007**

7. In the Local Government and Public Involvement in Health Act 2007(6), in Schedule 8 (best value: minor and consequential amendments) omit paragraph 27.

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- (1) Subsection (1) was amended by paragraph 55 of Schedule 4 to the Public Audit (Wales) Act 2013.
  - (2) Paragraph (aa) was inserted by paragraph (a) of section 160 of the Local Government and Elections (Wales) Act 2021.
  - (3) Paragraph (b) was amended by paragraph 36 of Schedule 1 to the 2009 Measure and paragraph 55 of Schedule 4 to the Public Audit (Wales) Act 2013.
  - (4) Paragraphs (ba) and (bb) were inserted into subsection (2) by paragraph (b) of section 160 of the Local Government and Elections (Wales) Act 2021.
  - (5) Paragraph (b) was amended by paragraph 36 of Schedule 1 to the 2009 Measure and paragraph 55 of Schedule 4 to the Public Audit (Wales) Act 2013.
  - (6) 2007 c. 28.

### **Education (Wales) Measure 2011**

8. In the Education (Wales) Measure 2011(1), in section 3 (duty of education body to collaborate), in subsection (4) omit paragraph (c).

### **Social Services and Well-being (Wales) Act 2014**

9. In the Social Services and Well-being (Wales) Act 2014(2), in section 10 (local authorities and the code) omit subsection (2).

### **Criminal Justice and Courts Act 2015**

10. In the Criminal Justice and Courts Act 2015(3), in section 22 (care provider offence: excluded care providers), in subsection (5), in paragraph (a) for the words from “section 29(6)(a)” to the end substitute “section 107 of the Local Government and Elections (Wales) Act 2021 (asc 1) (direction that a function be performed by the Welsh Ministers or their nominee)”.

### **School Funding (Wales) Regulations 2010**

11. In the School Funding (Wales) Regulations 2010(4), in Schedule 1, in paragraph 20 for subparagraph (c) substitute—

“(c) functions of the authority under Chapter 1 of Part 6 of the Local Government and Elections (Wales) Act 2021 (performance and governance of county and county borough councils), and the provision of advice to assist governing bodies in procuring goods and services;”.

*Name*

Minister for Housing and Local Government, one of the Welsh Ministers

*Date*

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(1) 2011 nawm 7.  
(2) 2014 anaw 4.  
(3) 2015 c. 2.  
(4) S.I. 2010/824.

## **Explanatory Memorandum to the Local Government and Elections (Wales) Act 2021 (Consequential Amendments) Regulations 2021**

This Explanatory Memorandum has been prepared by the Local Government Department of the Welsh Government and is laid before Senedd Cymru in conjunction with the above regulations and in accordance with Standing Order 27.1.

### **Minister's Declaration**

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Local Government and Elections (Wales) Act 2021 (Consequential Amendments) Regulations 2021.

**Julie James MS**

**Minister for Housing and Local Government**

9 February 2021

## **1. Description**

The Local Government and Elections (Wales) Act 2021 (Consequential Amendments) Regulations 2021 (“the Regulations”) make necessary amendments to primary and secondary legislation as a consequence of commencing provisions within Chapter 1 of Part 6 (performance and governance of principal councils) and provisions disapplying the Local Government (Wales) Measure 2009 (“the 2009 Measure”) to principal councils and National Park authorities.

Those provisions are to be commenced on 1 April 2021, through the Local Government and Elections (Wales) Act 2021 (Commencement No. 2 and Saving Provisions) Order 2021.

## **2. Matters of special interest to the Legislation, Justice and Constitution Committee**

No specific matters identified.

## **3. Legislative background**

The powers enabling these Regulations to be made are contained in section 173 of the Local Government and Elections (Wales) Act 2021 (“the 2021 Act”) which provides the Welsh Ministers with a power to make regulations containing supplementary, incidental or consequential provisions for the purposes of, in consequence of, or for giving full effect to, any provision of that Act. Section 173(2) provides that such regulations may amend, modify, repeal or revoke any enactment.

As the Regulations amend primary legislation, section 174(4) and (5)(t) of the 2021 Act specifies that they may not be made unless they have been laid in draft before, and approved by a resolution of, Senedd Cymru.

Subject to approval by the Senedd, the Regulations will be made by the Minister for Housing and Local Government and come into force on 1 April 2021.

## **3. Purpose and intended effect of the legislation**

The Regulations make consequential amendments to primary and secondary legislation arising from the commencement of the provisions in Chapter 1 of Part 6, which relate to the performance and governance of principal councils (defined in section 171 of the 2021 Act as a council for a county in Wales or a council for a county borough in Wales), and from the disapplication of the 2009 Measure to principal councils and National Park authorities for a National Park in Wales. The amendments in these Regulations also facilitate the future repeal of the 2009 Measure, which is provided for by section 170 of the 2021 Act.

Under the 2009 Measure, principal councils (referred to in the 2009 Measure as county councils and county borough councils), National Park authorities and fire and rescue authorities were known as “Welsh improvement authorities”. That term was subsequently used in some legislation as a way of referring to these authorities.

The 2009 Measure is disapplied to principal councils by section 113 and to National Park authorities by section 169 of the 2021 Act, which are brought into force on 1 April 2021 by the Local Government and Elections (Wales) Act 2021 (Commencement No. 2 and Saving Provisions) Order 2021.

Chapter 1 of Part 6 of the 2021 Act establishes a new regime for assessing the performance and governance of principal councils in Wales, replacing the regime which applied to those councils under Part 1 of the 2009 Measure. The regime in Chapter 1 of Part 6 of the 2021 Act does not apply to fire and rescue authorities or National Park authorities.

The amendments contained in these regulations are necessary in consequence of, and for giving full effect to, Chapter 1 of Part 6 and section 169 of the 2021 Act. These amendments are also necessary to pave the way for the repeal of the 2009 Measure as provided for in section 170 of the 2021 Act.

The amendments within these Regulations:

- (a) amend enactments reliant upon the operation of the 2009 Measure;
- (b) amend enactments to remove references to Part 1 of the 2009 Measure and, in some cases, replace them with reference to Part 6 of the 2021 Act;
- (c) amend enactments to remove reference to “Welsh improvement authority” and, in some cases, replace those references with a reference to principal councils and/or fire and rescue authorities and/or National Parks authorities.

#### **4. Consultation**

No formal consultation has taken place as the Regulations make only consequential technical amendments.

#### **5. Regulatory Impact Assessment (RIA)**

A regulatory impact assessment has not been prepared in respect of these consequential amendment regulations as they simply make amendments to statute and do not impose or reduce costs for business, charities or voluntary bodies or the public sector.

# Agenda Item 3.5

## **SL(5)745 – The Equality Act 2010 (Authorities subject to a duty regarding Socio-economic Inequalities) (Wales) Regulations 2021**

### **Background and Purpose**

Part 1 of the Equality Act 2010 (“the 2010 Act”) provides that a relevant authority must, when making decisions of a strategic nature about how to exercise its functions, have due regard to the desirability of exercising them in a way that is designed to reduce the inequalities of outcome which result from socio-economic disadvantage (“the Duty”).

The Duty is due to come into force in Wales on 31 March 2021 by way of commencement order. These Regulations, if approved, will come into force on 30 March 2021. The Duty is to be supported by statutory guidance which has also been laid before the Senedd and is due to be published alongside the commencement of the Duty.

Section 1(3) of the 2010 Act will list the relevant authorities in Wales to which the Duty will apply, which currently includes Ministers of the Crown and government departments. Section 2(4)(a) of the 2010 Act permits the Welsh Ministers to make Regulations to add relevant Welsh authorities to the list in section 1. These Regulations add the following to the list of relevant authorities in Wales to which these Regulations will apply:

- the Welsh Ministers;
- a county council or county borough council in Wales;
- a Local Health Board established under section 11 of the National Health Service (Wales) Act 2006;
- an NHS Trust established under section 18 of the National Health Service (Wales) Act 2006;
- a Special Health Authority established under section 22 of the National Health Service (Wales) Act 2006 other than a cross-border Special Health Authority (within the meaning of section 8A(5)( ) of the National Health Service (Wales) Act 2006);
- a fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004, or a scheme to which section 4 of that Act applies, for an area in Wales;
- a National Park authority established by an order under section 63 of the Environment Act 1995 for an area in Wales;
- the Welsh Revenue Authority.

### **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

No points are identified for reporting under Standing Order 21.2 in respect of this instrument.

## Merits Scrutiny

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

### **1. 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**

We note there is no equality impact assessment for these Regulations and ask the Welsh Government to explain what arrangements it has made, in respect of these Regulations, to publish reports of equality impact assessments in accordance with regulation 8(1)(d) of the Equality Act 2010 (Statutory Duties) (Wales) Regulations 2011.

### **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**

In relation to a post-implementation review of the Regulations, the Committee notes that paragraph 10.4 of the Regulatory Impact Assessment states:

*“Given the multiple outcomes anticipated as a result of the Duty a programme of monitoring and evaluation activity of the above will be developed to correspond with key activities, and a range of research and evaluation methods will be considered, depending on the nature of the data required.”*

## Welsh Government response

A Welsh Government response is required in relation to the first reporting point only.

### **Legal Advisers**

**Legislation, Justice and Constitution Committee**

**23 February 2021**



*Draft Regulations laid before Senedd Cymru under section 209(2), (3)(a) and (6) of the Equality Act 2010, for approval by resolution of Senedd Cymru.*

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DRAFT WELSH STATUTORY  
INSTRUMENTS

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**2021 No. (W.)**

**EQUALITY, WALES**

**The Equality Act 2010 (Authorities  
subject to a duty regarding Socio-  
economic Inequalities) (Wales)  
Regulations 2021**

**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations amend section 1 of the Equality Act 2010 (“the Act”) to add authorities to the list of authorities that are subject to a public sector duty regarding socio-economic inequalities under section 1(1) of that Act.

The list of Welsh authorities specified in section 1(3A) of the Act are authorities which satisfy the test in section 2(6) of the Act, that is, they are ‘devolved Welsh Authorities’ (within the meaning given by section 157A of the Government of Wales Act 2006), whose functions correspond or are similar to those of an authority for the time being specified in subsection (3) of section 1 or referred to in subsection (4) of that section.

The Welsh Ministers’ Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained at Education and Public Services Group, Welsh Government, Cathays Park, Cardiff, CF10 3NQ.

*Draft Regulations laid before Senedd Cymru under section 209(2), (3)(a) and (6) of the Equality Act 2010, for approval by resolution of Senedd Cymru.*

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DRAFT WELSH STATUTORY  
INSTRUMENTS

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**2021 No. (W.)**

**EQUALITY, WALES**

**The Equality Act 2010 (Authorities  
subject to a duty regarding Socio-  
economic Inequalities) (Wales)  
Regulations 2021**

*Made*

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*Coming into force*

*30 March 2021*

The Welsh Ministers make the following Regulations in exercise of the power conferred on them by section 2(4)(a) of the Equality Act 2010<sup>(1)</sup>.

In accordance with section 209(2), (3)(a) and (6) of that Act, a draft of these Regulations has been laid before and approved by a resolution of, Senedd Cymru.

**Title and commencement**

**1.** The title of these Regulations is the Equality Act 2010 (Authorities subject to a duty regarding Socio-economic Inequalities) (Wales) Regulations 2021 and they come into force on 30 March 2021.

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<sup>(1)</sup> 2010 c. 15. Section 2(4) enables the Welsh Ministers to amend section 1 of the 2010 Act to, amongst other things, add a relevant authority to the authorities that are subject to the duty under section 1. “Relevant authority” is defined in section 2(6). Section 2(6) was amended by paragraph 83(1) and (2) of Schedule 6 to the Wales Act 2017 (c. 4) (“the 2017 Act”). Subsections (7), (9) and (10) of section 2 were omitted by section 45(3) of the 2017 Act and paragraph (b) of subsection (11) was omitted by paragraph 83(3) of Schedule 6 to the 2017 Act. There are other amendments to section 2 but none is relevant to these Regulations.

## Amendment of section 1 of the Equality Act 2010

2. In section 1 of the Equality Act 2010 (public sector duty regarding socio-economic inequalities), after subsection (3)(1), insert—

“(3A) This section also applies to the following authorities—

- (a) the Welsh Ministers;
- (b) a county council or county borough council in Wales;
- (c) a Local Health Board established under section 11 of the National Health Service (Wales) Act 2006(2);
- (d) an NHS Trust established under section 18 of the National Health Service (Wales) Act 2006;
- (e) a Special Health Authority established under section 22(3) of the National Health Service (Wales) Act 2006 other than a cross-border Special Health Authority (within the meaning of section 8A(5)(4) of the National Health Service (Wales) Act 2006);
- (f) a fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004, or a scheme to which section 4 of that Act applies, for an area in Wales;
- (g) a National Park authority established by an order under section 63 of the Environment Act 1995(5) for an area in Wales;
- (h) the Welsh Revenue Authority or Awdurdod Cyllid Cymru.”

*Name*

Deputy Minister and Chief Whip, under authority of the Welsh Ministers

*Date*

- 
- (1) Paragraphs (h) and (i) of section 1(3) were omitted by paragraph 181(a) and (b) of Schedule 5 to the Health and Social Care Act 2012 (c. 7) (“the 2012 Act”). Section 1(3)(j) was repealed by paragraph 1 of Schedule 6 to the Public Bodies Act 2011 (c. 24). There are other amendments to section 1 but none is relevant to these Regulations.
  - (2) 2006 c. 42.
  - (3) Section 22(6) was omitted by paragraph 18 of Schedule 21 to the 2012 Act.
  - (4) Section 8A was inserted by paragraph 14 of Schedule 21 to the 2012 Act.
  - (5) 1995 c. 25.

## **Explanatory Memorandum to the Equality Act 2010 (Authorities subject to a duty regarding Socio-economic Inequalities) (Wales) Regulations 2021**

This Explanatory Memorandum has been prepared by the Communities and Tackling Poverty Directorate and is laid before the Senedd Cymru in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

### **Member's Declaration**

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of The Equality Act 2010 (Authorities subject to a duty regarding Socio-economic Inequalities) (Wales) Regulations 2021. I am satisfied that the benefits justify the likely costs.

**Jane Hutt**

**Deputy Minister and Chief Whip**

9 February 2021

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## List of abbreviations

2010 Act	The Equality Act 2010
EHRC	Equality and Human Rights Commission
ELGC	Equality, Local Government & Communities Committee
PSED	Public Sector Equality Duty
The Duty	The Socio-economic Duty
The Regulations	The Equality Act 2010 (Authorities subject to a duty regarding Socio-economic Inequalities) (Wales) Regulations 2021
Relevant public bodies	<p>The following Welsh public authorities will be captured by the Duty, as they meet the ‘relevant authority’ test set out in section 2(6) of the 2010 Act:</p> <ul style="list-style-type: none"><li>• Welsh Ministers;</li><li>• Local Health Boards;</li><li>• NHS Trusts;</li><li>• Special Health Authorities (which operate on a Wales only basis);</li><li>• A county council or county borough council</li><li>• the Welsh Revenue Authority;</li><li>• Fire and Rescue Authorities; and</li><li>• National Park Authorities.</li></ul>

# PART 1 – EXPLANATORY MEMORANDUM

## 1. Description

- 1.1 For the Socio-economic Inequality Duty to have effect in Wales, it is necessary to commence Part 1 of the 2010 Act.<sup>1</sup> Section 1 sets out the Duty itself and once commenced, will apply to the relevant Welsh public bodies listed in section 1(3) of the 2010 Act<sup>1</sup>. Section 2(4) of the 2010 Act<sup>2</sup> provides the Welsh Ministers with the power to make regulations, which will add to the list of in section 1(3) of the 2010 Act<sup>1</sup>, specifying relevant public bodies to whom the Duty will apply in Wales. Section 2 of the 2010 Act<sup>2</sup> was commenced in November 2019 in advance of the consultation. On 31 March 2021, the proposed date for the Duty to come into force, the remainder of Part 1 of the 2010 Act<sup>1</sup>, sections 1 and 3 will be commenced by further Order.
- 1.2 This Explanatory Memorandum, including the RIA, covers the impact of enacting the Duty on those public bodies listed in the Regulations.
- 1.3 The Regulations are a legislative mechanism designed to help address inequalities in Wales. The Regulations, coupled with the Commencement Orders<sup>3</sup> (one of which has already been made, and the other of which will commence the Duty itself under section 1 of the 2010 Act<sup>1</sup>) will build on the good work of public bodies in Wales in tackling inequalities and build on the provisions within the Well-being of Future Generations (Wales) Act 2015<sup>4</sup> to create ‘a more equal Wales’.
- 1.4 The Regulations will list the relevant public bodies, who will be under a statutory duty, when making strategic decisions, such as deciding priorities and setting objectives, to consider how their decisions might help to reduce the inequalities associated with socio-economic disadvantage.
- 1.5 In summary, these Regulations will amend section 1(3) of the 2010<sup>1</sup> Act by adding relevant Welsh public authorities to the list, so that when section 1 of the 2010 Act<sup>1</sup> is commenced, the Duty will apply to those Welsh bodies listed.

## 2. Matters of special interest to the Legislation, Justice and Constitution Committee

- 2.1 None.

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1 <https://www.legislation.gov.uk/ukpga/2010/15/part/1>

2 <https://www.legislation.gov.uk/ukpga/2010/15/section/2>

3 The Equality Act 2010 (Commencement No. 14) (Wales) Order 2019; Commencement order - The Equality Act 2010 (Commencement No. 15) (Wales) Order 2021

4 <http://www.legislation.gov.uk/anaw/2015/2/contents/enacted>

### 3. Legislative background

- 3.1 'Equal opportunities' is a reserved matter in accordance with Part 1, Schedule 7A of the Government of Wales Act 2006<sup>5</sup>. However, the Welsh Ministers have specific powers in the 2010 Act<sup>6</sup>, which includes the power to commence Part 1 of the 2010 Act<sup>1</sup> (the Socio-economic Inequality Duty).
- 3.2 Under Part 1 of the 2010 Act<sup>1</sup> 'as enacted', the Welsh Ministers were required to consult with a Minister of the Crown before making regulations and were required to take into account guidance issued by a Minister of the Crown. Section 45 of the Wales Act 2017<sup>7</sup> amended the 2010 Act<sup>6</sup> as follows:
- by removing the requirement for the Welsh Ministers to consult with a Minister of the Crown before making regulations under section 2 of the 2010 Act<sup>2</sup>;
  - by providing a mechanism for the Welsh Ministers to commence Part 1 of the 2010 Act<sup>1</sup> for relevant Welsh public bodies;
  - by providing that public bodies exercising the duty in relation to devolved functions, must take into account guidance issued by the Welsh Ministers.
- 3.3 Section 2(4) of the 2010 Act<sup>2</sup> gives the Welsh Ministers the power to make regulations to amend section 1 of the 2010 Act<sup>1</sup>. These Regulations add relevant Welsh public bodies to the current list of bodies in section 1(3) of the 2010 Act.<sup>1</sup> Section 2(6) of the 2010 Act defines a 'relevant authority' for the purpose of the regulation-making power in section 2(4) of the 2010 Act<sup>2</sup>.
- 3.4 Once the Regulations are in force, the relevant Welsh bodies will be listed in section 1(3) of the 2010 Act.<sup>1</sup>
- 3.4 In accordance with sections 209(2), (3)(a) and (6) of the 2010 Act<sup>6</sup>, a draft of these Regulations has been laid before the Senedd for their approval, following the draft affirmative procedure.
- 3.5 These Regulations should be read in conjunction with the Equality Act 2010 (Commencement No. 14) (Wales) Order 2019<sup>3</sup> ("the 2019 Order") and the Equality Act 2010 (Commencement No. 15) (Wales) Order 2021 ("the 2021 Order"). The 2019 Order<sup>3</sup> came into force on 22 November 2019. The 2019 Order commenced section 2 of the 2010 Act<sup>2</sup> which gave the Welsh Ministers the power to make regulations, to amend section 1 of the 2010 Act<sup>1</sup> (these Regulations). Section 2 of the 2010 Act<sup>2</sup> was commenced in advance of the launch of the consultation - A More Equal Wales – Commencing the Socio-economic Duty<sup>8</sup>.

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5 <http://www.legislation.gov.uk/ukpga/2006/32/contents>

6 <https://www.legislation.gov.uk/ukpga/2010/15/contents>

7 <https://www.legislation.gov.uk/ukpga/2017/4/section/45>

8 <https://gov.wales/equality-act-2010-commencing-socio-economic-duty>

- 3.9 A separate statutory instrument, the 2021 Order will be required in order to commence the Duty itself under section 1(1) of the 2010 Act. This Order will come into force on 31 March 2021.
- 3.10 These Regulations will come into force on 30 March 2021, so that the relevant Welsh public bodies to be captured by the Duty are already listed in section 1(3) of the 2010 Act<sup>1</sup> before the Duty comes into force on 31 March 2021.

## 4. Purpose and intended effect of the legislation

### Overall policy and objectives

- 4.1 When the 2010 Act<sup>6</sup> was enacted, the Duty lay dormant on the statute book, as the UK Government elected not to commence it. The Wales Act 2017<sup>9</sup> legislated for a new model of Welsh devolution, which included the power for the Welsh Ministers to commence the Duty in Wales.
- 4.2 In his manifesto<sup>10</sup> in November 2018 the First Minister made a commitment to use these powers to commence the Duty. Subsequently, in June 2019, via an Oral Statement in Plenary<sup>11</sup>, the Deputy Minister and Chief Whip affirmed that this work would begin, alongside other activities to strengthen and advance equality and human rights in Wales.
- 4.3 This Government strives to create a country within which inequalities do not exist. Decades of EU membership has produced a legacy of benefits in Wales, covering many aspects of daily life. Examples being employment rights, environmental rights and health and safety regulations. However, leaving the EU brings great uncertainty and will likely increase the inequalities which currently exist (paragraphs 4.13 – 4.25).
- 4.4 Separately, Covid-19 is increasing the current inequalities which exist in Wales<sup>12</sup>, and the evidence shows there is an indisputable link between inequality and socio-economic disadvantage<sup>13</sup> (by socio-economic disadvantage we mean living in less favourable social and economic circumstances than others in the same society<sup>14</sup>).
- 4.5 The First Minister has been clear throughout the crisis that the Welsh Government puts equality and human rights considerations at the centre of the response to the pandemic and recovery in Wales.
- 4.6 The Welsh Government published the approach it has taken in assessing when conditions to enable specific lockdown restrictions can be eased in

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9 <http://www.legislation.gov.uk/ukpga/2017/4/contents/enacted>

10 <https://skwawkbbox.org/wp-content/uploads/2018/11/manifesto-english-print.pdf>

11 <http://www.senedd.tv/Meeting/Archive/9a062b5c-4b24-424a-aede-752801c882c3?autostart=True>

12 <https://gov.wales/socio-economic-duty-examples-inequalities-outcome>

13 <https://www.futuregenerations.wales/wp-content/uploads/2020/06/Chap-3-Equal.pdf> - Page 9

14 <https://gov.wales/sites/default/files/publications/2020-07/commencing-socio-economic-duty-factsheet.pdf>

*'Leading Wales out of the coronavirus pandemic: a framework for recovery'*<sup>15</sup> on 24 April and *'Unlocking our society and economy: continuing the conversation'*<sup>16</sup> on 15 May. Both of these documents, and other measures put in place to control the spread of Covid-19, such as the firebreak lockdown, embody the Welsh Government's commitment to ensuring decisions sought to deliver a 'high positive equality impact'.

- 4.7 Additionally, within *'Coronavirus reconstruction: challenges and priorities'*<sup>17</sup> the Welsh Government set out its key approaches to reconstruction. Across all of the eight priorities listed, there is a commitment to focus efforts on supporting those who have been most adversely affected by the Covid-19 crisis. These include children and young people, women, those in low paid and insecure employment, Black, Asian and Minority Ethnic people and disabled people.
- 4.8 Commencing the Duty will therefore contribute to meeting these commitments by helping eliminate inequalities in Wales, targeting those experiencing socio-economic disadvantage.

#### Current legislative position:

- 4.9 Equality is an issue that concerns everyone. Public authorities make decisions on a daily basis and each of these has the potential to have a significant effect on people's lives. In making these decisions, public authorities must comply with a number of statutory duties.
- 4.10 Section 149 of the 2010 Act<sup>18</sup> introduced a single Public Sector Equality Duty (PSED), or "general duty", requiring public authorities and other bodies carrying out public functions, to have due regard to the need to:
- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
  - advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
  - foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 4.11 Although the 'general duty' drives sound decision-making in relation to equalities, it focuses on relevant protected characteristics set out in Section 149(7) of the 2010 Act<sup>18</sup>. It does not require public bodies to consider the impact of these decisions on those individuals who experience socio-economic disadvantage. Instead it simply encourages public bodies to understand how different groups of people with protected characteristics will be affected by their activities, so that the design and delivery of policies and services takes account of the needs of those groups. This means individuals

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15 <https://gov.wales/leading-wales-out-coronavirus-pandemic-html>

16 <https://gov.wales/unlocking-our-society-and-economy-continuing-conversation>

17 <https://gov.wales/coronavirus-reconstruction-challenges-and-priorities>

18 <https://www.legislation.gov.uk/ukpga/2010/15/section/149>

who experience socio-economic disadvantage are often overlooked when public bodies make strategic decisions.

- 4.12 The Children and Families (Wales) Measure 2010<sup>19</sup> places a duty on Welsh Ministers and named public bodies to set objectives for tackling child poverty and report on the actions they take which help to achieve their objectives. The legislation aims to improve the lives of those who are most vulnerable by supporting better economic outcomes for families and tackling the inequalities associated with poverty.
- 4.13 Additionally, action to enable people to fulfil their potential no matter what their socio-economic background and circumstances was strengthened through the Well-being of Future Generations Act 2015<sup>4</sup>, particularly, the ‘More Equal Wales’ goal and “A Wales of cohesive communities” goal. The Act seeks to guide the exercise and functions of public bodies to consider how they are meeting the needs of current generations without compromising the ability of future generations to meet their own needs, and to better address long-term challenges such as inequalities of outcome when taking decisions, it provides for a single principle (‘the sustainable development principle’). The Socio-economic Duty complements and enhances this principle.
- 4.14 Although public authorities in Wales must comply with a number of statutory duties, including ones which seek to embed equality consideration throughout, more is needed to be done to the eliminate inequalities of outcomes associated with socio-economic disadvantage.
- 4.15 The Duty in section 1 of the 2010 Act<sup>1</sup>, once commenced, will introduce a new statutory duty which places an obligation on relevant bodies, when taking strategic decisions, to have due regard to the need to reduce the inequalities of outcome resulting from socioeconomic disadvantage.
- 4.16 The explanatory notes<sup>20</sup> accompanying the 2010 Act<sup>6</sup> describe inequalities of outcome in respect of the Duty to mean:

*“Such inequalities could include inequalities in education, health, housing, crime rates, or other matters associated with socio-economic disadvantage. It is for public bodies subject to the Duty to determine which socio-economic inequalities they are in a position to influence.”*

- 4.17 Commencing the Duty will not compete with or override other duties such as the PSED,<sup>21</sup> child poverty legislation<sup>22</sup> and the Well-being Duty under the Well-being of Future Generations Act<sup>4</sup>. It is intended to complement these duties by further contributing towards Wales’ long-term well-being goals. The aim is therefore for the Duty to become a further mechanism in supporting the most vulnerable in our society. By requiring relevant public bodies to make better decisions, ones which place consideration of inequalities of outcomes

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19 [https://www.legislation.gov.uk/mwa/2010/1/pdfs/mwa\\_20100001\\_en.pdf](https://www.legislation.gov.uk/mwa/2010/1/pdfs/mwa_20100001_en.pdf)

20 <https://www.legislation.gov.uk/ukpga/2010/15/notes/division/3/1/1>

21 <https://www.gov.uk/government/publications/public-sector-equality-duty>

22 [https://www.legislation.gov.uk/mwa/2010/1/pdfs/mwa\\_20100001\\_en.pdf](https://www.legislation.gov.uk/mwa/2010/1/pdfs/mwa_20100001_en.pdf)

arising from socio-economic disadvantage at their heart, it will further help tackle the uncertainty of EU exit and our recovery from Covid-19. This will allow us to move towards the construction of a fairer and more prosperous Wales.

4.18 Through implementation, the Duty will aim to help public bodies maximise their contribution to addressing such inequalities, and also meet their obligations under the Human Rights Act 1998<sup>23</sup> and where relevant, international human rights law. International treaties with economic and social rights include:

- International Covenant on Economic, Social and Cultural Rights (ICESCR)<sup>24</sup>;
- International Covenant on Civil and Political Rights (ICCPR)<sup>25</sup>;
- United Nations Convention on the Rights of the Child (UNCRC)<sup>26</sup>;
- United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)<sup>27</sup>;
- United Nations Convention on the Elimination of All Forms of Discrimination against Women (UNCEDAW)<sup>28</sup>;
- United Nations Convention on the Elimination of All Forms of Racial Discrimination (UNCERD)<sup>29</sup>; and
- United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)<sup>30</sup>.

4.19 It is important that Welsh public bodies lead by example, and are making the best possible decisions they can in the context of equalities. The aim of the Duty is therefore to ensure better, more rounded decision making, which will consider the impact of strategic decisions on those who face socio-economic disadvantage, leading to more equal outcomes in society.

### **The problem being addressed**

4.20 Never has there been a more pertinent time to act. Last summer we saw the “Black Lives Matter” protests which highlighted systemic and structural racism in our society.

4.21 The Covid-19 outbreak has also brought huge challenges to our communities. It has become clear that certain groups have been affected more than others – for example, ethnic minority communities, disabled people, women, and young people.

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23 <https://www.legislation.gov.uk/ukpga/1998/42/contents>

24 <https://www.ohchr.org/en/professionalinterest/pages/cescr.aspx>

25 <https://www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx>

26 <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>

27 [https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-15&chapter=4&clang=\\_en](https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-15&chapter=4&clang=_en)

28 <https://www.ohchr.org/EN/ProfessionalInterest/Pages/CEDAW.aspx>

29 <https://ohchr.org/EN/ProfessionalInterest/Pages/CERD.aspx>

30 <https://humanrightstracker.com/en/un-treaty/cat/>

- 4.22 The impact of school closures on children’s education, and the effects of the deepest recession in history on jobs and earning prospects for young people entering the labour market this year will undoubtedly be damaging, long-lasting and felt much more acutely by those who are already socio-economically disadvantaged i.e. lower paid workers who are three times as likely to have lost their job or been furloughed as high earners, and are more than twice as likely to do jobs exposing them to health risks<sup>31</sup>.
- 4.23 Recent statistics highlight continuing socio-economic disadvantage in Wales. For example, Households Below Average Income Data<sup>32</sup> published in March 2020 shows that:
- Nearly a quarter of all people in Wales (23 per cent) were living in relative income poverty (after housing costs) between 2016-17 and 2018-19.
  - Children are the age group most likely to be in relative poverty; 28 per cent of children compared to 19 per cent of pensioners.
- 4.24 In addition, the Well-being of Wales Report 2018-19<sup>33</sup> states:
- Over two fifths (42 per cent) of those who were single parents were in material deprivation in 2018-19 and 3 per cent of households said they had received food from a food bank in the last 12 months.
  - In 2018, an estimated 12 per cent of households were living in fuel poverty.
  - The proportion of people with a limiting long-term illness or disability living in a household in material deprivation in 2018-19 remained twice as high (21 per cent) as for those who were not disabled (10 per cent).
  - In 2018-19 a higher percentage of females (15 per cent) were classed as materially deprived (that is, unable to afford certain things such as keeping the house warm enough) relative to males (12 per cent).
  - In recent years (2013-14 to 2017-18) people who were living in households where the head of the household was from a non-White ethnic group were more likely to be in relative income poverty (31 per cent) compared with those where the head of the household was from a White ethnic group (23 per cent).
  - In 2018-19 a lower proportion of adults who identified as heterosexual were in material deprivation (13 per cent) compared with those who did not identify as heterosexual (20 per cent).
- 4.25 The Equality and Human Rights Commission (EHRC) in its recent report ‘Is Wales Fairer (2018)’<sup>34</sup> highlighted the gap in the experiences and

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31 <https://www.resolutionfoundation.org/publications/a-new-settlement-for-the-low-paid/>

32 <https://www.gov.uk/government/statistics/households-below-average-income-199495-to-201819>

33 <https://gov.wales/sites/default/files/statistics-and-research/2019-11/well-being-of-wales-2019.pdf>

34 <https://www.equalityhumanrights.com/en/publication-download/wales-fairer-2018>

opportunities of people from different socio-economic backgrounds. In the foreword to the report it stated:

*“Deepening poverty in Wales is leading to an even starker gap in the experiences and opportunities of people born into different socio-economic backgrounds. Our findings show that this gap has widened in particular for women, disabled people, and some ethnic minority groups. Men born in the most deprived areas of Wales have over eight years less life expectancy than those born in the least deprived areas, disabled people face an education attainment gap, and high levels of racism and violence against women are a reality for many people living in Wales today. Unless these inequalities are addressed now, the disadvantage that too many people in Wales face could become entrenched for generations to come.”*

4.26 Chwarae Teg’s ‘State of the Nation’ report 2020<sup>35</sup> confirmed that women are at greater risk of poverty than men. Factors that influence this are that women are more likely to be the second earner in a household and to work part-time and they are more likely to work in sectors characterised by low pay. Many women may also be at greater risk of poverty as a result of relationship breakdown due to women’s more limited independent income. This can have knock-on effects on their children as 90 per cent of single parents are women.

4.27 The Future Generations Commissioner for Wales report ‘*The Future Generations Report 2020; Chapter Three: progress against the well-being goals*’<sup>36</sup> details the link between poverty and socio-economic disadvantage and explains how public bodies can help eliminate these inequalities. It states:

*“Whilst there has been significant progress in some areas of life over recent decades, the fact remains that our society in the 21st century is far less equal than it should be.*

*There is more work needed for public bodies to apply an equality lens to their well-being objectives and to align them with their equality objectives.*

*Inequality in terms of socio-economic status as well as race, gender, disability, age, sexual orientation, religion and belief (often described as those with protected characteristics) intersects across every one of our national well-being goals.”*

As such the report includes several recommendations for the Welsh Government to ensure alignment with the requirements of the Well-being of Future Generations (Wales) Act 2015<sup>4</sup> through implementation of the Duty, including recommendation 190:

*“Ensure that [the Welsh Government] is using levers such as the Public Sector Equality Duty; socio-economic duty and the Social Partnerships (Wales) Bill, in ways that align to the requirements of The Well-being of*

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35 <https://chwaraeteg.com/wp-content/uploads/2020/01/State-of-the-Nation-2020.pdf>

36 <https://www.futuregenerations.wales/wp-content/uploads/2020/06/Chap-3-Equal.pdf>

*Future Generations (Wales) Act 2015 - particularly setting, delivering and reporting on well-being Objectives.*"<sup>37</sup>

- 4.28 The First Minister's 'BAME Covid-19 Socio-economic Sub Group's Report'<sup>38</sup>, published in June 2020, placed race inequality in Wales in the context of Covid-19 and socio-economic disadvantage. The report's executive summary states:

*"Although the coronavirus pandemic has created widespread fears and risks to lives and livelihoods across communities in Wales and around the world, the impacts on Black, Asian and Minority Ethnic groups have been especially profound. Members of BAME communities are disproportionately contracting and dying from the Covid-19 disease, with available statistics suggesting that British BAME groups are up to two times more likely to die from the disease than their white counterparts."*

- 4.29 The report focuses on a number of areas where the impact of race inequality is particularly evident. These include health and social care, security of employment and income, housing and education. The report finds that the overall theme running through these areas is the impact of the longstanding racism and disadvantage and the lack of BAME representation within decision making to effect better socio-economic outcomes. The report makes recommendations for addressing each of the factors identified that position race equality concerns at the heart of decision-making in government, and recognises the Duty as a means of helping the reduction of inequalities associated with socio-economic disadvantage when making strategic decisions.

- 4.30 Most recently, in August 2020, The Welsh Parliament Equality, Local Government and Communities Committee published a report *"Into sharp relief: inequality and the pandemic"*<sup>39</sup>. The report states:

*"During the pandemic, our chances of dying, losing jobs or falling behind in education have in part been determined by our age, race, gender, disability, income and where we live. The virus and the response to it is widening existing inequalities, by reducing the incomes and increasing risks disproportionately for some groups of people."*

- 4.31 Amongst the report's 44 recommendations was one (recommendation 8) aimed directly at the implementation of the Socio-economic Duty:

*"Recommendation 8*

*The Welsh Government should adhere to the spirit and intent of the Socio-economic Duty in all of its decision-making until it is commenced in March*

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<sup>37</sup> <https://www.futuregenerations.wales/wp-content/uploads/2020/06/Welsh-Government-Recommendations.pdf>

<sup>38</sup> <https://gov.wales/black-asian-and-minority-ethnic-bame-covid-19-socioeconomic-subgroup-report>

<sup>39</sup> <https://senedd.wales/laid%20documents/cr-ld13403/cr-ld13403-e.pdf>

*2021, and develop interim arrangements to monitor how it is meeting the spirit of the duty ahead of full commencement.”*

- 4.32 In light of aforementioned challenges surrounding EU exit and Covid-19, the above evidence shows that further progress is needed to create a society which enables people to fulfil their potential no matter what their background or circumstance.
- 4.33 Unless these inequalities are addressed now, the disadvantage that many people in Wales already face could become entrenched for generations, therefore in response, commencing the duty is a priority for this Government.

### **Improvements the subordinate legislation will make to the current situation**

- 4.34 To address the above, Welsh Ministers will be using their powers to place a statutory duty on relevant public bodies to ensure when taking strategic decisions such as deciding priorities and setting objectives, to have due regard to the need to reduce the inequalities of outcome that result from socio-economic disadvantage.
- 4.35 Commencing the Duty will be a key step in ensuring the Welsh Government's policy commitment to strengthening and advancing human rights, as it will address unequal outcomes. It will build on the Well-being of Future Generations Act 2015<sup>4</sup> by providing Wales with an opportunity to do things differently. Tackling inequality will be firmly at the heart of strategic decision-making for relevant public bodies. Application of the Duty will support the achievement of the national well-being goals set out by the Well-being of Future Generations Act 2015<sup>4</sup>.
- 4.36 The Duty will form part of a framework that seeks to build on the positive steps already taken by public bodies to address inequality, including measures to promote the well-being of future generations through sustainable development, and plans to strengthen social partnership arrangements<sup>40</sup> and advance fair work ambitions.
- 4.37 More detailed information on the expected benefits are contained within Option 2 in Part 2 - the RIA on page 19.

### **Who will be affected by the legislation**

- 4.38 The Duty will apply to public bodies with strategic functions, who fall within the definition of a 'relevant Authority' in section 2(6) of the Equality Act 2010<sup>2</sup>. Paragraph 4.10 summarises the purpose of the duty, with the RIA containing details of the expected impact.
- 4.39 There will also be an impact on the EHRC as the regulator of the 2010 Act<sup>6</sup>. In relation to the Duty, the EHRC has the power to promote and provide advice and guidance, and publish research. Also, if a relevant public body fails to

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<sup>40</sup> <https://gov.wales/written-statement-more-equal-wales-strengthening-social-partnership>

perform the duty, an individual or group whose interests are adversely affected by that public body's decision, may be able to bring a judicial review claim against that authority – the Commission may support any such challenge, or take such a challenge itself.

- 4.40 There is also an impact on the Welsh Government in both supporting those public bodies captured by the Duty and assisting Welsh Ministers discharge their duty. There is also an impact on third sector organisations, who within the statutory guidance produced to support the Duty, will play a pivotal role as stakeholders to help influence relevant public bodies.
- 4.40 Most importantly, the biggest positive impact is expected to be on those in society who are experiencing socio-economic disadvantage.

### **The risks if this subordinate legislation is not made**

- 4.41 If the Duty is not introduced, the inequality seen in Wales (as described above in paragraphs 4.20-4.33) will persist and will likely escalate causing inequalities for generations to come. As explained, the exit from the EU and the effects of the Covid-19 pandemic continue to bring immense uncertainty in relation to equality and human rights. The Duty will therefore help minimise the adverse impact of these events on equality and human rights.
- 4.42 If the Duty is not commenced, the leadership role and culture within relevant public bodies concerning socio-economic disadvantage will remain the same and an important opportunity to effect a wholesale change in current decision-making processes will be missed. There will be no mechanism to ensure relevant public bodies make better decisions through consideration of the inequalities of outcomes associated with socio-economic disadvantage.
- 4.43 Not commencing the Duty would minimise the opportunity to put engagement with those very people affected by decisions, those who suffer socio-economic disadvantage, at the heart of decision making. It would mean overlooking an opportunity to create a culture change in the way that strategic decisions are evidenced, are made in a transparent way and are openly challenged. Most importantly, the opportunity to realise the difference this Government wants to make to the lives of people in Wales now and in the future will not be grasped, making it harder to attain the goals under the Well-being of Future Generations Act 2015<sup>4</sup>.
- 4.44 More information on the expected dis-benefits of not producing the Regulations is contained within Option 1 in Part 2 of the RIA on page 17.

## **5. Consultation**

- 5.1 An eight-week consultation ran from 22 November 2019 to 17 January 2020 on the draft proposals and accompanying draft Regulatory Impact Assessment (RIA) in Part 2.

- 5.2 A separate easy read version of the consultation and consultation response form was made available.
- 5.3 Six consultation events were held across Wales between 12 December and 14 January, with 140 people attending.

<b>Consultation Events</b>	<b>Numbers of attendants</b>
Cardiff - 12 December 2019 - Cardiff All Nations Centre	36
Swansea - 16 December 2019 - Swansea Liberty Stadium	27
Merthyr Tydfil - 18 December 2019 - Merthyr Orbit Centre	26
Conwy - 7 January 2020 - Conwy Business Centre	39
Llandrindod Wells - 9 January 2020 – Welsh Government Buildings	12
Newport – 14 January 2020 – Newport Civic Centre	10
<b>Total</b>	<b>140</b>

- 5.4 The consultation was drawn to the attention of a wide audience of key stakeholders. 98 consultation responses were received:
- 63 organisations responded by completing the response form;
  - 35 responses came via the online portal, of which 14 were completed and 21 partially completed.
- 5.5 In addition, notes taken at each of the stakeholder consultation events across Wales, attended by 140 individuals, have also been fed into the analysis.
- 5.6 Feedback received was generally positive with respondents welcoming the Duty. Discussion focused on the implementation of the Duty and the key components of the statutory guidance i.e. what is deemed a strategic decision and which inequalities of outcome the Duty will aim to reduce.
- 5.7 Responses to the consultation will now be used to inform guidance to ensure the Socio-economic Duty works for those relevant public bodies to whom it applies and delivers for the people of Wales.
- 5.8 A summary of responses has been published<sup>41</sup>.

<sup>41</sup> <https://gov.wales/equality-act-2010-commencing-socio-economic-duty>

## PART 2 – REGULATORY IMPACT ASSESSMENT

- 6.1 A Regulatory Impact Assessment has been completed for the Regulations, and it follows below.
- 6.3 The assessment of costs and benefits is centred on the three-year period 2020-21 to 2022-23. If made, the Regulations will list those public bodies to whom the Duty will apply from 31 March 2021. A three-year appraisal period has been chosen, since the costs and benefits are expected to reach a steady state quickly. Costs have been rounded to the nearest £100, some table totals may not sum due to this rounding.
- 6.4 The RIA presents a best estimate of the costs and benefits of the Regulations based upon the available evidence. The analysis has been informed by engagement with key stakeholder representatives of relevant public bodies. Nevertheless, it has been necessary to make a series of assumptions in order to complete the calculations. Any assumptions made are explained in the narrative.
- 6.5 As referenced in paragraph 5.1, an eight-week consultation ran between December 2019 and January 2020 asking for comments on both the draft proposals and its accompanying draft RIA<sup>42</sup>. The responses returned showed that although the majority of respondents agreed with the estimates provided within the draft RIA, there were concerns raised that some costs had been underestimated for larger public bodies, unfortunately additional or alternative data to help inform the final assessment of costs was not suggested.

### 6. Options

- 6.6 Two options have been identified and explored:

**Option 1:** Do nothing - retain the status quo; and

**Option 2:** Enact the Duty on those public bodies listed in the Regulations requiring those public bodies, when making strategic decisions such as ‘deciding priorities and setting objectives’, to consider how their decisions might help to reduce the inequalities associated with socio-economic disadvantage.

### 7. Costs and benefits

#### OPTION 1: DO NOTHING – RETAIN THE STATUS QUO

##### Description

- 7.1 This option would mean continuing as is i.e. not enacting Part 1, Section 1 of the 2010 Act<sup>1</sup> in Wales. This would see existing policies and measures continue to be the driving force to help reduce inequalities in Wales, including

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<sup>42</sup> <https://gov.wales/equality-act-2010-commencing-socio-economic-duty>

the Well-being of Future Generations (Wales) Act 2015<sup>4</sup>, the 2010 Act - Public Sector Equality Duty<sup>18</sup>, The Equality Act 2010 (Statutory Duties) (Wales) Regulations 2011<sup>43</sup>, The Rights of Children and Young Persons (Wales) Measure 2011<sup>44</sup>, The Children and Families (Wales) Measure 2010<sup>45</sup> and the Human Rights Act 1998<sup>23</sup>. However as explained in paragraph 4.11, this would mean there is not an express duty requiring public bodies to consider the impact of their decisions on those individuals who experience socio-economic disadvantage.

- 7.2 Although public bodies in Wales must comply with a number of statutory duties, including ones which seek to embed equality consideration throughout their decision-making, as explained below more is needed to be done to eliminate inequalities of outcomes associated with socio-economic disadvantage.

### Costs

- 7.3 Although no legislative framework changes are proposed by this option, there are potential impacts and costs associated with retaining the status quo if socio-economic inequality is not tackled effectively.
- 7.4 The factors which influence socio-economic disadvantage are complex and are often interlinked, for example health outcomes get progressively poorer across the socio-economic gradient<sup>4647</sup>; no/low accumulated wealth leads to households having no/ limited access to basic goods and services such as transport, education and health care services; a lack of social mobility in terms of higher education and career prospects; and discrimination faced by some individuals who have protected characteristics<sup>48</sup>.
- 7.5 Therefore, the costs associated with maintaining the status quo are deemed unquantifiable, hence an estimate has not been provided as it would be so broad that it would not provide value and would be misleading. For example, support for some of those who experience economic disadvantage can be quantified through the costs of benefit packages.
- 7.6 The report by the Bevan Foundation: *'A Welsh Benefit System, and how it can help solve poverty'*<sup>49</sup>, page 4, details cost incurred through benefits provided by Welsh Government, which exceed £400m annually. In 2018/19, the Department for Work and Pensions (DWP) spent over £5 billion in welfare benefit payments (excluding state pension) claimed by people in Wales<sup>50</sup>.

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43 <http://www.legislation.gov.uk/wsi/2011/1064/contents/made>

44 <http://www.legislation.gov.uk/mwa/2011/2/contents>

45 [https://www.legislation.gov.uk/mwa/2010/1/pdfs/mwa\\_20100001\\_en.pdf](https://www.legislation.gov.uk/mwa/2010/1/pdfs/mwa_20100001_en.pdf)

46 [https://www.health.org.uk/funding-and-partnerships/our-partnerships/health-equity-in-england-the-marmot-review-10-years-on?utm\\_source=google&utm\\_medium=cpc&utm\\_campaign=marmot2020&gclid=EAlalQobChMIg-7JzYzN6gIVxevtCh3PIgNHEAAYASAAEgLrwd\\_BwE](https://www.health.org.uk/funding-and-partnerships/our-partnerships/health-equity-in-england-the-marmot-review-10-years-on?utm_source=google&utm_medium=cpc&utm_campaign=marmot2020&gclid=EAlalQobChMIg-7JzYzN6gIVxevtCh3PIgNHEAAYASAAEgLrwd_BwE)

47 <http://www.publichealthwalesobservatory.wales.nhs.uk/inequalities-and-inequities>

48 <https://www.gov.uk/government/publications/social-mobility-in-great-britain-state-of-the-nation-2018-to-2019>

49 <https://www.bevanfoundation.org/wp-content/uploads/2020/09/Welsh-Benefits-System-Final-Report-1.pdf>

50 <https://www.gov.uk/government/publications/benefit-expenditure-and-caseload-tables-2019>

7.7 In a report published by the EHRC: The cumulative impact of tax and welfare reforms, evidence shows relative child poverty in Wales is projected to rise with the UK Government's tax and welfare reforms estimated to push an extra 50,000 children into poverty by 2021-22 (an increase of around 8 percentage points)<sup>51</sup>.

7.8 In its latest state of the nation report, Poverty in Wales 2020, the Joseph Rowntree Foundation<sup>52</sup>cites that:

*“a combination of low pay, unaffordable housing and a lack of childcare is trapping 700,000 people in poverty. That includes 180,000 children, of which 140,000 live in families already receiving income-related benefits - the social security system is failing to help many families keep their heads above water.”*

It also reported that;

*“Before coronavirus hit, almost a quarter of people in Wales were living in poverty. After a decade of stalling progress, in which that proportion has barely changed, Wales now faces a rising tide of poverty as the Covid recession gathers pace. The pandemic has hit low-paid workers in Wales particularly hard: industries with a large proportion of low-paid jobs, such as the Accommodation, Food & Beverage sector, have seen 78% of jobs furloughed. Those same sectors are most likely to see widespread job losses, and in some areas of over 40% of jobs are in these high-risk, low-paid industries.”*

7.9 However, it is important to recognise that socio-economic disadvantage is much wider than just poverty. Socio-economic disadvantage is defined in the statutory guidance which will be published when the Duty comes into force, as:

*“Living in less favourable social and economic circumstances than others in the same society, which can be disproportionate in communities of interest, (groups of people who share an interest), and communities of place, (people who are linked together because of a geographical location).”*

The above therefore only provides an insight into the potential costs of maintaining the status quo (Option 1).

### **Option 1 Benefits**

7.10 The evidence demonstrates that working within the existing legislative and policy framework (i.e. not enacting the Duty), does not have the desired effect of putting socio-economic disadvantage at the heart of strategic decision-making for relevant public bodies. However, this option does offer a minor benefit in comparison, in the form of certainty for the relevant public bodies that the status quo will be maintained.

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51 <https://www.equalityhumanrights.com/en/publication-download/cumulative-impact-tax-and-welfare-reforms>

52 <https://www.jrf.org.uk/press/wales-faces-rising-tide-poverty-after-coronavirus>

**OPTION 2: ENACT THE DUTY ON THOSE PUBLIC BODIES LISTED IN THE REGULATIONS REQUIRING THESE PUBLIC BODIES, WHEN MAKING STRATEGIC DECISIONS SUCH AS ‘DECIDING PRIORITIES AND SETTING OBJECTIVES’, TO CONSIDER HOW THEIR DECISIONS MIGHT HELP TO REDUCE THE INEQUALITIES ASSOCIATED WITH SOCIO-ECONOMIC DISADVANTAGE.**

**Description**

- 7.11 This option would place an overarching Duty on relevant public bodies to consider how their strategic decisions help to reduce the inequalities of outcome associated with socio-economic disadvantage.
- 7.12 The new Duty will require relevant public bodies, when taking strategic decisions such as deciding priorities and setting objectives, to have due regard to the need to reduce the inequalities of outcome that result from socio-economic disadvantage.
- 7.13 Considering socio-economic disadvantage will become embedded as an integral part of their strategic decision-making.
- 7.14 The new Duty is not intended to deliver a particular outcome or to ensure a particular level of service is attained; the intent of this option is that when relevant public bodies make strategic decisions they actively consider how decisions can be made in a way which maximises that body’s ability to reduce inequalities of outcome.

**Costs**

**Preparing for the Duty**

- 7.15 Moving relevant public bodies to a position where they are more routinely and actively focusing on reducing socio-economic disadvantage is likely to involve a combination of leadership, cultural and behavioural changes. Between 1 April 2020 and 31 March 2021, a number of steps have been undertaken to provide a range supporting resources, this includes:
- non-statutory guidance;
  - a factsheet;
  - a ‘frequently asked questions’ document;
  - a scrutiny framework to support decision makers in discharging their duty to have ‘due regard’ to the Duty;
  - an overview of the inequalities of outcome resulting from socio-economic disadvantage and how these have been further increased as a result of Covid-19;
  - A guide to help public bodies consider opportunities to apply the Socio-economic Duty, the Public Sector Equality Duty<sup>17</sup> and the Well-being of Future Generations<sup>4</sup> duties in an aligned way;
  - a presentation to support awareness raising of the Duty;

- a short film for public sector senior leaders and those involved in taking key strategic decisions such as Chief Executives, Chairs, Elected Members, Board Members and Governance Leads.
- two webinars for senior leaders within relevant public bodies;
- an explainer film illustrating lived experience; and
- Statutory Guidance.

7.16 In preparing for the Duty some costs relating to 2020-2021, the current financial year, will have already been incurred and are irrecoverable even if the Senedd does not pass the legislation.

7.17 Table 1a below makes reference to ‘a secondee’ which the Welsh Government secured at on a time limited basis from 1 April 2020 to 31 March 2021 to lead as implementation manager to deliver the above resources alongside Welsh Government Staff. The annual cost of this seconded role was £54,000.

7.18 All costs during the period from 1 April 2020 to 31 March 2021 have been absorbed. These costs reflect the opportunity cost of undertaking alternative work if the Duty was not being commenced.

7.19 There were no costs associated with the distribution of the supporting resources as only electronic versions are available on the Welsh Government [website](#), all publications were published in HTML, which is most readily consumed by assistive technologies, such as screen readers, and navigated by speech-to-action software, or PDF optimised format to meet accessibility standards.

**Table 1a – Opportunity Costs - Welsh Government - Staff cost associated with development of supporting resources for 2020/21**

Activity	Grade	Time	Cost
Opportunity Cost – development of supporting resources	Deputy Director – SCS 1*	0.1	£11,500
Opportunity Cost – development of supporting resources	Executive Band 2 (Grade 7)*	0.2	£16,200
Opportunity Cost – development of supporting resources	Secondee	0.8	£43,200
Opportunity cost – Communication Lead	Management Band 2 (HEO)*	0.2	£9,800
Opportunity cost - Design and typesetting of supporting resources**	Management Band 3 (EO)*	32 days	£5,500
Opportunity Cost – translation of supporting resources***	Management Band 2 (HEO)*	9 days	£2,000
<b>Total</b>			<b>£88,200</b>

\* Costs for Welsh Government staff are based on average staff costs for non-senior civil staff pay bands 2019/20<sup>53</sup>. These include employment on-costs (pensions, national insurance, etc.)

\*\*Based on costs provided in the Regulatory Impact Assessment to support the Health and Social Care (Quality and Engagement) (Wales) Act<sup>54</sup>, table 19, page 77, for the design and typesetting of one resource was four days of an EO – multiplied by 8 for resources identified in paragraph 7.15;

\*\*\*Based on costs provided in the Regulatory Impact Assessment to support the Health and Social Care (Quality and Engagement) (Wales) Act<sup>55</sup>, table 16, page 76, for translation of 2,000 per day of an HEO – approximately 18,000 words (rounded to the nearest thousand).

\*\*\*Based on costs provided in the Regulatory Impact Assessment to support the Health and Social Care (Quality and Engagement) (Wales) Act<sup>56</sup>, table 16, page 76, for translation of 2,000 per day of an HEO – approximately 18,000 words (rounded to the nearest thousand).

**Table 1b – Revenue Costs - Welsh Government - cost associated with development of supporting resources for 2020/21**

Activity	Cost
Revenue cost – Development suite of short videos demonstrating real life stories	£20,000
Revenue cost – Development of an explainer animation	£15,000
Revenue cost – Development webinars	£5,000
<b>Total</b>	<b>£40,000</b>

7.20 To support the aforementioned resources a group of representatives from the relevant public bodies and the third sector provided advice during 2020/21. This group has subsequently been disbanded.

**Table 2 - Opportunity costs – Guidance Group staff for 2020/21**

Activity	Average (median) earnings in the public sector, 2018*	Number of representatives	Time**	Cost***
Opportunity Cost – Local Authorities	£64,500	3	2 day	£1,800
Opportunity Cost – Local Health Board	£64,500	3	2 day	£1,800
Opportunity Cost – Fire Rescue Authority	£64,500	2	2 day	£1,200
Opportunity Cost – National Parks Authority	£64,500	1	2 day	£600
Opportunity Cost – TUC Cymru	£64,500	1	2 day	£600
Opportunity Cost – WLGA	£64,500	1	2 day	£600
Opportunity Cost – Third Sector	£64,500	2	2 day	£1,200

53 <https://wales365uk.sharepoint.com/sites/Intranet-Money/SitePages/Average-Pay-Costs.aspx>

54 <https://senedd.wales/laid%20documents/pri-ld12572-em/pri-ld12572-em-e.pdf>

55 <https://senedd.wales/laid%20documents/pri-ld12572-em/pri-ld12572-em-e.pdf>

56 <https://senedd.wales/laid%20documents/pri-ld12572-em/pri-ld12572-em-e.pdf>

<b>Total</b>	<b>£7,800</b>
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\*Based on latest ASHE data<sup>57</sup> the median gross hourly earnings for 'Chief Executives and senior officials' (Occ code 111) in Wales in 2018, 30% uplift has been added to reflect on-costs. Data for the average salary for a public sector worker in Wales is not available. We are therefore unable to calculate the costs of the above representatives with any great certainty. Whilst we have data on the costs for CE/ Senior Mangers we are using this to try and provide a best estimate. However we recognise the actual cost will be significantly lower.

\*\*1 hour every two weeks for the period of 220 days per year = 15.7 hours – rounded to 2 day.

\*\*\* Average annual salary divided by 220 days per year, multiplied by the number of days, multiplied by the number of bodies.

7.21 Separately to the above, there are further opportunity costs associated with the consideration of supporting material by staff within relevant public bodies and changes to existing processes and systems to embed the Duty once it is commenced. The estimated opportunity costs associated with staff reviewing the material has been calculated based on the number of staff-hours spent on the training, multiplied by the average cost per hour of those taking part.

7.22 Discussions with relevant public bodies, determined larger organisations such as Welsh Ministers, Local Authorities, Local Health Boards, NHS Trusts and Special Health Authorities would need more time – up to a maximum of 40 days to possibly train a number of officials across the organisation, review complex governance arrangements and update decision making approaches such as impact assessments. The smaller organisations such as the Fire and Rescue Authorities, National Park Authorities and the Welsh Revenue Authority agreed that a maximum of 18 days would be adequate to undertake a similar task.

**Table 3 - Opportunity costs – Relevant public bodies for 2020/21**

Activity	Average Salary	Time	Number of public bodies	Cost***
Opportunity Cost – The Welsh Ministers	£94,500*	40 days	12	£206,200
Opportunity Cost – Local Authorities	£64,500**	40 days	22	£258,000
Opportunity Cost – Local Health Boards	£64,500**	40 days	7	£82,100
Opportunity Cost – NHS Trusts	£64,500**	40 days	3	£35,200
Opportunity Cost – Special Health Authorities	£64,500**	40 days	1	£11,800
Opportunity Cost – Fire and Rescue Authorities	£64,500**	18 days	3	£15,900

57 <https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/bulletins/annualsurveyofhoursandearnings/2020>

Opportunity Cost – National Park Authorities	£64,500**	18 days	3	£15,900
Opportunity Cost – The Welsh Revenue Authority	£64,500**	18 days	1	£5,300
<b>Total</b>				<b>£630,400</b>

\*The determination on Members' Pay and Allowances<sup>58</sup> shows for 2017-18 the total salary for a Minister (£102,100) and Deputy Minister (£86,785) is averaged at £94,442.50.

\*\*Based on latest ASHE data<sup>59</sup>, the median gross hourly earnings for 'Chief Executives and senior officials' (Occ code 111) in Wales in 2018, 30% uplift has been added to reflect on-costs. All data assumes 220 working days. The same cost calculation methodology used in the RIA of the Well-being of Future Generations Bill has been used.

\*\*\* Average annual salary divided by 220 days per year, multiplied by the number of days, multiplied by the number of bodies.

## Implementation

7.23 Implementation of the Duty involves considering socio-economic disadvantage when making strategic decisions. To do this public bodies already have access to a wide range of quantitative and qualitative data, and will be routinely engaging with service users to gather insight. Therefore the costs associated with implementation relate solely to the opportunity costs associated with the consideration of this data through the lens of socio-economic disadvantage.

7.24 It has proved extremely challenging to provide a realistic estimate of the time to implement the Duty across the range of relevant public bodies. The original impact assessment undertaken by the UK Government in support of the 2010 Act<sup>6</sup> provided a useful starting point for drafting the RIA, stating that:

*“It is difficult to estimate the cost of legislation, it is taken to be the time required for authorities to familiarise themselves with it, and the time taken on an on-going basis to ensure that appropriate data feeds into the relevant decision-making processes. It is assumed that the first element will, on average, take a senior official (or equivalent) three days (21 hours), including half a day to familiarise themselves with the legislation and then a further two and a half days to integrate consideration of socioeconomic disadvantage into the policy process where this is not already the case. It is assumed that the second element will take a senior official or analyst one day’s work each year”.*

*The assumption that compliance will take 21 hours initially and 7 hours on an on-going basis is the main limitation on the accuracy of this impact assessment. It is not known how long it will take authorities to familiarise themselves with the Duty and to adjust their policy processes to accord with it.”*

58 National Assembly for Wales. Determination on Members' Pay - Remuneration Board of the National Assembly for Wales [Internet]. National Assembly for Wales; 2017. Available from: [http://www.assembly.wales/Job%20Documents/Cams/Determination/Determination\\_Sep\\_17\\_EN.pdf](http://www.assembly.wales/Job%20Documents/Cams/Determination/Determination_Sep_17_EN.pdf)

59 <https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/bulletins/annualsurveyofhoursandearnings/2020>

- 7.25 The Welsh Government included this initial time assessment in a draft RIA which it consulted upon alongside the commencement of the Duty<sup>60</sup>.
- 7.26 The consultation responses received revealed that whilst the majority agreed with the Welsh Government's initial estimates, the cost had been underestimated for some public bodies. In particular, local authorities and health boards felt that the cost of implementing the Duty was significantly more than estimated. Local authorities felt that the timescales needed to be adjusted to allow for more preparation time and that some factors including elected member's time in scrutinising decisions had been overlooked.
- 7.27 Feedback received indicated that this time input is too low. For example, one local authority stated:
- "The costs of implementation are grossly underestimated in the draft RIA. It assesses half a day of a senior officer's time to integrate into the policy process. Making data available across the authority, changing process and procedure and training all relevant staff and members in the first year of implementation will be significant. Thereafter senior officer (decision-maker/report writer) time in properly impact assessing decisions will be significant."*
- 7.28 Despite feeling the estimations were 'unrealistic', respondents found it difficult to estimate how long it would take, stating:
- 'it is hard to accurately state how long it will take for an authority to familiarise itself with the Duty/guidance and adjust any policies/processes accordingly.'*
- 7.29 Respondents made the further point that not all costs will be the same for each organisation, as there may be variations based on size and complexity. The number of strategic decisions relevant public bodies will undertake per annum may also vary i.e. a Local Authority or Local Health Board may make significantly more strategic decisions per annum compared to a National Park Authority or Fire and Rescue Authority.
- 7.30 Welsh Government officials have engaged Scottish counterparts to help identify the opportunity cost of relevant public bodies.
- 7.31 Based on the feedback received from the consultation Welsh Government revised the original estimates upwards across the board from 21 hours in the first year and seven hours over thereafter, to 18 days in the first year as seen in table 3, and 12 days thereafter. These new costings were shared with Scottish colleagues for comment given their experience (in April 2018, Scotland became the first UK nation to commence Part 1 of the Equality Act 2010 - The Fairer Scotland Duty<sup>61</sup>), with Scottish colleagues giving the following response:

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60 <https://gov.wales/equality-act-2010-commencing-socio-economic-duty>

61 <https://www.gov.scot/publications/fairer-scotland-duty-interim-guidance-public-bodies/>

*“the time and costs you are suggesting looks reasonable. From our experience, different organisations are taking quite different approaches and therefore have different resources available for implementing the FSD. It’s impossible to come up with a figure that would reflect what everyone is doing”.*

7.32 Bearing in mind these difficulties, but not yet being in receipt of evidence to show exactly what the variations may be, the Welsh Government worked closely with representatives of relevant public bodies to agree a best estimate. The revised opportunity costs for public sector bodies is costed below. These costs are reoccurring from 2021/22 onwards.

**Table 4** - Opportunity cost – Relevant public sector staff time associated with implementation 2021/22 and 2022/23

Activity	Average (median) earnings in the public sector, 2018	Time	Number of public bodies	Cost 2021/22***	Cost 2022/23***
Opportunity cost – Implementation - The Welsh Ministers	£94,500*	12 Days	12	£61,900	£61,900
Opportunity cost – Implementation - Local Authorities	£64,500**	12 Days	22	£77,400	£77,400
Opportunity cost – Implementation - Local Health Boards	£64,500**	12 Days	7	£24,700	£24,700
Opportunity cost – Implementation - NHS Trusts	£64,500**	12 Days	3	£10,600	£10,600
Opportunity cost – Implementation - Special Health Authorities	£64,500**	12 Days	1	£3,600	£3,600
Opportunity cost – Implementation - Fire and Rescue Authorities	£64,500**	12 Days	3	£10,600	£10,600
Opportunity cost – Implementation - National Park Authorities	£64,500**	12 Days	3	£10,600	£10,600
Opportunity cost –	£64,500**	12 Days	1	£3,600	£3,600

Implementation - The Welsh Revenue Authority					
<b>Total</b>				£203,000	£203,000

\*The determination on Members' Pay and Allowances<sup>62</sup> shows for 2017-18 the total salary for a Minister (£102,100) and Deputy Minister (£86,785) is averaged at £94,442.50.

\*\*Based on latest ASHE data<sup>63</sup>, the median gross hourly earnings for 'Chief Executives and senior officials' (Occ code 111) in Wales in 2018, 30% uplift has been added to reflect on-costs. All data assumes 220 working days. The same cost calculation methodology used in the RIA of the Well-being of Future Generations Bill has been used.

\*\*\* Average annual salary divided by 220 days per year, multiplied by the number of days, multiplied by the number of bodies.

## Cultural changes

7.33 An effect of the Duty will be one where relevant public bodies further support the development of a culture of considering the impact of socio-economic disadvantage. The Duty will therefore change the focus of policy and decision making for strategic decisions, to one which has a strong focus on inequalities. The decisions taken by public bodies may also change as a result of this Duty and those changes might themselves have financial implications. We can't pre-judge the costs associated with this shift in culture and any potential financial impacts as a result of future decisions changing, and are therefore unknown, as the resource and time required to deliver this will vary depending on how far along they are in their journey working in this way.

## Legal costs

7.34 By enacting the Duty, it creates opportunity for legal challenges to decisions on the grounds they do not comply with the Duty i.e. if a relevant public body fails to perform the Duty, an individual or group whose interests are adversely affected by that public body's decision, may be able to bring a judicial review claim against that authority.

7.35 Costs provided in the Regulatory Impact Assessment to support the Health and Social Care (Quality and Engagement) (Wales) Act<sup>64</sup>, paragraph 218, page 61 explains:

*"While failure to comply with the Duty can be challenged in the courts it is considered unlikely the Duty will amount to an entitlement to an individual receiving a particular service. For example, it was determined in the case of R (Dyer) v Welsh Ministers [2015] EWHC 3712 the statutory regime (the National Health Service (Wales) Act 2006)<sup>65</sup> was not suitable to create an individual entitlement to service provision and that no public law duties had been breached in relation to collating data as to service provision or in making*

62 National Assembly for Wales. Determination on Members' Pay - Remuneration Board of the National Assembly for Wales [Internet]. National Assembly for Wales; 2017. Available from: [http://www.assembly.wales/Job%20Documents/Cams/Determination/Determination\\_Sep\\_17\\_EN.pdf](http://www.assembly.wales/Job%20Documents/Cams/Determination/Determination_Sep_17_EN.pdf)

63 <https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/bulletins/annualsurveyofhoursandearnings/2020>

64 <https://senedd.wales/laid%20documents/pri-ld12572-em/pri-ld12572-em-e.pdf>

65 R (Dyer) v Welsh Ministers [2015] EWHC 3712 (Admin), [2015] MHLO 109 - Mental Health Law Online [Internet]. Mentalhealthlaw.co.uk. 2017 [cited 2 April 2019]. Available from: [http://www.mentalhealthlaw.co.uk/R\\_\(Dyer\)\\_v\\_Welsh\\_Ministers\\_\(2015\)\\_EWHC\\_3712\\_\(Admin\),\\_\(2015\)\\_MHLO\\_109](http://www.mentalhealthlaw.co.uk/R_(Dyer)_v_Welsh_Ministers_(2015)_EWHC_3712_(Admin),_(2015)_MHLO_109)

*service provision decisions. Therefore, while the potential costs associated with possible challenges by judicial reviews could be significant if they were to materialise, the likelihood of this is considered to be minimal. These costs are unquantifiable as even if a judicial review challenge was to be brought, the costs of judicial reviews vary significantly and therefore this cost is unknown at this stage.”*

## **Equality and Human Rights Commission’s (EHRC)**

- 7.36 The EHRC is required to promote understanding of, and encourage good practice in relation to equality and this will include the Duty. The EHRC is also under an obligation, under section 8(1)(e) to enforce the Equality Act 2006<sup>66</sup> The EHRC’s general duties under sections 11 and 12 of the Equality Act 2006<sup>67</sup> and general powers under sections 13 and 14 of the 2006 Act are also relevant to the Socio-economic Duty.
- 7.37 There are opportunity costs for the EHRC in deploying their existing staff to undertake regulatory work for the socio-economic Duty. These costs have been calculated and agreed by EHRC, and based on their potential activities and existing staff salaries for staff at an appropriate grade, these are estimated to be £80,200 per annum. These costs have been incurred in supporting the Welsh Government to produce the supporting materials in 2020/21 and are reoccurring from 2021/22 onwards.
- 7.38 As per other areas of its work, the EHRC will prioritise its work programme based on intelligence, and therefore these costs are subject to variation.

### **Outcomes:**

- 7.39 Option 1 identifies costs associated with not enacting the Duty. However, the Welsh Government is unable to provide a cost of what, if any savings, will occur as a result of enacting the Duty. This is because as explained within Option 1, as referred to at paragraph 7.4, the factors which influence socio-economic disadvantage are complex and are often interconnected and difficult to unpick. In addition, the Duty will only apply to a limited number of public bodies potentially minimising a system wide change. Therefore, the costs associated with any potential savings are deemed unquantifiable so an estimate has not been provided as it would be so broad that it would not provide value and would be misleading.

### **Summary of costs:**

- 7.40 The costs set out for development and delivery of a public awareness campaign, training for staff, and development, distribution and review of statutory guidance are summarised in the tables below:

### **Table 5 – Summary of costs**

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66 <https://www.legislation.gov.uk/ukpga/2006/3/section/8#section-8-1-e>

67 <https://www.legislation.gov.uk/ukpga/2006/3/section/11>

	2020-21	2021-22	2022-23
Welsh Government (table 1a and 1b)	£128,200	£0	£0
Welsh Ministers (tables 2, 3 and 4)	£206,200	£61,900	£61,900
Local Authorities (tables 2, 3 and 4)	£259,800	£77,400	£77,400
Local Health Boards (tables 2, 3 and 4)	£83,900	£24,700	£24,700
NHS Trusts (tables 2, 3 and 4)	£35,200	£10,600	£10,600
Special Health Authorities (tables 2, 3 and 4)	£11,800	£3,600	£3,600
Fire and Rescue Authorities (tables 2, 3 and 4)	£17,100	£10,600	£10,600
National Park Authorities (tables 2, 3 and 4)	£16,500	£10,600	£10,600
The Welsh Revenue Authority (tables 2, 3 and 4)	£5,300	£3,600	£3,600
TUC Cymru (table 2)	£600	£0	£0
WLGA (table 2)	£600	£0	£0
Third Sector (table 2)	£1,200	£0	£0
EHRC	£80,200	£80,200	£80,200
<b>Total</b>	<b>£846,600</b>	<b>£283,200</b>	<b>£283,200</b>

## Benefits

### Welsh Government

7.41 The exact benefits expected in terms of a reduction in the inequalities which result from socio-economic disadvantage, are hard to quantify. For example, it is not possible at this stage to estimate the extent to which the Duty may reduce the welfare payments currently made by the Welsh and UK Governments (see para 7.6) As indicated at para 7.26 above, Scotland was the first UK nation to commence the Socio-economic Duty - the Fairer Scotland Duty. However evidence of impact in Scotland has proved difficult to obtain. As explained in paragraph 7.4 socio-economic disadvantage is made up from many interconnected factors which are difficult to isolate. Therefore, it is difficult to know what measurable impact the Duty has had at this early stage. However, there have been examples where the Duty has influenced decision making to help reduce the socio-economic impact.

7.42. Enacting the Duty would deliver against commitments made by Ministers, as referred to paragraph 4.2. As mentioned in paragraph 4.17, it compliments other duties, helping provide a clearer focus for relevant public bodies, to

target inequalities which arise from socio-economic disadvantage – in doing so future proofing their decision making in this way. It will help ensure that different public bodies work better together towards a common goal, providing a greater focus and clarity as to what a socio-economic disadvantage looks like in Wales, and taking positive action to eliminate it.

- 7.43 The Duty will help tackle the inequalities of outcome associated with socio-economic disadvantage which currently exist in Wales, as described in paragraphs 4.20 - 4.30.
- 7.44 Finally, it will further enable Wales to become a leader within the UK in respect of taking action to address inequality, with to date Scotland being the only other UK country to commence the Duty.

### **Relevant public bodies**

- 7.45 The Future Generation Commissioner, in her recent report<sup>68</sup> called for a collaborative approach to implementing the Duty, taking the opportunity to integrate it within existing process.

*“We need to work together to ensure successful implementation of the Duty, as part of a strategic approach to ending poverty, ensuring that this does not impose another layer of process but instead its aspirations are embedded within the planning and reporting requirements already in place under the Well-being of Future Generations Act 2015.”*

- 7.46 This approach will help certain public bodies (as the Well-being of Future Generations Act 2015<sup>4</sup> does not apply to all the bodies listed under the Duty) to build on the good work they have already undertaken in implementing the Act, further strengthening application of the sustainable development principle, which makes sure that certain public bodies when making their decisions, take into account the impact they could have on people living their lives in Wales in the future.
- 7.47 Through implementation of the Duty, relevant public bodies are encouraged to consider data and evidence associated with inequality of outcome as a result of socio-economic disadvantage, to better understand the impact of their decisions. Engaging directly with individuals and communities affected by socio-economic disadvantage will contribute to this understanding. Statutory guidance recommends that public bodies understand where they can achieve the greatest impact in reducing inequalities, contributing to creating a fairer Wales for future generations.
- 7.48 The gender equality review also supports an integrated approach, stating in the 2019 report<sup>69</sup>:

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68 <https://www.futuregenerations.wales/wp-content/uploads/2020/06/Chap-3-Equal.pdf>

69 [https://chwaraeteg.com/wp-content/uploads/2019/09/English-Digital\\_Summary-GER.pdf](https://chwaraeteg.com/wp-content/uploads/2019/09/English-Digital_Summary-GER.pdf)

*“Lessons must be learnt to ensure that new duties, such as the socio-economic Duty, are developed and implemented with alignment with existing duties in mind.”*

- 7.49 Through collaborative working with the Equality and Human Rights Commission and the Office of Future Generations, a mapping tool has been prepared to help public bodies to consider opportunities to apply the Socio-economic, the Public Sector Equality and the Well-being of Future Generation’s duties in an aligned way, reducing burden and taking opportunities to consider socio-economic disadvantage within existing processes. Taking forward a more integrated approach will ultimately improve organisational consideration of equality. By acting in this way, relevant public bodies will gain a greater understanding of the impact of their decisions, maximising their contribution to addressing wider inequalities and, as such, the aims of the PSED<sup>18</sup>, thus helping to further meet their obligations under the Human Rights Act<sup>23</sup> 1998 and international human rights law.
- 7.50 In essence, the ultimate outcome of implementation of the Duty, is to achieve better outcomes for those who suffer socio-economic disadvantage and an integrated approach reflects this.

### **Relevant public bodies and the citizen**

- 7.51 By acting in the spirit intended by the Duty, there are several mutual benefits for both the relevant public bodies themselves and the general public.

### Governance:

- 7.52 Within the statutory guidance, which will be published alongside the commencement of the Duty, relevant public bodies will be advised to ensure they keep an audit trail for all decisions made under the Duty. In this context an ‘audit trail’ should reflect a step by step record of evidence gathered to inform a decision, including evidence:
- which identifies any likely impacts of such decision in relation to the Socio-economic Duty; and
  - of how due regard was given including records of changes made to the decision.
- 7.53 Being able routinely to demonstrate this in an open and transparent manner, will ultimately lead to better performance and greater trust and engagement with stakeholders and partner organisations. This supports the principles of good governance in the public sector, as set out in the ‘International Framework’<sup>70</sup>, in particular principle B:

*“Ensuring openness and comprehensive stakeholder engagement - as public sector entities are established and run for the public good, their governing bodies should ensure openness in their activities. Clear, trusted channels of*

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<sup>70</sup> <https://www.cipfa.org/policy-and-guidance/standards/international-framework-good-governance-in-the-public-sector>

*communication and consultation should be used to engage effectively with all groups of stakeholders, such as individual citizens and service users, as well as institutional stakeholders. In addition to the overarching requirements for acting in the public interest”.*

- 7.54 By acting in this way, relevant public bodies will be able to provide those citizens who experience socio-economic disadvantage with evidence of how they have considered the impact of the strategic decision upon them. It will ensure consideration has been given, and where applicable changes have been made, to reduce the socio-economic impact of a decision. This will contribute to better outcomes for those experiencing socio-economic disadvantage.
- 7.55 Ultimately, working in this open and transparent manner will likely lead to less concerns and complaints regarding how relevant public bodies are making decisions and discharging their responsibility under the Duty.

#### Engagement:

- 7.56 The statutory guidance also recommends that relevant public bodies should understand where they can have the greatest positive impact in reducing inequalities of outcome. Separately, it recommends that public bodies engage directly with individuals and communities affected by socio-economic disadvantage to inform strategic decision making, for example through consultation and engagement events.
- 7.57 Engaging members of the public who experience socio-economic disadvantage will provide a mutual benefit to the public and to relevant public bodies alike. It will give individuals an opportunity to be involved in influencing strategic decisions that might impact them. It is an opportunity for those experiencing socio-economic disadvantage to have their voices heard, thus allowing for further transparency within the decision making process. It will also provide citizens with greater insight into how relevant public bodies are acting on their behalf, and how public bodies are considering the needs of those experiencing socio-economic disadvantage. Utilising lived experiences will give relevant public bodies a better understanding of the inequalities of outcome which arise from socio-economic disadvantage, contributing to better decision making and ultimately leading to better outcomes.
- 7.58 The Duty will change the way the relevant public bodies tackle socio-economic disadvantage and its underlying causes, helping to improve the long-term economic, social and environmental well-being of the people and communities that they strive to help, leaving a better legacy for future generations and ensuring Wales is a country where every citizen can thrive, not simply a select few.

#### Third Sector

- 7.59 The statutory guidance encourages relevant public bodies to adopt the principles set out in the Welsh Government [third sector scheme](#) thus providing

benefits to both relevant public bodies and the public, for example the third sector can help:

- transform the way that public services meet present and future demands, by treating people and communities as assets and equals in the design and delivery of services, not only as service receivers;
- make public body resources go much further by encouraging their use in different and new ways which strengthen individuals and communities; and
- by providing effective partnerships based on an appreciation of each party's distinctive contribution.

7.60 Whilst the Duty itself would not be asking third sector or local authorities to do anything more than what is required in the third sector scheme, by engaging with the third sector, public bodies will be able to utilise existing networks to extend their reach into the most vulnerable in our society and gain a better understanding of the inequalities communities face.

7.61 Through the Covid-19 crisis and the flooding of 2020, the third sector showed how crucial their work with public bodies was in supporting communities. Working collaboratively with public bodies in this way ensures the voices of people are heard and considered, ultimately leading to better outcomes for those experiencing inequalities of outcome.

### **The citizen**

7.62 The Duty will benefit the citizens of Wales by helping to reduce the inequality of outcomes by ensuring that relevant public bodies give due-regard to socio-economic disadvantage when making all strategic decisions.

7.63 It will also benefit the citizens of Wales by providing a place to live that benefits everyone and not the select few.

### **SUMMARY AND PREFERRED OPTION**

7.64 **Option 1** proposes no change to the current way of working. It is possible that continuing in this way would increase socio-economic disadvantage, for example as stated above at paragraphs 7.6 and 7.7 the evidence shows poverty in Wales is projected to rise. There is therefore a risk associated with this option, as maintaining the status quo would miss the opportunity to reduce the inequalities that result from socio-economic disadvantage.

7.65 **Option 2** creates a new overarching Duty requiring relevant public bodies, when making strategic decisions such as 'deciding priorities and setting objectives', to consider how their decisions might help to reduce the inequalities associated with socio-economic disadvantage. This option offers the best way forward to successfully embedding socio-economic consideration as a principle in the heart of decision-making within relevant public bodies. It will help ensure that different public bodies work better together towards a common goal, providing clarity as to what socio-economic disadvantage in Wales looks like, and enabling positive action to move Wales faster on its journey to strengthen

equality and human rights in Wales. It will also benefit the citizens of Wales by providing a place to live where everyone has an opportunity to prosper and thrive, no matter who they are or where they come from.

7.66 While it is not possible to estimate the extent to which the Duty will reduce the costs associated with socio-economic disadvantage (e.g. the UK and Welsh Government’s welfare payments), it is clear the costs which have been identified in this RIA for implementing the Duty are very small in comparison. In this context, the Duty would only need to result in a small reduction in socio-economic disadvantage for the benefits to outweigh the costs and justify the additional cost associated with option 2.

## 8. Consultation

8.1 As referenced to in Section 5, a draft RIA was used as part of the consultation accompanying documentation, and the below reflects, where appropriate the comments received. Paragraphs 7.26-7.28 highlight the comments received on the draft RIA.

## 9. Competition Assessment

9.1 A competition assessment has been undertaken. There are no detrimental effects on competition. The results are below:

Question	Answer yes or no
<b>Q1:</b> In the market(s) affected by the new regulation, does any firm have more than 10% market share?	No
<b>Q2:</b> In the market(s) affected by the new regulation, does any firm have more than 20% market share?	No
<b>Q3:</b> In the market(s) affected by the new regulation, do the largest three firms together have at least 50% market share?	No
<b>Q4:</b> Would the costs of the regulation affect some firms substantially more than others?	No
<b>Q5:</b> Is the regulation likely to affect the market structure, changing the number or size of firms?	No
<b>Q6:</b> Would the regulation lead to higher set-up costs for new or potential suppliers that existing suppliers do not have to meet?	No
<b>Q7:</b> Would the regulation lead to higher ongoing costs for new or potential suppliers that existing suppliers do not have to meet?	No

Question	Answer yes or no
<b>Q8:</b> Is the sector characterised by rapid technological change?	No
<b>Q9:</b> Would the regulation restrict the ability of suppliers to choose the price, quality, range or location of their products?	No

## 10. Post implementation review

- 10.1 As explained in paragraph 7.4, the inequalities of outcome associated with socio-economic disadvantage are complex and interlinked to wider determinants.
- 10.2 The implementation approach outlined in the RIA aims to deliver an effective framework for demonstrating outcomes and impacts without excessive additional burden. This approach will underpin the monitoring and evaluation associated with the Duty, making use of routinely collected administrative and survey data, complemented with qualitative evidence from key stakeholders and service recipients.
- 10.3 The statutory guidance supporting the Duty will help public bodies through the identification of a range of ways in which public bodies can better understand inequalities of outcome and where they can have the greatest impact. For example through a wide range of quantitative data and other evidence which they already have access to including:
- Annual employment data published under the public sector equality duty<sup>71</sup>
  - The Equality and Human Rights Commission’s report *Is Wales Fairer?*<sup>72</sup>
  - The Equality and Human Rights Commission measurement framework for equality and human rights<sup>73</sup> setting the indicators for *Is Wales Fairer?*
  - The Welsh Government’s *Future Trends* report<sup>74</sup>
  - Statistics available from *StatsWales*<sup>75</sup> and the Office for National Statistics<sup>76</sup>

71 <https://statswales.gov.wales/Catalogue/Equality-and-Diversity/Public-Sector-Equality-Duty>

72 <https://www.equalityhumanrights.com/en/publication-download/wales-fairer-2018>

73 <https://www.equalityhumanrights.com/en/publication-download/measurement-framework-equality-and-human-rights>

74 <https://gov.wales/future-trends-2017>

75 <https://statswales.gov.wales/Catalogue>

76 <https://www.ons.gov.uk/>

- Relative Income Poverty (Households Below Average Income)<sup>77</sup>
- Persistent Poverty<sup>78</sup>
- Wellbeing and Finances, including Material Deprivation (National Survey for Wales)<sup>79</sup>
- Office for National Statistics Income and Wealth data<sup>80</sup>
- The Welsh Government's Well-being of Wales Report<sup>81</sup>
- Chwarae Teg's Gender Equality Review <sup>82</sup>
- Older Peoples Commissioner for Wales State of The Nation Report.<sup>83</sup>
- The Welsh Index of Multiple Deprivation (WIMD)<sup>84</sup>
- End Child Poverty Coalition's local estimates of child poverty<sup>85</sup>

10.4 Given the multiple outcomes anticipated as a result of the Duty a programme of monitoring and evaluation activity of the above will be developed to correspond with key activities, and a range of research and evaluation methods will be considered, depending on the nature of the data required.

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77 <https://gov.wales/relative-income-poverty>

78 <https://gov.wales/persistent-poverty>

79 <https://gov.wales/national-survey-wales-wellbeing-and-finances>

80 <https://www.ons.gov.uk/peoplepopulationandcommunity/personalandhouseholdfinances/incomeandwealth>

81 <https://gov.wales/well-being-wales-2019>

82 <https://chwaraeteg.com/projects/gender-equality-review/#phase-two>

83 <https://www.olderpeoplewales.com/en/reviews/SOTN.aspx>

84 <https://stats.wales.gov.wales/Catalogue/Community-Safety-and-Social-Inclusion/Welsh-Index-of-Multiple-Deprivation>

85 <http://www.endchildpoverty.org.uk/child-poverty-in-your-area-201415-201819/>



Llywodraeth Cymru  
Welsh Government

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## WRITTEN STATEMENT BY THE WELSH GOVERNMENT

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<b>TITLE</b>	<b>Socio-economic Duty – Statutory Guidance laid alongside Regulations for information purposes</b>
<b>DATE</b>	<b>9 February 2021</b>
<b>BY</b>	<b>Jane Hutt MS, Deputy Minister and Chief Whip</b>

Today I am delighted to have laid the Equality Act (Authorities subject to a duty regarding Socio-economic Inequalities) (Wales) Regulations 2021 which will be debated in the Senedd Cymru on 9 March 2021.

The Regulations are a key lever to address socio-economic disadvantage in Wales.

The Regulations will amend section 1(3) of the [2010 Equality Act](#) by adding relevant Welsh public authorities to the list, so that when section 1 of the 2010 Act is commenced, the Duty will apply to those Welsh bodies listed.

The Duty will require the public bodies listed, when making strategic decisions, such as deciding priorities and setting objectives, to consider how their decisions might help to reduce the inequalities associated with socio-economic disadvantage.

An Explanatory Memorandum, including Regulatory Impact Assessment, has also been published alongside the Regulations, and is available on the [Senedd Cymru Website](#) where a summary of the Integrated Impact Assessment to support the duty is also available.

I thought it would be helpful to provide a copy of the statutory guidance which will be published alongside commencement of the Duty. A copy of the guidance has been laid with the Table Office and is also available on the [Senedd Cymru Website](#). This guidance will be formally issued subject the Senedd's approval of the Regulations.

This statutory guidance has been developed in partnership with representatives of relevant public bodies, the TUC, the Equality and Human Rights Commission and third sector bodies. It builds on the learning from Scotland, who have commenced the Duty, and the [interim guidance](#) which I published on 1 April 2020. I would like to thank everyone who has been involved in this work.

The Statutory Guidance provides additional information on issues such as who the Duty applies to and why, enforcement and judicial review, responsibility for complying with the Duty, and annual reporting/ monitoring. The [Socio-economic Duty webpages](#) contain further co-produced resources which have been used to support public bodies prepare for the duty.

Whilst I acknowledge commencing the duty at this time, during a global pandemic, may not been seen by some as ideal. It is however my unequivocal view this duty is needed now more than ever as the impact Covid-19 is having on further exacerbating current inequalities in Wales. It has become clear that certain groups have been affected more than others – for example, ethnic minority communities, disabled people, women, and young people. The Duty is designed to improve that position for those suffering socio-economic disadvantage. Through the aforementioned co-produced interim guidance and published resources all I believe all reasonable measures have been taken to support public bodies prepare for commencement.



Llywodraeth Cymru  
Welsh Government

# Statutory Guidance: The Equality Act 2010 (Authorities subject to a duty regarding Socio-economic Inequalities) (Wales) Regulations 2021

**FOR INFORMATION PURPOSES ONLY**

Please note: pending the Equality Act 2010 (Authorities subject to a duty regarding Socio-economic Inequalities) (Wales) Regulations 2021 being passed on 9 March 2021, the Statutory Guidance will be published on the commencement of the Duty on 31 March 2021.

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# Foreword

Commencing the Socio-economic Duty (“the Duty”) highlights the Welsh Government’s commitment to safeguarding equality and human rights.

The Duty gives us an opportunity to do things differently in Wales. It puts tackling inequality at the heart of decision-making, and will build on the good work that public bodies are already doing.

Never has there been a more pertinent time to act. Decades of EU membership has produced a legacy of benefits in Wales, covering many aspects of daily life, including employment rights, environmental rights and health and safety regulations. However EU exit brings great uncertainty and will likely increase the inequalities which currently exist.

Separately, we know Covid-19 has increased inequalities in Wales<sup>1</sup>, and the evidence shows there is an indisputable link between inequality and socio-economic disadvantage<sup>2</sup>.

Commencing the Duty will not compete with or override other duties such as the Equality Act, 2010<sup>3</sup> Public Sector Equality Duty (PSED)<sup>4</sup>, the Children and Families (Wales) Measure 2010<sup>5</sup> and the Well-being Duty under the Well-being of Future Generations Act 2015<sup>6</sup>. It is our intention that commencing the Duty will complement these duties by further contributing towards Wales’ long term well-being goals, in particular “A more equal Wales” and “A Wales of cohesive communities”. Further strengthening social partnership arrangements<sup>7</sup> and advancing fair work ambitions<sup>8</sup>.

Therefore, the aim is for the Duty to become another key mechanism in supporting the most vulnerable in our society. By requiring public bodies to make better decisions, ones which place consideration of inequality of outcome which arises from socio-economic disadvantage at their heart, it will further help tackle the uncertainty of EU exit and our recovery from Covid-19, allowing us to move towards the reconstruction of a fairer and more prosperous Wales.

**Jane Hutt**

Deputy Minister and Chief Whip

1 [gov.wales/socio-economic-duty-examples-inequalities-outcome](https://gov.wales/socio-economic-duty-examples-inequalities-outcome)

2 by socio-economic disadvantage we mean living in less favourable social and economic circumstances than others in the same society.

3 [www.legislation.gov.uk/ukpga/2010/15/contents](http://www.legislation.gov.uk/ukpga/2010/15/contents)

4 [www.gov.uk/government/publications/public-sector-equality-duty](http://www.gov.uk/government/publications/public-sector-equality-duty)

5 [www.legislation.gov.uk/mwa/2010/1/pdfs/mwa\\_20100001\\_en.pdf](http://www.legislation.gov.uk/mwa/2010/1/pdfs/mwa_20100001_en.pdf)

6 [www.futuregenerations.wales/about-us/future-generations-act/](http://www.futuregenerations.wales/about-us/future-generations-act/)

7 [gov.wales/written-statement-more-equal-wales-strengthening-social-partnership](http://gov.wales/written-statement-more-equal-wales-strengthening-social-partnership)

8 [gov.wales/written-statement-more-equal-wales-strengthening-social-partnership](http://gov.wales/written-statement-more-equal-wales-strengthening-social-partnership)

# Introduction

**The Socio-economic Duty came into force in Wales on the 31 March 2021. It will encourage better decision making and ultimately deliver better outcomes for those who are socio-economically disadvantaged.**

This statutory guidance is aimed at helping those public bodies who are captured by the Duty (“public bodies”) to deliver the requirements of the Duty.

The Welsh Government recognises that public bodies operate differently and therefore wants to encourage innovation in delivering the Duty, welcoming different approaches.

We know that there is a lot of good work already underway to reduce inequality across the public sector and it is the aim of the Welsh Government and this guidance, to build on this strong foundation.

This guidance is statutory and has been informed by feedback received through the formal consultation and the engagement events held across Wales. It has been co-produced with representatives of the public bodies captured by the Duty, and representatives of the Third Sector. Advice has been provided by the Trade Union Congress Wales, the Welsh Local Government Association and the Equality and Human Rights Commission.

A range of resources to further support public bodies, and which underpin this guidance, can be found on the dedicated Socio-economic Duty **webpage**.

If you have any questions on this guidance or any of the additional resources, please contact **Socio-economicDuty@gov.wales**

Thank you to everyone who has contributed.

## The public bodies covered by the Duty

'The Equality Act (Authorities subject to the Socio-economic Inequality Duty) (Wales) Regulations 2021' list the following Welsh public bodies as being subject to the Duty, as they fall within the definition of a 'relevant authority' in section 2(6) of the Act<sup>9</sup>.

- The Welsh Ministers;
- A County Council or County Borough Council;
- A Local Health Board;
- An NHS Trust;
- Special Health Authorities (which operate on a Wales only basis);
- A Fire and Rescue Authority;
- A National Park Authority;
- The Welsh Revenue Authority.

## Responsibility for complying with the duty

Ultimately, responsibility for complying with the Duty sits with the individual public body captured, subject to its arrangements for internal delegation of functions to cabinets, boards, committees or officers'.

**As per other equality agendas; it is recommended that leaders identify a senior champion for this Duty.**

## Policy context

Equality is an issue that concerns everyone. Public authorities make decisions on a daily basis and each of these has the potential to have a significant effect on people's lives. In making these decisions, public authorities must comply with a number of statutory duties.

Section 149 of the Equality Act (2010)<sup>10</sup> introduced a single Public Sector Equality Duty (PSED), or "general duty", requiring public authorities and other bodies carrying out public functions, to have due regard to the need to:

- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
- advance equality of opportunity between persons who share a protected characteristic and persons who do not share it; and
- foster good relations between persons who share a protected characteristic and persons who do not share it.

Although the 'general duty' drives sound decision-making in relation to equalities, it does not require public bodies to consider the impact of these decisions on those individuals who experience socio-economic disadvantage. Instead, it encourages public bodies to understand how different groups of people with particular protected characteristics will be affected by their activities, so that the design and delivery of policies and services takes account of the needs of those groups.

The Well-being of Future Generations (Wales) Act 2015<sup>11</sup> gives a legally-binding common purpose – the seven well-being goals – for national government, local government, local health boards and other specified public bodies. It details the ways in which specified public bodies must work, and work together to improve the well-being of Wales. The seven well-being goals and five ways of working provided by the Act are designed to support and deliver a public service that meets the needs of the present without compromising the ability of future generations. The Socio-economic Duty further supports the common purpose and ways of working.

Although public authorities in Wales must comply with a number of statutory duties, including ones which seek to embed equality consideration throughout, more needs to be done to eliminate inequality of outcome associated with socio-economic disadvantage.

<sup>10</sup> [www.legislation.gov.uk/ukpga/2010/15/section/149](http://www.legislation.gov.uk/ukpga/2010/15/section/149)

<sup>11</sup> [www.futuregenerations.wales/about-us/future-generations-act](http://www.futuregenerations.wales/about-us/future-generations-act)

# Legislative background

When the 2010 Act<sup>12</sup> was enacted, the Duty lay dormant on the statute book, as the UK Government elected not to commence it. The Wales Act 2017<sup>13</sup> legislated for a new model of Welsh devolution, which included the power for the Welsh Ministers to commence the Duty in Wales.

Section 45 of the Wales Act 2017<sup>14</sup>, amends Part 1 of the Equality Act, 2010<sup>15</sup> to achieve this. The Welsh Ministers have used this power to commence Sections 1 to 3 of the 2010 Act<sup>16</sup> in Wales – the Socio-economic Duty.

## SECTION 1

Sets out the Duty itself, which requires public bodies, to whom the duty applies:

**“ When making decisions of a strategic nature about how to exercise its functions, have due regard to the desirability of exercising them in a way that is designed to reduce the inequalities of outcome which result from socio-economic disadvantage.**

It lists the bodies that will be covered by the Duty, and a requirement so that when deciding how to fulfil the Duty, the public bodies in Wales captured by the duty must take into account guidance issued by the Welsh Ministers.

## SECTION 2

Confers a power on the Welsh Ministers to make regulations to amend section 1(3) of the 2010 Act<sup>17</sup>. This includes the power to add Welsh public bodies to which the Duty will apply.

## SECTION 3

Makes clear that the Duty will not create any new justiciable rights for individuals.

**In summary, the Duty places a legal responsibility on bodies when they are taking strategic decisions to have due regard to the need to reduce the inequalities of outcome resulting from socio-economic disadvantage.**

**Please note section 1(6) of the 2010 Act<sup>18</sup> states that there is no requirement for bodies to consider inequalities experienced by those persons subject to immigration control.**

**There is no reporting duty attached to the Duty. However, it is a statutory duty and bodies must be able to demonstrate how they have discharged it.**

If an individual or group whose interests are adversely affected by a public body's decision, in circumstances where that individual or group feels the Duty has not been properly complied with, they may be able to bring a judicial review claim against that body. (See section on Demonstrating Due Regard).

12 [www.legislation.gov.uk/ukpga/2010/15/contents](http://www.legislation.gov.uk/ukpga/2010/15/contents)

13 [www.legislation.gov.uk/ukpga/2017/4/contents/enacted](http://www.legislation.gov.uk/ukpga/2017/4/contents/enacted)

14 [www.legislation.gov.uk/ukpga/2017/4/section/45/enacted](http://www.legislation.gov.uk/ukpga/2017/4/section/45/enacted)

15 [www.legislation.gov.uk/ukpga/2010/15/section/1](http://www.legislation.gov.uk/ukpga/2010/15/section/1)

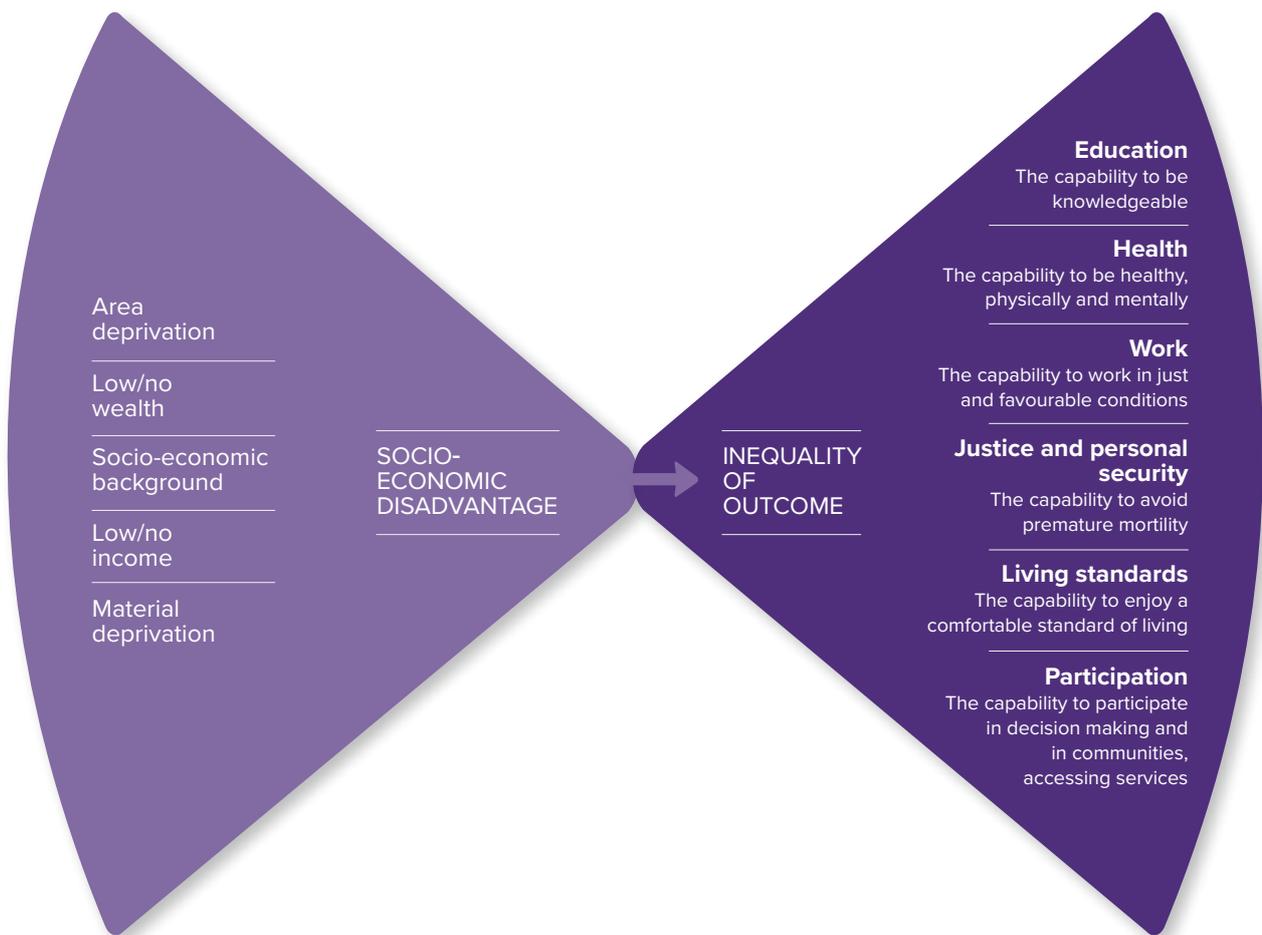
16 [www.legislation.gov.uk/ukpga/2010/15/contents](http://www.legislation.gov.uk/ukpga/2010/15/contents)

17 [www.legislation.gov.uk/ukpga/2010/15/section/1](http://www.legislation.gov.uk/ukpga/2010/15/section/1)

18 [www.legislation.gov.uk/ukpga/2010/15/section/1](http://www.legislation.gov.uk/ukpga/2010/15/section/1)



The diagram below illustrates socio-economic disadvantage as a determinant of unequal outcome (inequality of outcome). Terminology used in the diagram reflects the Equality and Human Rights Commission's measurement framework for equality and human rights<sup>24</sup>



## Inequality and the Covid-19 pandemic

In August 2020, Equality, Local Government & Communities Committee (ELGC) published a report *“Into sharp relief: inequality and the pandemic.”*<sup>25</sup> The report states:

“During the pandemic, our chances of dying, losing jobs or falling behind in education have in part been determined by our age, race, gender, disability, income and where we live. The virus and the response to it is widening existing inequalities, by reducing the incomes and increasing risks disproportionately for some groups of people.

A snapshot of examples of inequalities of outcome and how they have increased as result of Covid-19 are provided on the Welsh Government’s Socio-economic Duty [webpage](#).

## Accessing Evidence

There are a range of ways in which public bodies can better understand inequalities of outcome and where they can have the greatest impact on reducing unequal outcomes as a result of socio-economic disadvantage. Public bodies will already have access to a wide range of quantitative and qualitative data, Examples of high level data, which are routinely updated include:

- **The Equality and Human Rights Commission measurement framework for equality and human rights<sup>26</sup> setting the indicators for Is Wales Fairer?**
- **The Equality and Human Rights Commission’s report Is Wales Fairer?<sup>27</sup>**

- **Annual employment data published under the public sector equality duty<sup>28</sup>**
- **The Welsh Government’s Future Trends report<sup>29</sup>**
- **The Welsh Government’s Well-being of Wales Report<sup>30</sup>**
- **Chwarae Teg’s Gender Equality Review<sup>31</sup>**
- **Older Peoples Commissioner for Wales State of The Nation Report<sup>32</sup>.**
- **Children’s Commissioner for Wales Reports<sup>33</sup>**
- **Statistics available from StatsWales<sup>34</sup> and the Office for National Statistics<sup>35</sup>**
- **Relative Income Poverty (Households Below Average Income)<sup>36</sup>**
- **Persistent Poverty<sup>37</sup>**
- **Wellbeing and Finances, including Material Deprivation (National Survey for Wales)<sup>38</sup>**
- **Office for National Statistics Income and Wealth data<sup>39</sup>**
- **The Welsh Index of Multiple Deprivation (WIMD)<sup>40</sup>**
- **Joseph Rowntree Foundation Poverty in Wales Series<sup>41</sup>**

Some public bodies will be able to gather evidence via their membership of Public Services Boards established under the Well-being of Future Generations (Wales) Act 2015<sup>42</sup>, who undertake assessments of local well-being to inform the development of local well-being plans.

25 [senedd.wales/laid%20documents/cr-ld13403/cr-ld13403-e.pdf](https://senedd.wales/laid%20documents/cr-ld13403/cr-ld13403-e.pdf)  
 26 [www.equalityhumanrights.com/en/publication-download/measurement-framework-equality-and-human-rights](https://www.equalityhumanrights.com/en/publication-download/measurement-framework-equality-and-human-rights)  
 27 [www.equalityhumanrights.com/en/publication-download/wales-fairer-2018](https://www.equalityhumanrights.com/en/publication-download/wales-fairer-2018)  
 28 [stats.wales.gov.wales/Catalogue/Equality-and-Diversity/Public-Sector-Equality-Duty](https://stats.wales.gov.wales/Catalogue/Equality-and-Diversity/Public-Sector-Equality-Duty)  
 29 [gov.wales/future-trends-2017](https://gov.wales/future-trends-2017)  
 30 [gov.wales/well-being-wales-2019](https://gov.wales/well-being-wales-2019)  
 31 [chwarateg.com/projects/gender-equality-review/#phase-two](https://chwarateg.com/projects/gender-equality-review/#phase-two)  
 32 [www.olderpeoplewales.com/en/reviews/SOTN.aspx](https://www.olderpeoplewales.com/en/reviews/SOTN.aspx)  
 33 [www.childcomwales.org.uk/categories/research-reports-and-other-publications/](https://www.childcomwales.org.uk/categories/research-reports-and-other-publications/)  
 34 [stats.wales.gov.wales/Catalogue](https://stats.wales.gov.wales/Catalogue)  
 35 [www.ons.gov.uk/](https://www.ons.gov.uk/)  
 36 [gov.wales/relative-income-poverty](https://gov.wales/relative-income-poverty)  
 37 [gov.wales/persistent-poverty](https://gov.wales/persistent-poverty)  
 38 [gov.wales/national-survey-wales-wellbeing-and-finances](https://gov.wales/national-survey-wales-wellbeing-and-finances)  
 39 [www.ons.gov.uk/peoplepopulationandcommunity/personalandhouseholdfinances/incomeandwealth](https://www.ons.gov.uk/peoplepopulationandcommunity/personalandhouseholdfinances/incomeandwealth)  
 40 [stats.wales.gov.wales/Catalogue/Community-Safety-and-Social-Inclusion/Welsh-Index-of-Multiple-Deprivation](https://stats.wales.gov.wales/Catalogue/Community-Safety-and-Social-Inclusion/Welsh-Index-of-Multiple-Deprivation)  
 41 [www.jrf.org.uk/report/poverty-wales-2020](https://www.jrf.org.uk/report/poverty-wales-2020)  
 42 [www.futuregenerations.wales/about-us/future-generations-act](https://www.futuregenerations.wales/about-us/future-generations-act)

Some public bodies also have a duty under the Children and Families (Wales) Measure 2010<sup>43</sup> to set objectives for tackling child poverty. This duty can be discharged by some public bodies through the publication of their local well-being plan, but only if their child poverty strategy is an integral part of that plan. Other public bodies may set out their child poverty objectives in their organisational plan, or they may publish a separate child poverty strategy. Public bodies covered by the Duty will be able to draw on evidence of what works well in tackling those inequalities associated with poverty as well as those measures which help prevent and tackle socio-economic disadvantage.

Separately, it is recommended that public bodies engage directly with individuals and communities affected by socio-economic disadvantage to inform strategic decision-making.

### Working with Third Sector Partners

Through the Covid-19 crisis and the flooding of 2020, the Third Sector showed how crucial their work with public bodies was to support our communities. Building on this good practice, public bodies should engage Third Sector partners when assessing the impact of their strategic decisions on the inequalities of outcomes associated with socio-economic disadvantage.

Therefore to help public bodies discharge the Duty, public bodies should adopt the principles set out in the Welsh Government **Third Sector Scheme**, for example:

- The Third Sector can help to transform the way that public services meet present and future demands, by treating people and communities as assets and equals in the design and delivery of services, not only as service receivers.
- It makes resources go much further by using them in different and new ways which strengthen individuals and communities.
- Effective partnerships must be based on an appreciation of each party's distinctive contribution.

- This can be achieved through early engagement and consultation with the sector on the impact and contribution the Third Sector can make to the policy decisions.

## DECISIONS OF A STRATEGIC NATURE

### DEFINITION:

In general, strategic decisions will be those which affect how the public body fulfils its intended statutory purpose (its functions in regards to the set of powers and duties that it uses to perform its remit) over a significant period of time and will not include routine 'day-to-day' decisions.

For some public bodies, such decisions may only be taken annually, but in other cases they will come up more often.

The Duty will apply to both new **strategic decisions** and when reviewing previous strategic decisions. Note, the Duty is not retrospective, meaning that public bodies do not have to give due regard to decisions which have been made before commencement.

Below are some examples (not an exhaustive list) of strategic decisions public bodies may make:

- ✓ Strategic directive and intent
- ✓ Medium to long term plans (for example, corporate plans, development plans, service delivery and improvement plans)
- ✓ Setting objectives (for example, well-being objectives, Equality Act, 2010 equality objectives, Welsh language strategy)
- ✓ Changes to and development of public services
- ✓ Strategic financial planning
- ✓ Major procurement and commissioning decisions
- ✓ Strategic policy development
- ✓ Strategies developed at Regional Partnership Boards and Public Service Boards\*

\***Regional Partnership Boards and Public Service Boards are not covered by the Duty, refer to page 15 for further information on partnership working.**

## DUE REGARD

### DEFINITION:

**Giving weight to a particular issue in proportion to its relevance.**

Due regard is an established legal concept in equalities and public law. The concept of due regard should be well understood by public bodies in relation to the Public Sector Equality Duty<sup>44</sup>. It means giving weight to a particular issue in proportion to its relevance. The same principles apply to this Duty - giving due regard to reducing inequalities of outcome caused by socio-economic disadvantage.

### Demonstrating 'Due regard'

As with the Public Sector Equality Duty,<sup>45</sup> an individual or group may bring judicial review proceedings against a public body which is covered by the Duty if they believe the public body has not considered socio-economic disadvantage when taking decisions of a strategic nature.

To ensure that public bodies are able to provide evidence on how they are meeting their statutory requirements under the Duty, it is recommended they keep an audit trail for all relevant decisions made. In this context an 'audit trail' should reflect a step by step record of evidence gathered to inform a decision, including:

- Evidence which identifies any likely impacts of such decision in relation to the Socio-economic Duty; and
- Evidence of how due regard was given, including records of changes made to the decision, in order to reduce inequalities of outcome as a result of socio-economic disadvantage.

To improve the way that that socio-economic disadvantage is considered and to provide evidence that 'due regard' has been given, it is suggested that it is incorporated into existing processes. This could include: impact assessments; systems for engagement and involvement; systems of assessing risk; Board or Committee papers; consideration of future trends and application of the Well-being of Future Generations (Wales) Act<sup>46</sup> five ways of working. The Welsh Government would also encourage bodies to find new and innovative ways to improve the extent to which social and economic disadvantage is considered.

### Ensuring that 'Due Regard' has been given to the need to reduce the inequalities of outcome resulting from socio-economic disadvantage.

Decision makers within public bodies **must** be satisfied that the body has understood the evidence and likely impact, and has considered whether the policy can be changed to reduce inequality of outcome as a result of socio-economic disadvantage.

A scrutiny framework<sup>47</sup> to support decision makers' in discharging their Duty, including examples of evidence that decision makers might be provided with or might request, is available on the Welsh Government's Socio-economic Duty **website**.

44 [www.equalityhumanrights.com/en/advice-and-guidance/public-sector-equality-duty-wales](http://www.equalityhumanrights.com/en/advice-and-guidance/public-sector-equality-duty-wales)

45 [www.legislation.gov.uk/ukpga/2010/15/section/149](http://www.legislation.gov.uk/ukpga/2010/15/section/149)

46 [www.futuregenerations.wales/about-us/future-generations-act/](http://www.futuregenerations.wales/about-us/future-generations-act/)

47 [gov.wales/socio-economic-duty-scrutiny-framework](http://gov.wales/socio-economic-duty-scrutiny-framework)

# The Duty in practice

An example of how public bodies may meet the Duty in practice is set out below using a five stage approach:

## STAGE 1: PLANNING

Is the decision a strategic decision?

## STAGE 2: EVIDENCE

What evidence do you have about socio-economic disadvantage and inequalities of outcome in relation to this decision?

Have you engaged with those affected by the decision?

Have you considered protected characteristics?

Have you considered both places and communities of interest?

## STAGE 3: ASSESSMENT AND IMPROVEMENT

What are the main impacts of the proposal?

How can the proposal be improved so it reduces inequalities of outcome as a result of socio-economic disadvantage?

## STAGE 4: STRATEGIC DECISION MAKERS

This stage is for decision makers to confirm that due regard has been given, for example executives and non-executive directors, board and committee members. They must be satisfied that the body has understood the evidence and likely impact, and has considered whether the policy can be changed to reduce inequality of outcome as a result of socio-economic disadvantage.

## STAGE 5:

This stage is the process of evidencing and recording how 'due regard' has been given. At this stage changes to the decision should be made and recorded.

It is recommended that public bodies consider opportunities to embed this way of working within existing organisational processes, including those used to discharge their existing legislative requirements, ensuring more rounded and better decision making.

A **mapping guide**<sup>48</sup> has been prepared to help public bodies consider opportunities to apply the Socio-economic Duty, the Public Sector Equality Duty<sup>49</sup> and the Well-being of Future Generations duties<sup>50</sup> in an aligned way whilst not undermining the distinct requirements of these duties and the outcomes they seek to achieve.

48 [gov.wales/more-equal-wales-mapping-guide](http://gov.wales/more-equal-wales-mapping-guide)

49 [www.legislation.gov.uk/ukpga/2010/15/section/149](http://www.legislation.gov.uk/ukpga/2010/15/section/149)

50 [www.futuregenerations.wales/about-us/future-generations-act/](http://www.futuregenerations.wales/about-us/future-generations-act/)

# Human Rights

Equality and discrimination are inextricably linked to human rights. Socio-economic disadvantage has the potential to blight a person's ability to access and enjoy the human rights available to them in the UK, through a mixture of domestic law (the Human Rights Act 1998<sup>51</sup>), retained EU law and international human rights law. Such disadvantage can result in long-term inequalities in education, health, life satisfaction, prosperity and participation in public life.

**Approaching implementation of the Socio-economic Duty in the correct way will help public bodies to maximise their contribution to addressing such inequalities, and also to meet their obligations under the Human Rights Act 1998<sup>52</sup> and international human rights law.**

It is unlawful for public bodies in Wales to act incompatibly with the European Convention of Human Rights<sup>53</sup>. Public bodies also have obligations as part of the state to consider, observe and give effect to international human rights treaties signed and ratified by the UK. Altogether, there are seven international human rights instruments which have been ratified by the UK, all of which have socio-economic relevance:

- International Covenant on Civil and Political Rights<sup>54</sup>
- International Covenant on Economic, Social and Cultural Rights<sup>55</sup>
- Convention on the Elimination of All Forms of Racial Discrimination<sup>56</sup>
- Convention on the Elimination of All Forms of Discrimination against Women<sup>57</sup>
- Convention on the Rights of the Child<sup>58</sup>

- Convention on the Rights of Persons with Disabilities<sup>59</sup>
- United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)<sup>60</sup>.

Socio-economic disadvantage cuts across many aspects of our society. The Future Generations Commissioner for Wales Report, 2020<sup>61</sup> states that:

**“ Deepening poverty in Wales is leading to an even starker gap in the experiences and opportunities of people born into different socio-economic backgrounds. Our findings show that this gap has widened in particular for women, disabled people, and some ethnic minority groups.**

Underpinning the due regard element of the Duty with appropriate links to existing equality legislation and human rights principles will support public bodies to better understand how socio-economic disadvantage interacts with people's protected characteristics and take better account of how it cuts across the specific needs and vulnerabilities of marginalised groups. This will enable public services to identify the most pressing inequalities in their area and to build on existing partnership arrangements to develop strategic and holistic interventions.

51 [www.legislation.gov.uk/ukpga/1998/42/contents](http://www.legislation.gov.uk/ukpga/1998/42/contents)

52 [www.legislation.gov.uk/ukpga/1998/42/contents](http://www.legislation.gov.uk/ukpga/1998/42/contents)

53 [www.echr.coe.int/Documents/Convention\\_ENG.pdf](http://www.echr.coe.int/Documents/Convention_ENG.pdf)

54 [www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx](http://www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx)

55 [www.ohchr.org/en/professionalinterest/pages/ceschr.aspx](http://www.ohchr.org/en/professionalinterest/pages/ceschr.aspx)

56 [www.ohchr.org/EN/ProfessionalInterest/Pages/CERD.aspx](http://www.ohchr.org/EN/ProfessionalInterest/Pages/CERD.aspx)

57 [www.ohchr.org/EN/HRBodies/CRPD/Pages/CRPDIndex.aspx](http://www.ohchr.org/EN/HRBodies/CRPD/Pages/CRPDIndex.aspx)

58 [www.ohchr.org/en/professionalinterest/pages/crc.aspx](http://www.ohchr.org/en/professionalinterest/pages/crc.aspx)

59 [www.ohchr.org/EN/HRBodies/CRPD/Pages/CRPDIndex.aspx](http://www.ohchr.org/EN/HRBodies/CRPD/Pages/CRPDIndex.aspx)

60 [www.ohchr.org/EN/ProfessionalInterest/Pages/CAT.aspx](http://www.ohchr.org/EN/ProfessionalInterest/Pages/CAT.aspx)

61 [www.futuregenerations.wales/wp-content/uploads/2020/06/Chap-3-Equal.pdf](http://www.futuregenerations.wales/wp-content/uploads/2020/06/Chap-3-Equal.pdf)

## Meeting the duty when commissioning and procuring services

As only identified public bodies are subject to the Duty, the Duty remains with that body. Therefore, the requirement to meet the Duty does not pass to a third party through procurement, commissioning or outsourcing.

However, in circumstances where this activity is considered by a public body to engage the Duty, the public body must consider how such arrangements reduce inequalities of outcome caused by socio-economic disadvantage.

## Meeting the Duty when working in partnership

When a public body works in partnership with bodies not covered by the Duty, the Duty only applies to the specific body that is covered.

For example, local well-being plans are developed and owned by a range of partners, however those public bodies subject to the Duty must ensure that they are discharging their Duty though consideration of how the elements of the plan they have responsibility for will reduce inequalities of outcome caused by socio-economic disadvantage.

However, whilst only those public bodies specified in the regulations will be under a statutory duty to comply with it and take account of any guidance issued, the Welsh Government would encourage all other public bodies to consider the resources made available to support them in their decision-making.

## Monitoring and regulation

The Duty will improve decision making within public bodies, which will bring about improved outcomes for those who suffer social and economic disadvantage. Performance in relation to the extent to which bodies are meeting the requirements of the Duty, and performance in relation to improvement in inequalities of outcome as a result of socio-economic disadvantage will be incorporated within the work of bodies who contribute to understanding how public bodies are delivering a more equal Wales. This will be kept under review.

As explained there is no reporting duty attached to the Duty. In its role as the regulator of the Equality Act 2010<sup>62</sup>, the EHRC has powers to promote and provide advice and guidance, and publish research on implementing the Duty. It does not have use of its full enforcement powers in relation to the Duty as the 2010 Act does not establish 'socio-economic discrimination', nor does it identify socio-economic disadvantage as a protected characteristic in the 2010 Act<sup>63</sup>, and therefore the EHRC will not undertake enforcement of the Duty on the basis of an 'unlawful act'.

## Raising concerns

If an individual or group which has been adversely affected by the decision of a public body, and considers that the Duty has not been properly complied with, they can resolve their concerns through the relevant body's formal complaints procedure. It is recommended that public bodies ensure that information regarding raising a concern/ complaint is readily available.

# Appendix

The following section is intended to provide a brief overview of duties under the Equality Act 2010<sup>64</sup> and the Well-being of Future Generations (Wales) Act 2015<sup>65</sup>.

The purpose of this is to ensure that, when preparing for the Duty, public bodies are mindful of the other equality and well-being duties which will co-exist alongside the Duty.

It may be useful for public bodies to start thinking about how these duties can be exercised with maximum efficiency, for example, to avoid duplication of work in circumstances where these duties overlap and to address them in an integrated way. A **mapping guide** has been prepared to assist bodies with this and can be accessed through the Socio-economic Duty dedicated **website**.

In addition to the duties set out below, individual public bodies may also have other duties which are specific to them, that they would wish to consider here.

## THE EQUALITY ACT 2010

Section 149 of the Equality Act 2010<sup>66</sup> sets out the Public Sector Equality Duty (PSED) which, in summary, places a general duty on public bodies to have due regard in exercising their functions of the need to:

- **Eliminate discrimination, harassment and victimisation;**
- **Advance equality of opportunity between those who share a protected characteristic and persons who do not share it; and**
- **Foster good relations between persons who share a protected characteristic and persons who do not share it.**

The relevant protected characteristics for the purposes of the PSED are: age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex and sexual orientation.

Building on the 2010 Act<sup>67</sup>, distinctive Welsh regulations<sup>68</sup> place specific duties on named public bodies in Wales to enable the better performance of their compliance with the PSED. Under these specific duties, listed devolved public sector bodies must publish equality objectives and review these objectives at least every four years. In reviewing these objectives, listed bodies should involve people who share one or more of the relevant protected characteristics and have an interest in the way the public sector body carries out its functions.

The Duty also requires listed bodies to report progress towards fulfilling each of their equality objectives annually, and to assess the likely impact of proposed policies and practices on its ability to comply with the general duty. From time to time, a listed body must carry out an assessment of their activities in relation to compliance with the general duty, publish a report and publish equality information.

## THE WELL-BEING OF FUTURE GENERATIONS (WALES) ACT 2015

The Well-being of Future Generations (Wales) Act 2015<sup>69</sup> aims to improve the social, economic, environmental and cultural well-being of Wales.

It makes the 44 public bodies listed in the Act<sup>70</sup> think more about the long-term, preventing problems occurring or getting worse through involving people and taking a more joined up approach.

To make sure that public bodies are all working towards the same vision, the Act puts in place seven well-being goals. This will help to create a Wales that we all want to live in, now and in the future.

64 [www.legislation.gov.uk/ukpga/2010/15/contents/enacted](http://www.legislation.gov.uk/ukpga/2010/15/contents/enacted)

65 [www.futuregenerations.wales/about-us/future-generations-act/](http://www.futuregenerations.wales/about-us/future-generations-act/)

66 [www.legislation.gov.uk/ukpga/2010/15/section/149](http://www.legislation.gov.uk/ukpga/2010/15/section/149)

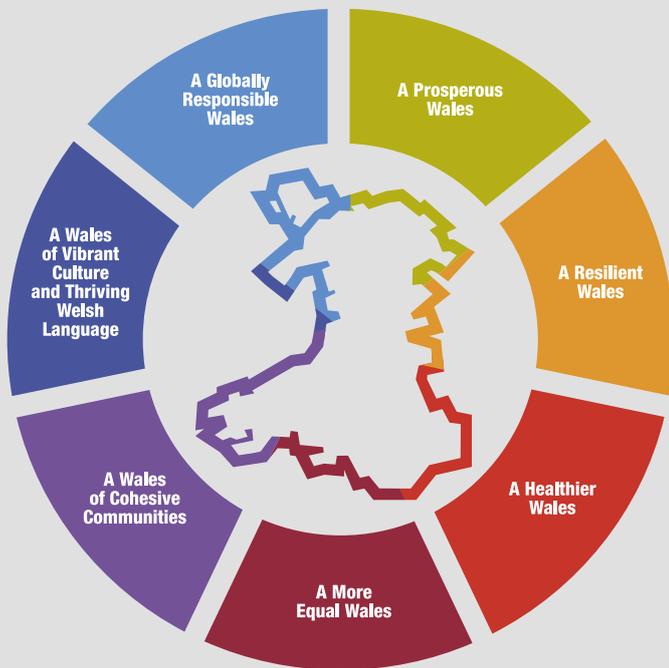
67 [www.legislation.gov.uk/ukpga/2010/15/contents/enacted](http://www.legislation.gov.uk/ukpga/2010/15/contents/enacted)

68 [www.legislation.gov.uk/wsi/2011/1064/contents/made](http://www.legislation.gov.uk/wsi/2011/1064/contents/made) The Equality Act 2010 (Statutory Duties) (Wales) Regulations 2011

69 [www.futuregenerations.wales/about-us/future-generations-act/](http://www.futuregenerations.wales/about-us/future-generations-act/)

70 [www.futuregenerations.wales/about-us/future-generations-act/](http://www.futuregenerations.wales/about-us/future-generations-act/)

## THE SEVEN WELL-BEING GOALS



The Socio-economic Duty contributes mainly to **A More Equal Wales**:

**A society that enables people to fulfil their potential no matter what their background or circumstances (including their socio-economic background and circumstances).**

The 2015 Act<sup>71</sup> introduced the sustainable development principle which places an obligation on public bodies to make sure that when making their decisions they consider the impact they could have on people living in Wales now and in the future.

**There are five things public bodies need to think about to show that they have applied the sustainable development principle known as the five ways of working.**

## COLLABORATION



Acting in collaboration with any other person (or different parts of the body itself) that could help the body to meet its well-being objectives.

## INTEGRATION



Considering how the public body's well-being objectives may impact upon each of the well-being goals, on their other objectives, or on the objectives of other public bodies.

## INVOLVEMENT



The importance of involving people with an interest in achieving the well-being goals, and ensuring that those people reflect the diversity of the area which the body serves.

## LONG TERM



The importance of balancing short-term needs with the need to safeguard the ability to also meet long-term needs.

## PREVENTION



How acting to prevent problems occurring or getting worse may help public bodies meet their objectives

Together, the seven well-being goals and five ways of working provided by the Act are designed to support and deliver a public service that meets the needs of the present without compromising the ability of future generations to meet their own needs.

# Glossary of terms

## Audit Trail

An 'audit trail' should reflect a step by step record of evidence gathered to inform a decision.

## Communities of interest

Those who share an identity are described as 'communities of interest'. For example, these people maybe: lone parents; carers; those who share a common first language; or those who share one or more of the protected characteristics listed in the Equality Act 2010<sup>72</sup>. In addition, groups of people who **share an experience**, for example: people who have experienced homelessness; the same local health and social care system; or a local service. Accordingly, it is likely that people will be part of several communities of interest.

## Communities of place

Those who share a **geographical location**, are described as 'communities of place'. For example, these locations maybe where people reside, work, visit or otherwise spend a substantial portion of their time.

## Decisions of a strategic nature

Those which effect how the public body fulfils its intended statutory purpose (its functions in regards to the set of powers and duties that it uses to perform its remit) over a significant period of time and will not include routine 'day to day' decisions.

## Due regard

Giving weight to a particular issue in proportion to its relevance.

## Human Rights

Human Rights are the basic rights that belong to every person in the world, from birth until death. They apply regardless of where you are from, what you believe or how you choose to live your life. They can never be taken away, although they can sometimes be restricted – for example if a person breaks the law, or in the interests of national security. These basic rights are based on shared values like dignity, fairness, equality, respect and independence.

## Judicial Review

Judicial review is a court process available to an individual or group who has been affected by a particular decision, action or failure to act by a public authority. That individual or group may make an application to the High Court, in order to challenge that decision. If the application is successful, the court can provide a remedy if it decides that the authority has acted unlawfully, unfairly or irrationally. Judicial review is concerned not with the merits of the decision, but whether the public body has followed the right procedures and made the decision in the correct way.

## Inequalities of outcome

Inequality of outcome relates to any measurable differences in outcome between those who have experienced socio-economic disadvantage and the rest of the population.

## Intersectionality

Recognising the way in which power structures based on factors such as gender, race, sexuality, disability, class, age and faith interact with each other and create inequalities, discrimination and oppression.

### **Public bodies**

Those bodies listed as being subject to the Duty (detailed on page 6) are referred to as public bodies throughout this document.

### **Socio-economic disadvantage**

Living in less favourable social and economic circumstances than others in the same society.

### **The Equality Act 2010**

The Equality Act, 2010<sup>73</sup> is a legal framework, which aims to harmonise and strengthen discrimination law, supporting progress towards equality.

### **The Well-being of Future Generations (Wales) Act 2015**

The Well-being of Future Generations (Wales) Act 2015<sup>74</sup> aims to improve the social, economic, environmental and cultural well-being of Wales.

### **Additional information**

The Brown Principles can also be used to determine whether due regard has been given. Making Fair Financial Decisions<sup>75</sup> (EHRC, 2019) provides useful information about the 'Brown Principles'. In addition, Welsh Government Guidance on Making Good Decisions<sup>76</sup> refers to the principle of due regard and assists public bodies to make good decisions that are lawful and comply with the rule of law.

73 [www.legislation.gov.uk/ukpga/2010/15/contents](http://www.legislation.gov.uk/ukpga/2010/15/contents)

74 [www.futuregenerations.wales/about-us/future-generations-act/](http://www.futuregenerations.wales/about-us/future-generations-act/)

75 [www.equalityhumanrights.com/en/advice-and-guidance/making-fair-financial-decisions](http://www.equalityhumanrights.com/en/advice-and-guidance/making-fair-financial-decisions)

76 [law.gov.wales/docs/lawwales/makinggooddecisionsen.pdf](http://law.gov.wales/docs/lawwales/makinggooddecisionsen.pdf)

## SL(5)746 – The Climate Change (Interim Emissions Targets) (Wales) (Amendment) Regulations 2021

### Background and Purpose

Part 2 of the Environment (Wales) Act 2016 (“the 2016 Act”) requires the Welsh Ministers to put in place statutory emissions reduction targets for reducing emissions of greenhouse gases in Wales.

Section 29 of the 2016 Act (as amended by the Environment (Wales) Act 2016 (Amendment of 2050 Emissions Target) Regulations 2021) requires that the Welsh Ministers ensure that the net Welsh emissions account for the year 2050 is at least 100% lower than the baseline

Section 30 of the 2016 Act requires that the Welsh Ministers make regulations to set interim emissions targets for the years 2020, 2030 and 2040.

These Regulations amend the Climate Change (Interim Emissions Targets) (Wales) Regulations 2018 by increasing the interim targets for 2030 and 2040 from “45%” to “63%” and “67%” to “89%”, respectively.

These Regulations form part of a suite of four instruments that are referred to collectively as the Climate Change (Wales) Regulations 2021.

### 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(vi) – that its drafting appears to be defective or it fails to fulfil statutory requirements.**

The preamble refers to a draft of the regulations being “laid before and approved by a resolution of *the Senedd Cymru*” [*emphasis added*]. It appears that the inclusion of the definite article is erroneous, as the Government of Wales Act 2006 refers to “Senedd Cymru” throughout, without “the” preceding it.

### 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.

### **Legal Advisers**

**Legislation, Justice and Constitution Committee**

**22 February 2021**



Senedd Cymru

**Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad**

—

Welsh Parliament

**Pack Page 202**

**Legislation, Justice and Constitution Committee**

*Draft Regulations laid before Senedd Cymru under section 48(3) of the Environment (Wales) Act 2016, for approval by resolution of Senedd Cymru.*

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DRAFT WELSH STATUTORY  
INSTRUMENTS

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**2021 No. (W.)**

**CLIMATE CHANGE, WALES**

**The Climate Change (Interim  
Emissions Targets) (Wales)  
(Amendment) Regulations 2021**

**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations make amendments to the Climate Change (Interim Emissions Targets) (Wales) Regulations 2018, which set the interim emissions targets under Part 2 of the Environment (Wales) Act 2016 (“the Act”).

The purpose of Part 2 of the Act is to require the Welsh Ministers to meet targets for reducing emissions of greenhouse gases from Wales. Section 29 requires that the Welsh Ministers ensure that the net Welsh emissions account for the year 2050 is at least 100% lower than the baseline.

Section 30 of the Act requires that the Welsh Ministers make regulations to set interim emissions targets for the years 2020, 2030 and 2040. These targets are expressed as a percentage below the baseline.

Regulation 2 amends the Climate Change (Interim Emissions Targets) (Wales) Regulations 2018. The 2030 and 2040 targets are increased from “45%” to “63%” and “67%” to “89%”, respectively, lower than the baseline.

In accordance with section 32(1)(a) of the Act, the Welsh Ministers have satisfied themselves that the interim emissions targets are consistent with meeting the 2050 emissions target.

In accordance with section 32 of the Act, the Welsh Ministers in drafting these regulations have had regard to the factors listed in section 32(3).

In accordance with section 49 of the Act, the Welsh Ministers have obtained and taken into account the advice of the advisory body before laying draft regulations.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained from the Welsh Government, Cathays Park, Cardiff, CF10 3NQ.

*Draft Regulations laid before Senedd Cymru under section 48(3) of the Environment (Wales) Act 2016, for approval by resolution of Senedd Cymru.*

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DRAFT WELSH STATUTORY  
INSTRUMENTS

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**2021 No. (W.)**

**CLIMATE CHANGE, WALES**

**The Climate Change (Interim  
Emissions Targets) (Wales)  
(Amendment) Regulations 2021**

*Made*

\*\*\*

*Coming into force*

*12 March 2021*

In accordance with section 48(3) of the Environment (Wales) Act 2016<sup>(1)</sup> (“the Act”), a draft of this instrument was laid before and approved by a resolution of the Senedd Cymru<sup>(2)</sup>.

Before the draft was laid the Welsh Ministers—

- (a) satisfied themselves that each interim emissions target is set at a level consistent with meeting the 2050 emissions target, in accordance with section 32(1)(a) of the Act,
- (b) had regard to the matters listed in section 32(3) of the Act, and
- (c) obtained and took into account the advice of the Committee on Climate Change<sup>(3)</sup>, in accordance with section 49(1) of the Act.

The Committee on Climate Change has recommended that the interim emissions targets for 2030 and 2040 be amended.

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(1) 2016 anaw 3.  
(2) The reference in section 48(3) of the Environment (Wales) Act 2016 to the National Assembly for Wales now has effect as a reference to Senedd Cymru, by virtue of section 150A(2) of the Government of Wales Act 2006 (c. 32).  
(3) The Committee on Climate Change is the relevant advisory body to the Welsh Ministers by virtue of section 44(3) of the Environment (Wales) Act 2016.

Accordingly, the Welsh Ministers in exercise of the powers conferred by section 30(1) of the Act, and in accordance with section 32(2)(b) of the Act, make the following Regulations.

**Title and commencement**

**1.**—(1) The title of these Regulations is the Climate Change (Interim Emissions Targets) (Wales) (Amendment) Regulations 2021.

(2) These Regulations come into force on 12 March 2021.

**Amendment of the interim emissions targets**

**2.**—(1) Regulation 2 of the Climate Change (Interim Emissions Targets) (Wales) Regulations 2018<sup>(1)</sup> is amended as follows.

(2) In paragraph (2), for “45%” substitute “63%”.

(3) In paragraph (3), for “67%” substitute “89%”.

*Name*

Minister for Environment, Energy and Rural Affairs,  
one of the Welsh Ministers

Date

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(1) S.I. 2018/1304 (W. 258).

# **Explanatory Memorandum to the Climate Change (Wales) Regulations 2021**

Explanatory Memorandum to:

- **The Environment (Wales) Act 2016 (Amendment of 2050 Emissions Target) Regulations 2021**
- **The Climate Change (Interim Emissions Targets) (Wales) (Amendment) Regulations 2021**
- **The Climate Change (Carbon Budgets) (Wales) (Amendment) Regulations 2021**
- **The Climate Change (Net Welsh Emissions Account Credit Limit) (Wales) Regulations 2021**

This Explanatory Memorandum has been prepared by the Economy, Skills and Natural Resources Group and is laid before Senedd Cymru in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

## ***Minister's Declaration***

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Climate Change (Wales) Regulations 2021:

- The Environment (Wales) Act 2016 (Amendment of 2050 Emissions Target) Regulations 2021
- The Climate Change (Interim Emissions Targets) (Wales) (Amendment) Regulations 2021
- The Climate Change (Carbon Budgets) (Wales) (Amendment) Regulations 2021
- The Climate Change (Net Welsh Emissions Account Credit Limit) (Wales) Regulations 2021

I am satisfied that the benefits justify the likely costs.

**Lesley Griffiths MS**  
**Minister for Environment, Energy and Rural Affairs**

9 February 2021

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# PART 1

## **1. Description**

A suite of four regulations are covered within this Explanatory Memorandum and are referred to collectively as the Climate Change (Wales) Regulations 2021. Under Part 2 of the Environment (Wales) Act 2016 (“the Act”) Wales committed to reducing emissions of greenhouse gases from Wales by at least 80% in 2050. The Climate Change (Wales) Regulations 2018 established a system of interim emissions targets and carbon budgeting to create an emissions reduction trajectory towards the 2050 target. They also set out how the Welsh Ministers can utilise international carbon credits and set the credit (“offset”) limit for Carbon Budget 1 (CB1, 2016-20). Finally, they provided for how we will deal with emissions from international shipping and internal aviation in calculating our emissions.

The Climate Change (Wales) Regulations 2018, which supported the delivery of the Act, were namely:

- The Climate Change (Interim Emissions Targets) (Wales) Regulations 2018
- The Climate Change (Carbon Budgets) (Wales) Regulations 2018
- The Climate Change (International Aviation and International Shipping) (Wales) Regulations 2018
- The Climate Change (Net Welsh Emissions Account Credit Limit) (Wales) Regulations 2018
- The Carbon Accounting (Wales) Regulations 2018

The Climate Change (Wales) Regulations 2021 amend the 2050 target, the interim targets for 2040 and 2030, and CB2 (2021-25). They also set CB3 (2026-30) and the offset limit for CB2.

## **2. Matters of special interest to the Legislation, Justice and Constitution Committee**

Section 31(4)(b) of the Environment (Wales) Act 2016 requires the Welsh Ministers to set CB3 in 2020, five years before the start of the budgetary period. In accordance with Section 49, before laying draft regulations the Welsh Ministers are required to request and take into account the advice of the advisory body. Under section 49(6) of the Act, if thereafter the Welsh Ministers propose making different provision from that recommended by the advisory body, they must also lay before the Senedd a statement setting out the reasons why. By virtue of no declaration being made by Welsh Ministers appointing an advisory body, Section 44 by default appoints the Climate Change Committee (CCC) to be our statutory advisory body.

In December 2019 the Minister for Environment, Energy and Rural Affairs requested advice from the CCC, including its recommendation for the level of CB3. The Minister requested the advice be published in September 2020 to allow for CB3 to be set by the end of that year. The CCC committed to this

timeline but subsequently, in June 2020, informed the Minister this would no longer be possible due to the challenges posed by the Covid-19 pandemic. The CCC moved publication of the advice to December 2020. The Minister decided it would not be manifestly unreasonable to choose to accommodate a small delay in setting CB3 in order to ensure legislation is brought forward on the basis of proper, thorough advice. The Welsh Ministers have obtained and taken into account the advice of the advisory body in relation to the Climate Change (Wales) Regulations 2021 now laid before the Senedd.

The Act does not establish a deadline for setting the offset limit for each carbon budget. The Welsh Ministers intend to set the CB3 offset limit no later than 2025.

The Carbon Accounting (Wales) Regulations 2018 utilise the UK Registry to host the Welsh credit account. Until the UK left the European Union, the UK Registry was governed by Commission Regulation (EU) 389/2013 establishing a union registry pursuant to Directive 2003/87/EC establishing a system for greenhouse gas emissions trading within the EU. Having left the EU, the UK no longer has access to the EU registries system. Officials are liaising with UK Government counterparts about a new, standalone UK Registry. Once this is established, the Welsh Ministers will need to amend the Carbon Accounting (Wales) Regulations 2018 to ensure provision for registering and keeping track of carbon units held by the Welsh Ministers. It is not expected Welsh Ministers will need to buy offsets in CB1 and it is expected the new UK Registry will be operational well in advance of the end of CB2.

### ***3. Legislative background***

The purpose of Part 2 of the Environment (Wales) Act 2016 is to require the Welsh Ministers to meet targets for reducing emissions of greenhouse gases in Wales. Part 2 puts in place a statutory emissions reduction target that requires the Welsh Ministers to ensure that net emissions of greenhouse gases in Wales, for the year 2050, are at least 80% lower than the baseline.

Part 2 also requires that the Welsh Ministers, by regulations approved by the Senedd, set interim emissions reduction targets for the years 2020, 2030 and 2040, and establish a system of 5-yearly carbon budgeting that together create an emissions reduction pathway to the 2050 target. The Climate Change (Wales) Regulations 2018 fulfilled this requirement.

#### The Environment (Wales) Act 2016 (Amendment of 2050 Emissions Target) Regulations 2021

- Section 29(3) allows the Welsh Ministers to amend the 2050 emissions target.
- Section 32 sets out the principles for amending the 2050 target.

#### The Climate Change (Interim Emissions Targets) (Wales) (Amendment) Regulations 2021

- Section 30(1) allows the Welsh Ministers to amend the interim emissions targets.

- Section 32 sets out the principles for amending the interim emissions targets.

#### The Climate Change (Carbon Budgets) (Wales) (Amendment) Regulations 2021

- Section 31 allows the Welsh Ministers to amend and set carbon budgets.
- Section 32 sets out the principles for amending and setting a carbon budget.

#### The Climate Change (Net Welsh Emissions Account Credit Limit) (Wales) Regulations 2021

- Section 33 provides that the Welsh Ministers must limit how many traded carbon units can be credited to the net Welsh emissions account in a given period. These regulations set the offset limit for Carbon Budget 2.

Section 32(2) of the Act prevents the Welsh Ministers from making regulations changing the 2050 emissions target, an interim emissions target or a carbon budget unless at least one of the following conditions is met:

- they are satisfied that it is appropriate to make the change as a result of significant developments in
  - scientific knowledge about climate change, or
  - EU or international law or policy relating to climate change;
- the change has been recommended by the advisory body;
- the change is in connection with provision made under section 35(1) or 37(2).<sup>1</sup>

As required by the Act, the Welsh Ministers asked the CCC to provide advice to inform the development of the regulations. On 17 December 2020, following a Call for Evidence, the CCC provided their advice to the Welsh Ministers. The report, '[The path to a net zero Wales](#)', includes the CCC's recommendations on:

- The level of the 2050 target;
- The level of the 2030 and 2040 targets;
- The level of CB2 and CB3; and
- The limit for the use of offset credits in CB2.

In giving their advice on the level of the targets and budgets the CCC developed four different emissions scenarios across all sectors of the economy.<sup>2</sup> Drawing on these scenarios, the CCC then produced a fifth – the Balanced Net Zero Pathway that forms the basis of their recommendations.

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<sup>1</sup> Section 35(1) relates to emissions from international aviation and international shipping. Section 37(2) relates to the definition of 'greenhouse gas'.

<sup>2</sup> Electricity supply, residential buildings, non-residential buildings, fuel supply, manufacturing and construction, surface transport, aviation, shipping, agriculture, land use, land use change and forestry, waste and F-gases.

The Climate Change (Wales) Regulations 2021 are brought forward in accordance with Section 32(2)(b) and follow the recommendations of the advisory body.

Section 32(3) of the Act requires the Welsh Ministers when making regulations changing the 2050 emissions target, or setting or changing an interim emissions target or a carbon budget, to have regard to the following:

- The most recent report under section 8 on the state of natural resources in relation to Wales
- The most recent future trends report under section 11 of the Well-being of Future Generations (Wales) Act 2015
- The most recent report (if any) under section 23 of that Act (Future Generations report)
- Scientific knowledge about climate change
- Technology relevant to climate change
- EU and international law and policy relating to climate change (including international agreements on measures designed to limit increases in global average temperatures)

The Climate Change (Wales) Regulations 2021 are brought forward in accordance with Section 32(3) of the Act.

### **Procedures for laying regulations**

The regulations are subject to the approval of the Senedd via the draft affirmative procedure.

In accordance with Section 49, before laying draft regulations the Welsh Ministers are required to request and take into account the advice of the advisory body. By virtue of no declaration being made by Welsh Ministers appointing an advisory body, Section 44 by default appoints the Climate Change Committee (CCC) to be the statutory advisory body. Where regulations make different provision to the advice provided by the CCC, the Welsh Ministers must lay a statement before the Senedd setting out the reasons why.

The Climate Change (Wales) Regulations 2021 follow the advice of the advisory body.

## ***4. Purpose and intended effect of the legislation***

### **Environment (Wales) Act 2016 (Amendment of 2050 Emissions Target) (Wales) Regulations 2021**

#### *Current situation*

Section 29 of the Act establishes a statutory emissions reduction target that requires the Welsh Ministers to ensure that net emissions of greenhouse gases in Wales, for the year 2050, are at least 80% lower than the baseline.

### *Purpose*

The purpose of this regulation is to increase the 2050 target to at least 100% lower than the baseline ('net zero').

### *Intended effect*

The intended effect of this regulation is to bring Wales's 2050 target in line with the CCC's recommendation, reflecting developments in scientific knowledge, public opinion and global ambition since the original target was set in 2016.

## **Climate Change (Interim Emissions Targets) (Wales) (Amendment) Regulations 2021**

### *Current situation*

The Climate Change (Interim Emissions Targets) (Wales) Regulations 2018 set the interim targets that represented a pathway to the 2050 target established in the Act as follows:

- a 2020 target for an emissions reduction of 27% against the baseline
- a 2030 target for an emissions reduction of 45% against the baseline
- a 2040 target for an emissions reduction of 67% against the baseline

### *Purpose*

The purpose of this legislation is to set targets for 2030 and 2040 that represent a pathway to the new net zero target for 2050:

- a 2030 target for an emissions reduction of 63% against the baseline
- a 2040 target for an emissions reduction of 89% against the baseline

### *Intended effect*

The intended effect of this regulation is to establish targets for 2030 and 2040 in line with the CCC's recommendations, frontloading action in the 2020s. Reducing emissions early matters as it is global cumulative emissions that drive climate outcomes. The Welsh Ministers must set each interim emissions target at a level they are satisfied is consistent with meeting the 2050 emissions target.<sup>3</sup>

## **Climate Change (Carbon Budgets) (Wales) (Amendment) Regulations 2021**

### *Current situation*

A carbon budget sets a maximum limit on the total amount of Welsh emissions permitted over a 5-year budget period. The Climate Change (Carbon Budgets) (Wales) Regulations 2018 set Carbon Budgets 1 and 2 as follows:

- CB1 (2016-2020): an average of 23% below the baseline

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<sup>3</sup> Section 32(1)(a) of the Act.

- CB2 (2021-2025): an average of 33% below the baseline

### *Purpose*

The purpose of this legislation is to set CB2 and CB3 at levels that represent a pathway to the new targets for 2030, 2040 and 2050:

- CB2 (2021-2025): an average of 37% below the baseline
- CB3 (2026-2030): an average of 58% below the baseline

### *Intended effect*

The intended effect of this regulation is to establish carbon budgets for the 2020s in line with the CCC's recommendations. The Welsh Ministers must set each carbon budget at a level they are satisfied is consistent with meeting:

- the 2050 emissions target; and
- the interim target for any interim target year that falls within or after that budgetary period.<sup>4</sup>

## **Climate Change (Net Welsh Emissions Account Credit Limit) (Wales) Regulations 2021**

### *Current situation*

The Climate Change (Net Welsh Emissions Account Credit Limit) (Wales) Regulations 2018 set the limit on the use of carbon units for CB1.

### *Purpose*

The Act requires Welsh Ministers to set a limit on the total amount that the Net Welsh Emissions Account can be reduced through the use of carbon units. The Carbon Accounting (Wales) Regulations 2018 defines carbon units as the international offset credits generated through Certified Emission Reduction (CER). Offset credits provide a means by which Wales can invest in emission reduction activities overseas and use the emission reductions achieved to offset domestic emissions within the Welsh targets.

The purpose of this regulation is to set the limit on the use of carbon units for CB2 (2021-2025).

### *Intended effect*

The intended effect of this regulation is to set the offset limit for CB2 in line with the CCC's recommendation and ensure that CB2 is met solely by reducing domestic emissions. As the CCC's recommendation is to outperform CB2 on the way to more ambitious CB3 and the 2030 targets, the CCC concludes that it is not appropriate to meet CB2 with any use of carbon units i.e. the offset limit for CB2 should be set at 0%.

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<sup>4</sup> Section 32(1)(b) of the Act.

# PART 2 – REGULATORY IMPACT ASSESSMENT

## *Introduction*

The four regulations that make up The Climate Change (Wales) Regulations 2021 all relate to Wales's emissions reduction pathway to 2050 and are highly interdependent. This RIA therefore considers options for the pathway as a whole, rather than each regulation in turn. The pathway set in regulations represents the strategic decarbonisation framework but many individual policy measures are required to achieve the pathway. There are multiple ways to deliver the pathway and so the actual costs and benefits can only be determined once the measures to meet the carbon budgets have been agreed; policy-level impact assessments are required to conduct this analysis.

Since the Senedd passed the Climate Change (Wales) Regulations in 2018, science, technology, markets and cost assumptions have changed, showing the inherent uncertainties in modelling emission pathways and estimating costs. The Welsh Government is focussed on developing and taking the actions needed to meet the carbon budgets and targets and so is reliant on the Climate Change Committee (CCC) advice. This means there are only two options presented in this RIA, both drawing on CCC expertise.

## *Options*

### **Option 1: Retain current emissions pathway ('do minimum')<sup>5</sup>**

Option 1 fulfils the statutory duty to set CB3 and does so at a level consistent with the existing 80% pathway and the CCC's 2017 advice. It also increases the average reduction required in CB2 from the existing 33% to 37% to take account of the early closure of Aberthaw Power Station. The Welsh Government endorsed this principle when accepting the CCC's 2017 advice. Finally, this option sets the CB2 offset limit at 0%, in line with the CCC's recommendation in their 2020 advice. It leaves all the decadal targets unchanged.

- Carbon Budget 2 (2021-25): 37% average reduction with a 0% offset limit
- Carbon Budget 3 (2026-30): 43% average reduction<sup>6</sup>
- 2030: 45% reduction
- 2040: 67% reduction
- 2050: at least 80% reduction against the baseline

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<sup>5</sup> These targets are all set against the 2017 CCC advice, which was in turn based upon scientific understanding of GHG emissions at that time (1990-2015 GHG emission data are used as the basis). However, understanding of emissions has progressed since then and the latest CCC analysis is considerably revised to take account of these changes. The Option 1 pathway does not take any of these adjustments into account.

<sup>6</sup> There is no statutory deadline for setting each offset limit. We will set the CB3 offset limit no later than 2025.

## Option 2: Accept the CCC's recommendations in the December 2020 advice

- Carbon Budget 2 (2021-25): 37% average reduction with a 0% offset limit<sup>7</sup>
- Carbon Budget 3 (2026-30): 58% average reduction<sup>8</sup>
- 2030: 63% reduction
- 2040: 89% reduction
- 2050: at least 100% reduction against the baseline

### Costs and benefits

#### Costs

We estimate the Present Value of resource costs of Option 2 will lead to additional resource costs of between £6bn and £10bn over the period to 2050.<sup>9</sup> The best estimate, based on the Balanced Pathway that the CCC's recommendations are drawn from, is that the cost is likely to be in the upper third of this range. Upper and lower bounds are drawn from analysis of all of the CCC's scenarios in their December advice.<sup>10</sup>

**Note:** The resource costs of the net zero transition are not attributed as part of this analysis. Costs are likely to be shared between the Welsh and UK Governments, the private sector, investors and citizens.

	Best estimate	Lower bound	Upper bound
Option 1	£4.7bn	£3.3bn	£5.5bn
Option 2	£14.1bn	£10.1bn	£15.9bn
Additional cost of Option 2	<b>£9.4bn</b>	£5.9bn	£10.4bn

**Table 1:** Present Value of resource costs of Options 1 and 2<sup>11</sup>

<sup>7</sup> The CCC's recommendation for CB2 was a 37% average reduction in law with a commitment to outperform it. This is the minimum required to meet the Balanced Pathway. Our costs analysis incorporates the CCC's recommendation for CB2 with a view to meeting the 2030 recommendation and later targets.

<sup>8</sup> There is no statutory deadline for setting each offset limit. We will set the CB3 offset limit no later than 2025.

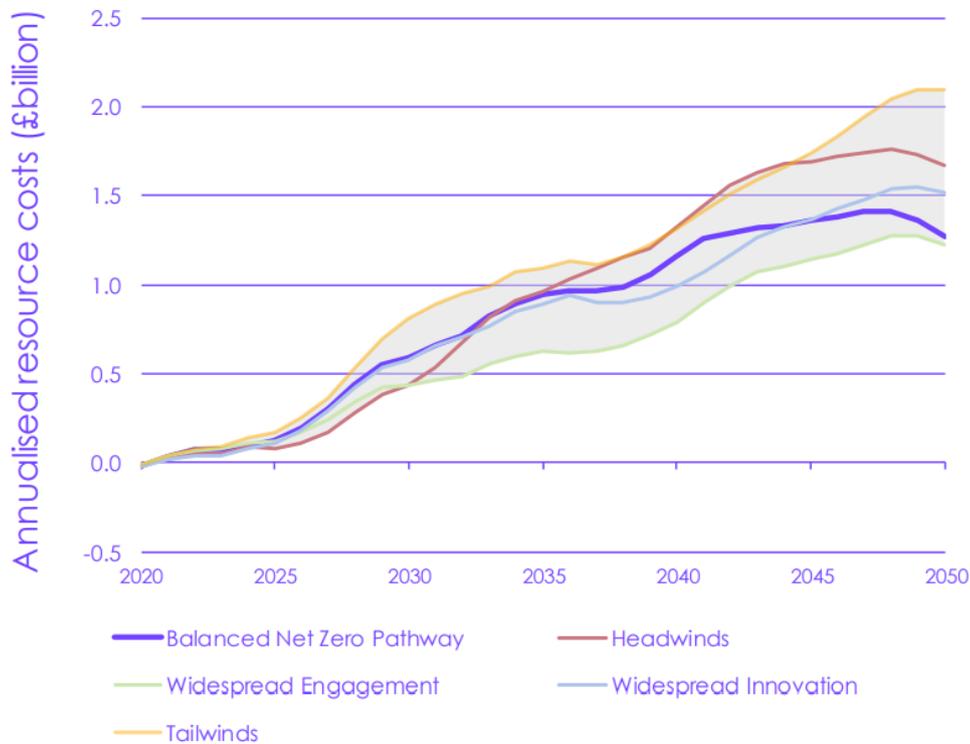
<sup>9</sup> Resource costs are discounted using the Social Time Preference Rate' (STPR) (3.5%) to provide the Present Value of resource costs. Additional resource costs indicate the extra spend required to provide the same goods and services but in a low-carbon way. They are calculated by annualising the capital investment costs over their lifetimes using a suitable cost of capital and subtracting in-year operating cost savings.

<sup>10</sup> Headwinds, Widespread Engagement, Widespread Innovation, and Tailwinds – in addition to the Balanced Pathway.

<sup>11</sup> Figures may not sum due to rounding and comparisons across multiple CCC scenarios.

## Comparison with the CCC estimate

Figure 1 shows that the CCC forecast the resource cost of their Balanced Pathway to be approximately £25bn.<sup>12</sup>



**Figure 1:** Annualised resource costs of the CCC’s scenarios; CCC analysis

The reasons for the difference between our estimate and the CCC’s estimate are twofold:

1. The CCC does not apply discounting to their estimates. The effect of discounting is the sole reason for the difference between their £25bn figure and the £14.1bn figure in Table 1.
2. The CCC compares the costs of achieving a net zero target with a hypothetical counterfactual<sup>13</sup> of no-further climate-action from today. The counterfactual against which the costs in this RIA are compared is the existing statutory 80% target (Option 1).

## Methodological approach

**Note:** Our cost estimates have been derived entirely from the CCC analysis and we have not undertaken our own modelling.

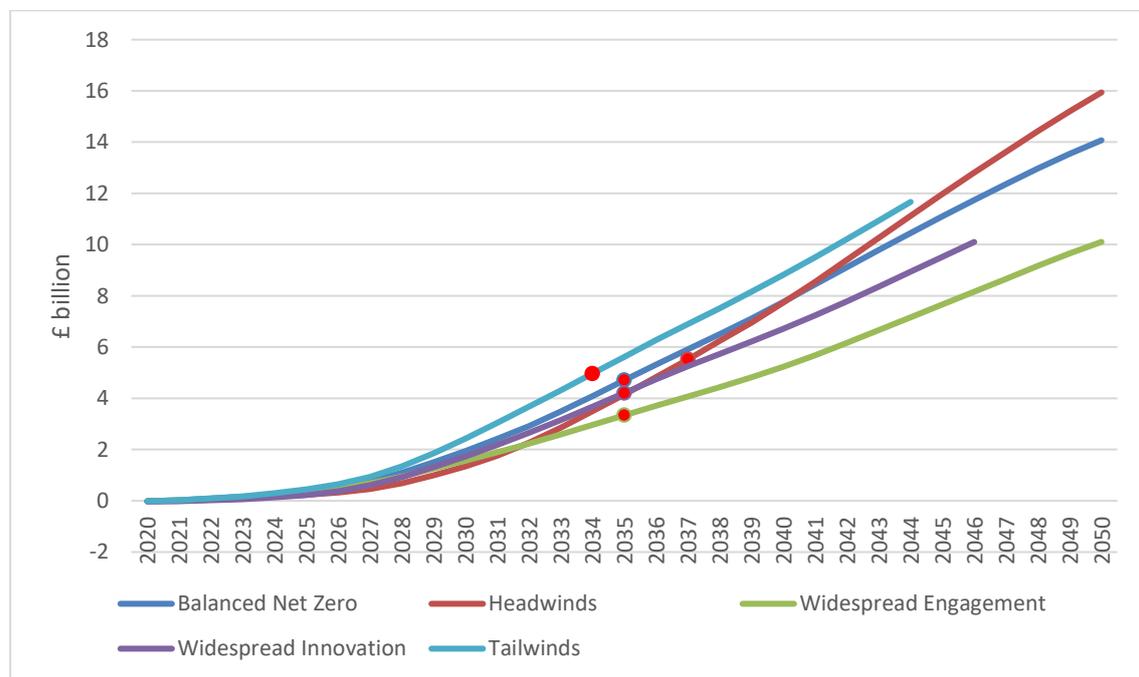
<sup>12</sup> The CCC report resource costs on an annual rather than cumulative basis. The £25 billion figure is the summation of the annual resource cost in each of the 30 years it takes to reach the net zero target. For detail on the CCC’s methodology, including assumptions, uncertainties and sensitivities, see Chapter 5 of [The Sixth Carbon Budget – The UK’s path to Net Zero](#).

<sup>13</sup> The CCC’s counterfactual in the 2020 advice differs from all previous CCC publications. For more information see p.20 of [The Sixth Carbon Budget Methodology Report](#) (CCC, 2020).

The costs of both options are based on the scenarios produced by the CCC in their December advice. The costs of Option 1 are calculated by taking the annualised resource costs up to the point at which the particular scenario reaches the 80% target, whereas the costs of Option 2 take into account the whole pathway to net zero.

Figure 2 shows the cumulative annual resource costs for each scenario from 2020 onwards, up to the year where net zero emissions is reached. The point at which 80% is reached varies in the different scenarios (Table 2) and is indicated by the red dot in Figure 2. The additional costs of Option 2 are derived from the difference between the red dot and the end of the line.

The CCC’s scenarios rely to varying degrees on engineered greenhouse gas removals, such as Bioenergy with Carbon Capture and Storage (BECCS). The Balanced Pathway recommended by the CCC in their 2020 advice leads to a 96% reduction in Welsh emissions in 2050.<sup>14</sup> The CCC advises that Wales can credibly meet net zero in the Balanced Pathway either with a 4% share (approximately 2MtCO<sub>2</sub>e) of total UK engineered removals or through increased action in other areas, including land use and behavioural changes. However, the CCC’s analysis does not allocate a specific level of engineered removals to each UK nation. The analysis behind the figures in Table 1 includes Wales’s share of the UK costs of engineered removals in each CCC scenario up to 2050, in order to estimate the full cost of achieving net zero. Alternative ways of bridging the emissions gap would incur different costs.



**Figure 2:** Cumulative Present Value of resource costs for each scenario; WG, using CCC analysis

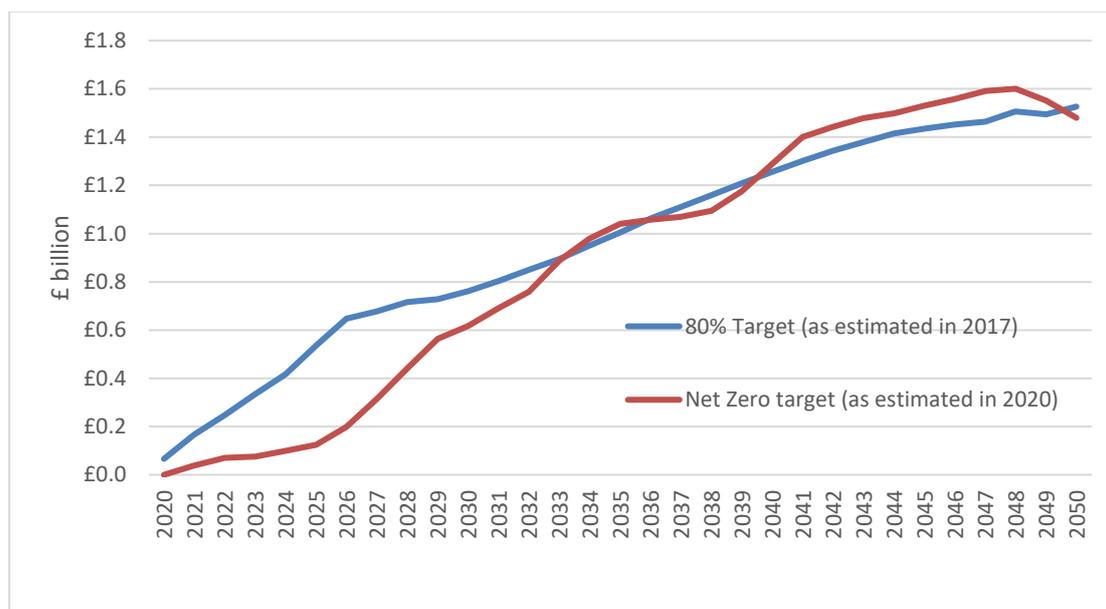
	<b>80%</b>	<b>Net zero</b>
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<sup>14</sup> The other CCC scenarios that do not reach net zero by 2050 are Headwinds (93%) and Widespread Engagement (99%).

Balanced Pathway	2035	2050
Headwinds	2037	2050
Widespread Engagement	2035	2050
Widespread Innovation	2035	2046
Tailwinds	2034	2044

**Table 2:** Years in which emission reduction targets are met under the CCC’s scenarios; WG, using CCC analysis<sup>15</sup>

We adopted this approach to estimate the costs of Option 1 because the CCC’s 2017 cost estimate of an 80% target can no longer be considered robust, due to significant falls in the costs of technology and methodological changes undertaken by the CCC.<sup>16</sup> To illustrate the impact of these changes, Figure 3 shows the estimated resource cost of achieving an 80% target (produced in 2017) compared to the cost of achieving a net zero target (produced in 2020). This shows the uncertainty of estimating future resource costs, as they are highly sensitive to differences in behaviour change and the level of innovation in low carbon technologies.



**Figure 3:** Annualised resource cost of Option 1 (2017) and Option 2 (2020) (£billion); WG, using CCC analysis<sup>17</sup>

<sup>15</sup> Our analysis assumes a small amount of engineered greenhouse gas removals in the Balanced Pathway and Headwinds scenario before 2035 and 2037 respectively. This has been accounted for in the costs in Table 1. For the purposes of our analysis, the Balanced Pathway, Headwinds and Widespread Engagement Scenarios reach net zero in 2050 with varying amounts of engineered removals.

<sup>16</sup> The changes and their implications are summarised in Box 1.2 on p.27 of [The Sixth Carbon Budget Methodology Report](#) (CCC, 2020).

<sup>17</sup> Option 2 (Net Zero target) is based on our undiscounted cost analysis of the CCC’s Balanced Pathway and includes the costs of engineered removals required to reach net zero.

### *Where the costs are likely to fall*

The CCC is clear that the costs should not be interpreted as being solely delivered through Welsh Government expenditure, nor as costs that only Welsh businesses and households have to bear. The extent to which costs and savings are shared across the UK – including the amount of expenditure through Welsh Government budgets – will be determined by policy at both UK and Welsh Government level. Many of the actions to reduce emissions will likely be paid for at UK level and/or socialised across the whole of the UK. The CCC provides the following examples:

- The costs associated with building new low-carbon generation will be shared across all consumers of electricity on the GB grid. The CCC has reflected this by allocating resource and investment costs for electricity supply to Wales in proportion to consumption, rather than make assumptions on where new zero-carbon generating capacity is located.<sup>18</sup>
- The costs of decarbonising industrial clusters could be met through a combination of direct financing from the UK Exchequer and/or be passed through to the end-users of low-carbon products.
- A market mechanism for greenhouse gas removals could see the UK aviation industry offsetting emissions by paying for removals, including planting trees, in all areas of the UK.

An expert advisory group convened by the CCC suggested that the private sector could deliver the majority of the investments in a transition to Net Zero.<sup>19</sup> For this to happen, the Welsh and UK Governments will need to ensure appropriate regulatory and taxation regimes are in place. Given the CCC anticipates a small overall economic impact and assumes the private sector to finance most of the transition, the CCC expects the overall impact on public finances to 2050 to be limited.

Table 1 shows a larger total Present Value of resource costs for Option 2 than Option 1. This means that Option 2 may result in increased costs for households, at least in the short-term. However, in Option 2 households are likely to benefit from reduced operating costs over time. There is evidence to suggest that the benefits of Option 2 may outweigh the costs; the benefits are explored in further detail below.

In December 2020 HM Treasury published an interim report for its Net Zero Review.<sup>20</sup> The report recognises the implications for households arising from the structural changes required by the transition to a net zero economy but does not seek to calculate the impact of the transition on any particular group.

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<sup>18</sup> This assumption typically causes the estimate of Wales' share of UK costs to be lower than its share of UK abatement, because Wales is currently a significant net exporter of gas-fired power to the UK, but the costs of actions to decarbonise power will be shared by all electricity users in the UK.

<sup>19</sup> For detail, see Chapter 5 of [The Sixth Carbon Budget – The UK's path to Net Zero](#).

<sup>20</sup> [Net Zero Review: Interim Report](#) (HM Treasury, December 2020)

The report acknowledges the inherent uncertainties in forecasting how the net zero transition will affect households by concluding that:

“The transition is a dynamic process that will take place over several decades, and its impact on individual households will ultimately depend on a range of factors including: the development of new low-carbon sectors in the UK; the pace of transition and policy levers chosen; the price of low-carbon alternatives to households and businesses’ current activities; and the dynamism of the labour and capital market.”

Households are exposed to the net zero transition through:

1. The goods and services they buy (household consumption). Different types of household will have different levels of exposure to the transition. For example, higher-income households consume more carbon in absolute terms, but lower-income households tend to consume more carbon relative to their income. HMT analysis suggests that the highest-income households emit around three times as much carbon as the lowest-income households, while on average their income is approximately eight times greater. Furthermore, regional analysis suggests that the average household greenhouse gas footprint in Wales is around the average, when compared to other parts of the UK.<sup>21</sup>
2. Labour market effects. There are likely to be large transitional labour market effects between sectors, with people in certain occupations (skilled trade, and process plant and machine workers) more likely to work in more carbon-intensive industries. People in these occupations are also disproportionately likely to have a lower level of education and to be lower income workers. HMT analysis suggests that people with lower and middle levels of education are employed in jobs with over 20% higher carbon intensity than highly educated employees, on average.
3. Changes to the value of assets. The interim report does not include analysis of this aspect. The net zero transition could affect household business profits, subsequently affecting households that own them (negatively or positively, depending on the household assets owned).

### *Benefits*

The CCC’s December advice considers the benefits of net zero in the areas of prosperity, health and natural capital. The benefits discussed here follow the CCC’s approach of comparing a net zero pathway (Option 2) with a future of no further climate action, rather than comparing the benefits of Options 1 and 2 directly.

While it is not possible to quantitatively compare the macroeconomic, health and natural capital benefits under the options considered, it is reasonable to assume greater net benefits will accrue under Option 2 in relation to health and natural capital. This is because a net zero target will likely demand a greater policy response relevant to these areas, for example more tree planting, and this should increase the benefits flowing from these actions. Option 2 also

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<sup>21</sup> [Net Zero Review: Interim Report](#) (HM Treasury, December 2020, p.75)

frontloads climate action in the next 15 years, which would achieve the benefits earlier than Option 1 and result in greater cumulative benefit overall.

### **Prosperity and resilience**

In the near term, the CCC report that GDP is likely to increase, especially as the economy rebuilds after the COVID-19 crisis. The negative economic impacts from COVID-19 mean the economy is not at full capacity and so present an opportunity for projects which are both ready to implement and which have a high fiscal multiplier effect. According to Hepburn et al (2020), green projects considered to have high multiplier values and strong climate benefits include building efficiency spending for renovations and retrofits, and natural capital investment for eco-system resilience and regeneration (such as restoration of carbon-rich habitats and climate friendly agriculture).<sup>22</sup>

The CCC endorses this position, arguing that now is an ideal time to encourage investment, based on historically low interest rates and a potential demand shortage for cheap capital. Economic recovery from the COVID-19 pandemic necessitates stimulus, and many of the measures detailed in their advice have been shown to have high economic multipliers. However, it should be noted that other fiscal spending not linked to environmental policy may also have a high fiscal multiplier effect during periods of spare capacity. Furthermore, we cannot know for how long the economy will be at limited capacity as a result of COVID-19.

The CCC stresses that the estimates of annualised resource costs are not the same as macroeconomic impacts because resource costs are a microeconomic measure which do not account for wider dynamic interactions in the economy. For example, resource costs incorporate investment costs but do not account for the increase in GDP if that investment is made domestically. Furthermore, the shift away from fossil fuel imports is likely to have major benefits to the country's trade balance, which the resource costs also do not account for.

Macroeconomic analysis conducted in support of the CCC's advice demonstrates that despite the added resource costs involved, the net zero transition is expected to boost UK GDP by around 2% by 2030, levelling off at around a 3% increase by 2050.<sup>23</sup> The analysis estimates that UK net employment will be between 0.5-1% higher than the baseline of no further climate action between 2025-2050, with this employment growth largely resulting from the net zero investment programme.

The CCC reports that actions needed for the transition to net zero in Wales can stimulate economic growth, create jobs, and aid a recovery from the pandemic, as well as increasing resilience to future climate risks. Legislating the CCC's recommended targets would send a clear signal that Wales is open for low-carbon investment and take forward the commitment to "respond energetically to the climate emergency by pursuing a strong decarbonisation agenda", set

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<sup>22</sup> [Will COVID-19 fiscal recovery packages accelerate or retard progress on climate change?](#) (Hepburn et al, May 2020)

<sup>23</sup> [Economic impact of the Sixth Carbon Budget](#) (Cambridge Econometrics, 2020)

out in the 'COVID-19 Reconstruction: Challenges and Priorities' paper, published in October 2020.<sup>24</sup> This will also help to encourage private investment at a time when it is needed to support Wales' economic recovery from the COVID-19 crisis. It could also help Wales secure competitive positions in growing global markets for low-carbon goods and services.

## **Health**

There is clear evidence for the health benefits of the net zero transition. Some of these come directly from changes required to achieve net zero (e.g. more active travel and dietary changes) and some indirectly from the implications of those changes (e.g. better air quality from reduced burning of fossil fuels and more liveable buildings as insulation is improved). These benefits are difficult to quantify, but the CCC states that they "unquestionably offset some, if not all, of the overall resource costs of achieving emissions targets".

The CCC's Expert Advisory Group on Health concurred strongly with the CCC's previous assessment that climate action could bring significant benefits to health. The Group identified five key areas in which action would bring benefits to public health and reduction of health inequalities while contributing to the mitigation of – and adaptation to – climate change:

1. Improved air quality delivered by a move to a cleaner energy system and moving away from fossil fuel combustion in most sectors of the UK.
2. Healthier modes of transport, particularly due to the health benefits of walking and cycling and reducing air pollution from road vehicles.
3. More comfortable and efficient homes that are low-carbon, energy efficient and designed for a changing climate.
4. Better diets with a focus on healthy and sustainable alternatives to the highest carbon foods.
5. Sustainable economic and employment models that better support health and wellbeing.

While noting the potential benefits to public health, the Group noted that the biggest driver of health outcomes in the UK remains economic inequality. A just transition is therefore an essential part of a successful climate policy and health policy.

There are also some potential health risks associated with achieving net zero. One such risk is a greater risk of airborne infection where increased energy efficiency in buildings is not accompanied by adequate ventilation.<sup>25</sup>

## **Natural capital and well-being**

Each of the CCC's scenarios for Wales include measures to improve Wales' natural capital:

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<sup>24</sup> [COVID-19 Reconstruction: Challenges and Priorities](#) (WG, 2020)

<sup>25</sup> University of Leeds study quoted in 'Could Energy Efficiency Actually Increase Hospital Infection Rates?' (2013): <http://www.buildings.com/articles/30879/could-energy-efficiency-actually-increase-hospital-infection-rates>

- Provisioning services. The scenarios include an increase in renewable energy generation – particularly wind – consistent with the Welsh Government's target to generate renewable electricity equivalent to 70% of Welsh consumption by 2030.
- Regulation services. The Balanced Pathway includes the planting of between 4,500 and 7,500 hectares of trees per year, from 2025 to 2050, which will also contribute to improved air quality. Trees filter rainwater before it reaches receiving waters, thus improving water quality. Strategic planting of trees on flood plains can also regulate flooding. Trees can also reduce storm water runoff and slow storm flow. Significant areas of peatland will also be restored which – in addition to carbon sequestration – provide other vital services, such as water regulation, flood protection and habitats for wildlife.
- Cultural services. The natural environment provides a range of cultural services, such as increased amenity benefits, improved mental health, educational benefits and spiritual well-being.
- Supporting Services. In agriculture, the scenarios include soil and crop measures that aim to increase the efficiency of fertiliser use. These have benefits to water and soil quality, and biodiversity.

### *A just transition to Net Zero*<sup>26</sup>

The CCC expects the transition to bring many benefits for UK households. By 2035, in the CCC's scenarios, people's homes will be better insulated, their cars will be cheaper to drive, they will have cleaner air, quieter streets, more access to green spaces and more opportunities to improve their health. Policy should aim to share these benefits broadly across the population.

The CCC also highlights the risk of uneven costs. In the long term, energy costs and energy bills are expected to fall significantly but electricity costs are likely to rise first. Although improvements to energy efficiency could largely offset these costs, the CCC says that the additional costs should not be automatically added to energy bills, which is a regressive approach. It notes that continuing to add climate policy costs primarily to electricity prices, but not gas prices, adversely affects particular groups (those with electric heating).

### **New job opportunities**

The opportunities for jobs growth have, to date, largely been focused on deploying renewable electricity. Research conducted by the International Labour Organisation suggests that growth in renewable energy sources leads to greater job creation than growth in non-renewable energy sources.<sup>27</sup> The CCC anticipates that the next phase of decarbonisation will go beyond renewable electricity towards electric vehicles, low-carbon hydrogen, carbon capture usage and storage (CCUS) and buildings decarbonisation. Low-carbon industrial products will be in increasing demand across the world.

<sup>26</sup> For more detail, see Chapter 6 of [The Sixth Carbon Budget – The UK's path to Net Zero](#).

<sup>27</sup> ['The transition in play: Worldwide employment trends in the electricity sector'](#), (International Labour Organization, Research Department Working Paper No. 28, G. Montt, N. Maitre, S. Amo-Agyei, 2018)

The macroeconomic analysis published alongside the CCC's advice also provides some insights into potential employment effects.<sup>28</sup> It identifies boosts in employment in the utilities sector and in manufacturing and construction, while there will likely be job losses in oil and gas production and aviation. At a UK level, the analysis estimates net employment growth of between 0.5-1% compared with the baseline of no further climate action between 2025-2050, resulting from the economic stimulus effect of the major investment programme implied by the CCC's Balanced Pathway.

### **Pressure on existing jobs**

A transition to Net Zero will also reduce demand for certain high-carbon services and technologies, such as fossil fuel extraction, processing and distribution, aviation, fossil fuel machinery and some livestock and dairy. This could see jobs in some key sectors significantly affected, though in each area there will also be new employment opportunities.

### **Regional considerations**

The opportunities and challenges of the low-carbon transition will vary regionally. For example areas with older, energy inefficient housing could face higher energy bills. Rural areas off the gas grid, who typically pay more for heating fuel, could have more to gain from a switch to low-carbon heating. Current and future transport infrastructure can limit the ability of the local population to walk, cycle or use public transport, and may affect the opportunity for, and costs of, running an electric vehicle. However, a transition to electric vehicles alongside an increase in active travel will lead to a decrease in local air pollution, benefitting health. A shift to healthier diets, and improved quality of housing is expected to lead to lower costs for the health service. An increase in tree-planting and urban green spaces will provide more green recreational space. Relative wealth will be important, including the ability to fund changes locally.

### *CCC Expert Advisory Group on the costs and benefits of a UK net-zero emissions target*

In 2019, the CCC set up the Advisory Group on the Costs and Benefits of Net Zero. The Advisory Group produced a Chair's Report based on the Group's deliberations and written submissions.<sup>29</sup>

The thrust of the report was that the costs and benefits of deep decarbonisation are unknowable with any precision, as they are both very uncertain in themselves and depend both on the decarbonisation policies and the timescale over which they are pursued. However, that said, the Group drew the following conclusions:

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<sup>28</sup> [Economic impact of the Sixth Carbon Budget](#) (Cambridge Econometrics, 2020)

<sup>29</sup> [Report to the CCC](#) (Advisory Group on the Costs and Benefits of Net Zero, May 2019)

- The climate science suggests that there are very large potential benefits of limiting the average global temperature rise to 1.5°C rather than 2°C, which provides a justification for a Net Zero as opposed to an 80% emission reduction target;
- The costs of reducing greenhouse gas (GHG) emissions have been grossly over-estimated in the past; recent modelling suggests that costs might be around 1% of GDP, but ongoing reductions in the costs of zero-carbon technologies suggest that in the future the costs might turn negative (i.e. zero-carbon electricity may turn out to be cheaper than fossil fuel generation, even if the climate benefits are not considered);
- The costs of reaching Net Zero by a certain date (e.g. 2050) will be lower the sooner the requisite policies are put in place to achieve it, to give investors certainty about the direction of travel and to fit in with investment cycles to minimise the stranding of long-lived high carbon infrastructure;
- The health co-benefits of reducing fossil fuel use and greenhouse gas emissions could be very substantial in terms of improved air quality, active travel and healthier lower-meat diets;
- However low (or negative) the costs of Net Zero turned out to be, the transition to Net Zero would involve deep structural changes that would affect people, communities and economic sectors in very different ways. There would be winners and losers. The political acceptability of the transition would depend on it being seen to be fair, as well as this being desirable on ethical grounds;
- Achieving Net Zero by 2050 will require wide-ranging policies that are credible, consistent across government, long-term and of a stringency to transform major techno-socioeconomic systems of society (including energy, food, transport, waste and resource use). The required policy approach “includes a stable long-term direction with clear governance, regular reviews for flexibility, use of markets to find the best solutions, support for large-scale deployment of new technologies as well as research and development, and approaches that are tailored to the needs of each sector, while maintaining consistency across the system.”

Their report emphasised that the benefits (including decreased climate risk) of net zero outweigh the costs, that good policy design is vital to keep costs low and maximise benefits and that clarity around the decarbonisation pathway is a key enabler of innovation.

In April 2020 the CCC asked the Advisory Group to reflect on whether the economic circumstances consequent on and subsequent to COVID-19 are likely to have affected the Group’s conclusions in its 2019 Report, as set out above. The Group concluded that, if anything, their recommendations from 2019 have been reinforced by events since.<sup>30</sup>

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<sup>30</sup> [Supplementary report to the CCC](#) (Advisory Group on the Costs and Benefits of Net Zero, December 2020)

“The climate science has not changed, justifying the pursuit of a 1.5°C target [and net zero]... There is now a much greater economic rationale for substantial public investment, and the right measures to crowd in private investment, than there was [in 2019].”

### *Administrative costs*

The administrative cost burden on the Welsh Government arises from establishing and maintaining the legislative framework for emissions reduction, developing policy, and then monitoring and reporting progress against the targets and carbon budgets. These costs are expected to be broadly similar under each of the options presented above.

### **Environment Act factors**

Section 32(3) of the Environment (Wales) Act 2016 lists a number of reports and factors that Welsh Ministers must have regard to when changing the 2050 emissions target, or setting or changing an interim emissions target or carbon budget. The reports and factors are:

- the most recent State of Natural Resources Report;
- the most recent Future Trends Report;
- the most recent Future Generations Report;
- scientific knowledge about climate change;
- technology relevant to climate change; and
- EU and international law and policy relating to climate change (including international agreements on measures designed to limit increases in global average temperatures).

### **State of Natural Resources Report**

In December 2020 Natural Resources Wales (NRW) published the first documents as part of the second State of Natural Resources Report (SoNaRR 2020). Among these documents are NRW’s assessments of the four aims of the Sustainable Management of Natural Resources (SMNR). In its assessment of the achievement of SMNR Aim one (Stocks of natural resources are safeguarded and enhanced), NRW finds that climate change is having a “substantial effect on biodiversity and ecosystems” through:<sup>31</sup>

- shifting species ranges;
- localised extinctions;
- changes to life-cycle events;
- sea level rise;
- exacerbating the increase in invasive species including disease vectors; and
- altering the abundance and distribution of biodiversity.

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<sup>31</sup> [SoNaRR 2020: Assessment of the Achievement of SMNR Aim 1: Stocks of Natural Resources are Safeguarded and Enhanced](#) (NRW, 2020)

The projected increase in frequency and intensity of droughts, fluvial and coastal floods and heatwaves are all likely to further reduce overall ecosystem resilience.

NRW concludes that “Overall Wales’s natural resources are not safeguarded or enhanced to the degree that we can say we are achieving sustainable management.”<sup>32</sup> It identifies decarbonisation as one of four opportunities for action to improve performance against Aim one. NRW has also published natural resource registers showing how climate change is causing pressures and impacts on the eight ecosystems within SoNaRR.<sup>33</sup>

Ecosystem	Key pressures			
	Changing weather patterns	Sea level rise	Increased water temperature	Ocean acidification
Coastal margins				
Enclosed farmland				
Freshwater				
Marine				
Mountains, moorlands and heaths				
Semi-natural grasslands				
Urban				
Woodlands				

**Table 3:** Key pressures on ecosystems caused by climate change (NRW, SoNaRR 2020)

The full chapter on how climate change is threatening ecosystem resilience and ecosystem services will be published in March 2021.

### Future Trends Report

The most recent Future Trends Report dates from 2017, with the next report due in summer 2021.<sup>34</sup> The report identifies key future social, economic, environmental and cultural trends for Wales, under six themes that impact all aspects of government and public administration. Climate change is one of the themes, along with population, health, economy and infrastructure, land use and natural resources, and society and culture. The report essentially asks two questions:

1. Where might Wales be going? (Trends)
2. What could this mean? (Influencing factors)

<sup>32</sup> [SoNaRR 2020: Assessment of the Achievement of SMNR Aim 1: Stocks of Natural Resources are Safeguarded and Enhanced](#) (NRW, 2020, p.22)

<sup>33</sup> [SoNaRR2020: Natural resource registers](#) (NRW, 2020)

<sup>34</sup> [Future Trends Report](#) (Welsh Government, 2017)

## *Trends*

### **Population**

Wales' population is projected to increase over the next 20 years, possibly by around 5%. Around half of this growth could be due to natural change (births and deaths) and half due to in-migration from the rest of the UK or internationally. The UK's exit from the European Union could lead to more controlled migration in the future and a subsequently lower population growth rate.

Over the next 20 years, the percentage of over 65s in Wales is set to increase from around 20% to around 25% of the entire population. The population aged over 75 in Wales is also projected to increase from 9% of the population in 2014 to around 13% in 2030. The number of young people (aged under 16) is projected to increase up to 2023 and then fall slightly up to 2030.

The number of households in Wales is projected to grow faster than the overall population. This would lead to smaller household sizes.

### **Economy and infrastructure**

The global shift of economic growth away from more mature economies has meant that the UK has, over the last 50 years, slipped down global GDP leagues in terms of the overall economy size as less mature economies catch up with those that developed earlier. However, this does not mean that growth will stop in developed countries. Importantly, the overall size of a country's economy is less important for wellbeing than the income per head, and by this measure the UK displays better resilience. However, since the recession in 2008, a productivity slowdown has sharply reduced growth rates. The UK and Wales have been particularly affected.

Wales has great untapped growth potential to generate energy, including from renewable sources. There is currently significant growth in the community level low carbon energy sector in Wales.<sup>35</sup>

The provision of broadband infrastructure is developing rapidly after a slower start relative to the rest of the UK. This was in part due to Wales' demographics and the high level of rural households that are harder to connect to conventional wired broadband. The rapid increase in mobile internet infrastructure looks set to continue, which should help to reach those households that cannot currently access higher speed internet.

Current trends suggest that, despite growth in rail use, private vehicles are set to remain the dominant mode of transport in Wales in the short to medium term at least. The expected advent of autonomous or driverless vehicles in the next 10 to 15 years could in turn have implications for our transport systems.

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<sup>35</sup> When the Future Trends Report was published in 2017, the total number of locally-owned projects was 63,071 with a capacity of 529MWe. The latest figures, from 2019, are 68,560 projects and a capacity of 549MWe. See <https://gov.wales/energy-generation> for more detail.

## **Climate change**

Even in the best case scenario, there are likely to be significant national as well as global impacts beyond those already observed. Global temperature increases are likely to exceed the two degree threshold, unless significant and rapid action is taken globally.

There are potentially significant impacts to Wales from exceeding the global two degrees threshold. The latest UK Climate Change Risk Assessment identified the following areas for priority action:

- Flooding and coastal change risks to communities, businesses and infrastructure.
- Risks to health, wellbeing and productivity from high temperatures.
- Risk of shortages in the public water supply, and for agriculture, energy generation and industry, with impacts on freshwater ecology.
- Risks to natural capital including terrestrial, coastal, marine and freshwater ecosystems, soils and biodiversity.

Infrastructure across Wales is already exposed to a range of climate hazards, which are projected to increase both in frequency and severity. Such infrastructure includes transport networks, underground infrastructure, energy and digital infrastructure and public water supplies. Impacts on some assets have the potential to cascade on to others as part of interdependent networks. Flooding poses the greatest long-term risk to infrastructure performance from climate change, but the growing risks from heat, water scarcity and slope instability caused by severe weather could also be significant.

## **Land use and natural resources**

By 2050, average river flows in winter may rise by 10-15%. However, in the summer and early autumn they could reduce by over 50% and as much as 80% in some places. Droughts and flood events may become more common. Climate change may also affect the rates of groundwater recharge.

Soil carbon has been stable in improved land for 30 years. Recent increases in soil carbon in woodland until 2007 have now stabilised with no further increase detected. However, a significant decline in soil carbon in habitat land over the last 10 years has been detected and further work is needed to identify possible reasons for this.

Housing need in Wales is growing due to the number of households increasing faster than the number of available properties. In contrast, there is likely to be less suitable land available for development as flood plains and other lower lying land becomes increasingly prone to flooding.

## *Influencing factors*

### **Political**

The exit of the UK from the European Union may be the most immediate and potentially most disrupting factor to these identified trends. It is probable that this process will have a significant and wide ranging impact on Wales,

potentially impacting on economic growth and migration to Wales from both Europe and beyond.

There are also risks to the economic growth rate given the increasing potential for politically led 'de-globalisation'. Decreasing global trade patterns and the potential for increased protectionism could have a significant effect on both the mix and extent of various industries in Wales.

### **Economic**

Economic growth rates could affect the amount of investment made in the research and development of new technologies, both globally and in Wales and the UK.

### **Social**

Behavioural change among the Welsh population will be an unknown and potentially significant influence on how these trends unfold.

### **Technological**

There is the potential for technological advances to dramatically improve the effectiveness and availability of low carbon energy. Mass production of current technologies such as solar power and energy storage may also help to dramatically increase the deployment of low carbon energy.

If the more pessimistic prediction for climate change occurs, there is a possibility that 'climate fixing' technology such as bioengineering may be employed to lower CO<sub>2</sub> levels in the atmosphere and levels of warming. The deployment of such technologies could have potentially significant effects and may not help to combat such effects as the acidification of the oceans.

Advances in household, transport and energy technologies could have a transformative effect on population behaviours, even over fairly short timescales.

### **Legislative**

Ratification of the United Nations Paris Agreement has set the global legal context for climate change. The international context around climate change has now changed with a roadmap in place for global decarbonisation, setting a new long-term target for net zero global emissions in the second half of this century and key legislative requirements at all levels.

### **Environmental**

There are a wide range of climate change scenarios and models. The next 20 years may be crucial in determining which of the various longer term warming scenarios will occur.

As the impacts from climate change become more prevalent, there may be an increasing risk of climate related disruption to global and regional economic networks. These could take the form of disruptions in crop production, or an increasing risk of flooding. The sensitivity of the climate to the rising levels of CO<sub>2</sub> in the atmosphere will be key to the extent to which infrastructure might be

disrupted. The more pessimistic scenarios also have the potential to impact significantly on population growth and migration levels, given the possibility of increased risk in terms of failures elsewhere in food production/ transportation and access to other resources, along with associated global conflicts.

There are some potential climate related risks that could impact negatively on health trends, not just in Wales but globally. One example is the greater risk of extreme hot weather events, the incidences of which are unpredictable. Climate change could also bring increasing risks of newly emerging infectious disease. Likewise, future air quality levels could be a major associated influencing factor. In contrast, there are also likely to be some opportunities presented by a warming trend. For example, the amount of energy required to maintain warm homes would reduce.

The level of sensitivity of Wales' biodiversity and habitats to climate change will be the key to how natural resources trends may evolve. There are risks from climate change in the frequency and the magnitude of extreme weather and wildfire events. Climate change is influencing the expansion or contraction of some species' ranges and populations, and the increasing frequency of extreme climatic events, predicted in many climate change scenarios, may have serious implications.

## **Future Generations Report**

The most recent Future Generations Report was published in May 2020.<sup>36</sup> Chapter 5 specifically focuses on decarbonisation.

### *People's perception of decarbonisation*

Concerns about climate change reached a record high in 2019 (85% in the UK). The Commissioner says that one of the things people have emphasised in conversations with her is the importance of having a more proactive government with stronger targets and regulation.

### *What future generations need*

The report says we need to reduce our emissions in Wales by at least 95% by 2050, preferably sooner, to avoid catastrophic climate change. This means that in Wales we need to make an urgent transition to a low carbon economy and society.

Young people have had a significant impact on securing action on climate change in Wales. Public awareness, especially amongst the younger generation, has increased considerably in the last 12 months. Following the Fridays for Future protests, the Commissioner believes that 2019 was the year when children and young people showed politicians and decision makers across Wales and the world that they must do more to act on climate change. Young people are now demanding greater action and climate justice, calling on global leaders to take urgent action.

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<sup>36</sup> [The Future Generations Report 2020](#) (Future Generations Commissioner for Wales)

The report argues that we need to address climate change because it is an equality and social justice issue and it will disproportionately affect the most vulnerable communities in Wales and across the world. Vulnerable communities are more likely to be exposed to the risks and impacts of climate change, without the ability to cope with or recover from those impacts.

### **Scientific knowledge about climate change**

Two reports by the Intergovernmental Panel on Climate Change (IPCC) summarise the core of scientific knowledge about climate change: the Fifth Assessment Report (IPCC-AR5) and the Special Report on Global Warming of 1.5°C (IPCC-SR1.5).<sup>37</sup>

#### *Key conclusions from IPCC-AR5<sup>38</sup>*

- The climate is changing as a result of global greenhouse gas emissions; the IPCC concluded that it was unequivocal that humans were influencing the climate
- Many climate impacts are being detected across the world
- Further emissions will lead to further warming and change
- There is no simple threshold beyond which climate change moves from safe to dangerous
- The increase in global temperature is determined mainly by total carbon dioxide emissions over time, which must fall to near zero in order to limit warming

#### *Summary of IPCC-SR1.5*

At COP21 in Paris, the Intergovernmental Panel on Climate Change (IPCC) was invited to provide a Special Report in 2018 on the impacts of global warming of 1.5°C above pre-industrial levels and related global greenhouse gas emission pathways. The report found that:<sup>39</sup>

- Human activities are estimated to have caused approximately 1.0°C of global warming above pre-industrial levels, with a likely range of 0.8°C to 1.2°C.
- Global warming is likely to reach 1.5°C between 2030 and 2052 if it continues to increase at the current rate (high confidence).
- Climate-related risks for natural and human systems are higher for global warming of 1.5°C than at present, but lower than at 2°C (high confidence). These risks depend on the magnitude and rate of warming, geographic location, levels of development and vulnerability, and on the choices and implementation of adaptation and mitigation options (high confidence).
- Climate models project robust differences in regional climate characteristics between present-day and global warming of 1.5°C, and

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<sup>37</sup> [Fifth Assessment Report](#) (IPCC, 2013) and [Special Report on Global Warming of 1.5°C](#) (IPCC, 2018)

<sup>38</sup> As quoted in [The Sixth Carbon Budget – The UK's path to Net Zero](#) (CCC, December 2020, p.355)

<sup>39</sup> [https://www.ipcc.ch/site/assets/uploads/sites/2/2019/06/SR15\\_Headline-statements.pdf](https://www.ipcc.ch/site/assets/uploads/sites/2/2019/06/SR15_Headline-statements.pdf)

between 1.5°C and 2°C. These differences include increases in: mean temperature in most land and ocean regions (high confidence), hot extremes in most inhabited regions (high confidence), heavy precipitation in several regions (medium confidence), and the probability of drought and precipitation deficits in some regions (medium confidence).

The IPCC's projected differences between global warming of 1.5°C and 2°C include:

- Increased climate-related risks to health, livelihoods, food security, water supply, human security, and economic growth.
- Global mean sea level rise of around 0.1 metre lower by 2100 (medium confidence). A slower rate of sea level rise enables greater opportunities for adaptation in the human and ecological systems of small islands, low-lying coastal areas and deltas (medium confidence).
- Lower impacts on biodiversity and ecosystems, including species loss and extinction, and lower impacts on terrestrial, freshwater and coastal ecosystems – enabling them to retain more of their services to humans (high confidence).
- Reduced increases in ocean temperature as well as associated increases in ocean acidity and decreases in ocean oxygen levels (high confidence).
- Consequently, reduced risks to marine biodiversity, fisheries, and ecosystems, and their functions and services to humans, as illustrated by recent changes to Arctic sea ice and warm-water coral reef ecosystems (high confidence).
- Most adaptation needs will be lower (high confidence).

### *New observations of climate*

In its December advice to the UK Government, the CCC also listed new observations of climate since its last UK Carbon Budget 5 advice in 2015:<sup>40</sup>

- The five years since 2015 have seen the five warmest years (globally) on record.
- The global average level of human-induced warming is now in excess of 1.1°C when defined consistent with practices used by the World Metrological Organisation and IPCC-SR1.5. Best estimates indicate that human activities are responsible for 100% of the warming observed since 1850-1900. The observed rate of increase in global temperature (~0.2°C per decade) has proceeded consistent with the near-term warming projection made by the IPCC-AR5 report (a 0.12-0.42°C per decade increase).
- Global sea levels have continued to rise, with the rate of increase over the last five years being the fastest observed to date. Global average sea levels are now estimated to be around 20 cm above levels in 1900.

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<sup>40</sup> [The Sixth Carbon Budget – The UK's path to Net Zero](#) (CCC, December 2020, p.359)

- In the UK, the 2010–2019 decade was the second warmest cardinal decade on record after 2000–2009. In 2019, the highest ever temperature reached in the UK was recorded as well as the warmest ever recorded winter temperature. Considerably more high temperature records were set in the UK over than 2010s than low temperature records.
- Human-induced climate change has been clearly shown to increase the frequency and intensity of many (but not all) extreme weather events, with particularly clear signals in extreme heat and many heavy rainfall events.

### *Tipping points*

While many impacts of climate change broadly reflect relatively gradual changes caused by steady increases in global average temperature, parts of Earth’s system have the potential to change abruptly. Once passed, these ‘tipping points’ cause a dramatic shift that can be irreversible. Examples of tipping points include loss of the Amazon rainforest or the West Antarctic ice sheet.

The IPCC introduced the idea of tipping points two decades ago. At that time, these ‘large-scale discontinuities’ in the climate system were considered likely only if global warming exceeded 5°C above pre-industrial levels. IPCC Special Reports in 2018 and 2019 now suggest that tipping points could be exceeded even between 1 and 2 °C of warming.<sup>41</sup>

In an article in *Nature* in November 2019, Professor Tim Lenton and others report that evidence is mounting that tipping points could be “more likely than was thought, have high impacts and are interconnected across different biophysical systems, potentially committing the world to long-term irreversible changes.”<sup>42</sup> In their view, if tipping points are indeed looking more likely, then the costs associated with the resulting impacts mean warming must be limited to 1.5°C. They consider several cryosphere tipping points are dangerously close, but mitigating greenhouse gas emissions could still slow down the inevitable accumulation of impacts and help us to adapt. We might already have committed future generations to living with sea-level rises of around 10 m over thousands of years but that timescale is still under our control. The rate of melting depends on the magnitude of warming above the tipping point. At 1.5°C, it could take 10,000 years to unfold; above 2°C it could take less than 1,000 years. They conclude that “both the risk and urgency of the situation are acute...we might already have lost control of whether tipping happens”. We may still have some control over the level of damage arising from tipping and therefore “the consideration of tipping points helps to define that we are in a climate emergency and strengthens [2019’s] chorus of calls for urgent climate action.”

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<sup>41</sup> SR1.5°C (IPCC, 2018) and [Special Report on the Ocean and Cryosphere in a Changing Climate](#) (IPCC, 2019)

<sup>42</sup> Climate tipping points – too risky to bet against, Professor Tim Lenton et al, *Nature* (November 2019), <https://www.nature.com/articles/d41586-019-03595-0>

## **Technology relevant to climate change**

In discussing the role of technology and innovation in reaching net zero, the CCC advice considered both established and emerging technologies. It also explored the role of digitalisation.<sup>43</sup>

### *Established technologies*

In some sectors, such as power generation, technologies already exist to achieve “near-full decarbonisation”, and global trends are pushing efficiencies up and costs down. In other sectors, such as heating for buildings, technologies exist but the estimated costs are relatively high. The CCC advises that “where there is uncertainty around the costs or scale of competing low-carbon options a portfolio of options should be pursued.”

### *Emerging technologies*

The CCC’s analysis includes several areas where solutions have been proposed but “innovation will be required to go beyond the reach of established technologies or methods”. These areas include hydrogen, heavy goods vehicles and carbon capture and storage.

### *Digitalisation*

The CCC identifies digitalisation as “an important enabler” of the transition to net zero. It is seen as critical to the efficient production and use of energy across increasingly interconnected sectors, such as transport and buildings. The CCC anticipates that it will reduce the need for large amounts of back-up on the electricity grid by increasing the flexibility and dynamism of energy services e.g. vehicle-to-grid. It will also help reduce demands for energy, materials, food and water through predictive analysis, waste avoidance and video-conferencing.

### *Costs of technologies to achieve net-zero emissions*

Ambitious mitigation targets in developed countries can help establish the new industries required and drive down the cost of currently more expensive technologies needed to reach net zero CO<sub>2</sub> emissions, including carbon capture and storage, hydrogen, low-carbon heating and technologies to remove CO<sub>2</sub> from the atmosphere.

## **EU and international law and policy relating to climate change**

### *Paris Agreement*

The Paris Agreement committed countries to keeping the increase in global average temperature to well below 2°C above pre-industrial levels and pursuing efforts to limit the increase to 1.5°C. In order to achieve this, countries agreed on the need for global emissions to peak as soon as possible and to achieve a balance between global emissions and removals (net zero) in the second half of the 21<sup>st</sup> Century, “on the basis of equity, and in the context of sustainable development and efforts to eradicate poverty”.<sup>44</sup> Global average temperature is

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<sup>43</sup> [The Sixth Carbon Budget – The UK’s path to Net Zero](#) (CCC, December 2020, p.402-405)

<sup>44</sup> [Paris Agreement](#) (United Nations, 2015)

already around 1.1°C above pre-industrial levels.<sup>45</sup> The UK ratified the Paris Agreement in November 2016.

The Paris Agreement requires countries to produce Nationally Determined Contributions (NDCs) every five years. NDCs must reflect each country's highest possible ambition towards the global temperature goal. The UK was part of the EU's NDC agreed in 2015, which requires an average reduction across Member States of at least 40% by 2030. On 12 December 2020, ahead of the end of the Brexit transition period, the UK published its own NDC. This included a 2030 emissions reduction target of at least 68%. This figure is based on a recommendation from the CCC, which uses the same scenario as that for the CCC's recommendations for Wales (the Balanced Pathway).

### *Wales's contribution to the Paris Agreement and UK NDC*

Countries agreed to implement the Paris Agreement in a way that would “reflect equity and the principle of common but differentiated responsibilities and respective capabilities, in the light of different national circumstances.”<sup>46</sup> Relative to many other countries, Wales is rich and has high historical emissions, going back centuries. Wales is now responsible for around 0.1% of global emissions each year, although since 1750 the UK has the 5<sup>th</sup> highest cumulative emissions in the world.<sup>47</sup>

The global budget for limiting average global temperature rise to 1.5°C or 2°C can be informed by the latest climate science but the distribution of that budget between countries is a political and moral decision. There is no single agreed methodology or formula that can be used to define a country's fair contribution to mitigating climate change: it is a value judgment that must consider equality, capability and responsibility.

While there is no agreed methodology, the IPCC has summarised what the academic literature on ‘effort share’ approaches suggests regional targets should be, based on a review of 40 studies.<sup>48</sup> The approaches fall into three broad categories:

1. **Economically efficient:** These achieve the required abatement at least global cost (equal marginal abatement cost)
2. **Historical responsibility:** These assign emissions commitments on the basis of historic contribution to the climate emergency since 1990
3. **Forward-looking:** These assign emissions on the basis of a country's projected capability (income) or on the basis of convergence in global emissions per capita

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<sup>45</sup> [WMO confirms 2019 as second hottest year on record](#), World Meteorological Organisation (15 January 2020)

<sup>46</sup> [Paris Agreement](#), Article 2.2

<sup>47</sup> Carbon Brief analysis: <https://twitter.com/CarbonBrief/status/1120715988532629506>

<sup>48</sup> [Regional GHG reduction targets based on effort sharing: a comparison of studies](#), Niklas Höhne, Michel Den Elzen & Donovan Escalante (Climate Policy, 2013)

### *International comparisons*

Wales is a founding member of the Under2 Coalition, a global community of state and regional governments committed to ambitious climate action in line with the Paris Agreement.<sup>49</sup> The coalition includes more than 220 governments who represent over 1.3 billion people and 43% of the global economy.

121 states and regions disclosed their climate and environmental data as part of the Global States and Regions Annual Disclosure 2020.<sup>50</sup> Of these, 18 have set net zero targets, ranging from 2030 (Jämtland, Sweden) to 2045 (Scotland, California and Australian Capital Territory) to 2050 (including Catalonia and New York State). Hawaii aims to be net-negative by 2045.

Outside the Under2 Coalition, 7 countries have set net zero targets in law (for 2050, apart from Sweden for 2045). A further 7 countries have declared net zero targets in policy documents and 12 more have submitted net zero targets to the UN. Japan has recently declared its intent to achieve net zero by 2050, while China has done so for 2060. Joe Biden was elected president of the USA on a climate platform to aim for net zero emissions by 2050.<sup>51</sup>

Each government decides how to define the target, considering its formality (whether it is set in legislation or simply a policy target), scope (whether it covers all greenhouse gases or just CO<sub>2</sub> and whether it includes emissions from international aviation and shipping or not) and the approach to international offsetting (whether it is permitted or not).

### *European law and policy*

In December 2019, the European Council agreed the objective of achieving a climate-neutral EU by 2050. This had previously been endorsed by the European Parliament in March 2019. The European Commission's (EC) proposed new European Climate Law would impose a legally binding target of net zero greenhouse gas emissions by 2050.<sup>52</sup>

In December 2020, EU leaders agreed on a binding EU target for a net domestic reduction of at least 55% in greenhouse gas emissions by 2030, compared to 1990.<sup>53</sup> The previous target, set in 2014, was for at least a 40% reduction by 2030. The new target has been submitted to the UN as the EU's NDC.

EU climate legislation already in place includes the EU Emissions Trading System (ETS), the Effort Sharing Regulation (ESR), and the Land Use, and the Land Use Change and Forestry Regulation (LULUCF). The Renewable Energy Directive (RED II), the Energy Efficiency Directive and the Regulation on the Governance of the Energy and Climate Action also contribute in driving commitments to renewable energy. The EU acknowledges that without

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<sup>49</sup> <https://www.under2coalition.org/>

<sup>50</sup> [Annual Disclosure Report](#) (Under2 Coalition, 2020)

<sup>51</sup> [Which countries have a net zero carbon goal?](#) (Climate Change News)

<sup>52</sup> [https://ec.europa.eu/clima/policies/eu-climate-action/law\\_en](https://ec.europa.eu/clima/policies/eu-climate-action/law_en)

<sup>53</sup> <https://www.consilium.europa.eu/en/policies/climate-change>

enhancement these policies will fall short of the 55% target. It is therefore discussing potential policy changes, including strengthening carbon pricing in the EU through an extension of the ETS to new sectors, a carbon border adjustment mechanism to mitigate the risk of carbon leakage, and is reconsidering international aviation and shipping emissions with the ambition to include these within the EU ETS. The EC intends to make detailed legislative proposals by June 2021.<sup>54</sup>

## **Integrated Impact Assessment**

Having considered the regulations against our mandatory and non-mandatory impact assessments, we do not believe it is possible to quantify their impact as they simply provide the statutory framework for emissions reduction. The impact of taking action to meet the targets and carbon budgets depends on the measures and policies chosen. These policies will be set out in a report for each carbon budget period, the next being published in November 2021. Policies to deliver our carbon budgets are subject to an engagement process and impact assessments, including RIA where appropriate.

Additionally, the global nature of the climate emergency means it is not possible to determine the effect of more ambitious Welsh targets on climate-related risks in Wales, such as flooding, and the subsequent impact on the matters covered by the impact assessments, for example equality.

However, *if* Wales achieves the more ambitious targets *and* other countries make comparable effort, we increase the likelihood of limiting average global temperature rise to 1.5°C. If this temperature goal is met, we will limit Wales's exposure to climate change impacts. One such impact is heat-related mortality. We have worked with researchers at Bristol and East Anglia Universities to develop a short case study on heat-related mortality in Wales at 2°C and 1.5°C of global warming (see Annex A).

## **Summary**

### *CCC advice*

The CCC has concluded that a net zero target is now credible and the right target for Wales. Its December 2020 advice is a blueprint for achieving net zero and provides a detailed vision for realising this more ambitious goal.

The expected cost of achieving net zero has fallen since the CCC's 2019 advice. The estimated annualised resource cost has fallen from £3-5billion per year to significantly less than £2billion per year through to 2050. The CCC has also demonstrated that operational savings are expected to largely offset the investment costs for achieving net zero towards the middle of this century, and supporting research suggests a potential positive impact on GDP overall. The CCC's Advisory Group on the Costs and Benefits of Net Zero declared that the benefits (including decreased climate risk) of net zero outweigh the costs. In

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<sup>54</sup> <http://europeanmemoranda.cabinetoffice.gov.uk/memorandum/communication-from-the-commission-to-the-european-parliament-the-council-the-european-economic-social-committee-1600418191>

addition to economic impacts, the CCC identified likely significant positive impacts for health and biodiversity in their Balanced Pathway.

### *Environment Act factors*

SoNaRR highlights the substantial effect of climate change on biodiversity and ecosystems. It also identifies decarbonisation as a key opportunity to improve the sustainable management of natural resources and reduce several key pressures on all ecosystems.

The Future Trends Report considers several trends relevant to achieving climate change targets, notably an increasing, ageing population and more people living alone. Older people tend to have a higher carbon footprint than younger people and an increase in households suggests higher demand for heating and electricity. The Report also notes behaviour change as a key influencing factor on how the trends unfold; behaviour change is fundamental to achieving the CCC's Balanced Pathway. The Future Generations Report draws attention to the significant shift in public concern about climate change and increasing support for greater action, particularly among children and young people.

There is a very strong scientific basis for increased efforts to tackle climate change. IPCC-SR1.5 shows that keeping average global temperature increase to 1.5°C would reduce climate-related risks to health, livelihoods, food security, water supply, human security, and economic growth, when compared to a 2°C rise. Option 2 is more aligned to achieving 1.5°C than Option 1, which relates more closely 2°C.

Technology to support the net zero transition is well-advanced and commercially deployed in many important areas, while further innovation is required in others. “The clarity of a net-zero goal could help stimulate innovation. Under a net zero target all sectors need to decarbonise or offset their emissions. This removes uncertainty and the temptation of sectors to lobby for a larger share of the remaining 20% of emissions [under the existing 80% target]. This clarity could cut the cost of capital as well as stimulating innovation, thereby bringing down the overall cost of mitigation.”<sup>55</sup>

There are many ways of determining Wales's fair contribution to the Paris Agreement and the UK's NDC. However, the CCC's Balanced Pathway is the only 'bottom-up' scenario available that describes *how* the targets can be met. The CCC states that its December 2020 recommendations “reflect the goals and requirements of the Paris Agreement” for the following reasons:<sup>56</sup>

1. The Balanced Pathway has been explicitly designed to reflect Wales's 'highest possible ambition' within Wales' particular capabilities
2. It would reduce Wales's annual per-capita emissions to under 3tCO<sub>2</sub>e per person before 2040, in line with global pathways consistent with meeting the 1.5°C goal

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<sup>55</sup> [Report to the CCC](#) (Advisory Group on Costs and Benefits of Net Zero, 2019, p.23)

<sup>56</sup> [The path to a Net Zero Wales](#) (CCC, December 2020, p.57)

In the last year there has been a notable shift in global ambition on climate change; many more countries have now adopted a net zero target or ambition, or are considering one. Joining the 'net zero club' would demonstrate Wales's support for new industries and provide the best opportunity for attracting green investment and jobs. It would also align with Wales's well-being goal to be a globally responsible nation.

**Having considered both the CCC advice and the Environment Act factors, Option 2 is the preferred option.**

## **Consultation**

In preparing their advice the CCC ran a public Call for Evidence to capture input from organisations and individuals on matters relevant to the regulations, as well as UK Carbon Budget 6. The Call for Evidence ran from 5 December 2019 to 5 February 2020. The Welsh Government and CCC ran two stakeholder events during the period: one in Llandudno on 20 January 2020 and one in Cardiff on 21 January 2020, with around 60 delegates attending in total.

There were four questions in the Call for Evidence with a Wales focus. These each received between 11 and 37 responses.<sup>57</sup> A high-level overview of the responses and a list of respondents is available in the CCC's Summary of responses document.<sup>58</sup>

We have published our Engagement Approach for Low Carbon Delivery Plan 2 that describes how we intend to involve and collaborate with people and stakeholders throughout 2021.<sup>59</sup> We also continue to consult on the policies required to meet the carbon budgets and targets, for example the Electric Vehicle Charging Strategy, Building Regulations Part L and F Review, and the Agriculture (Wales) Bill.<sup>60</sup>

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<sup>57</sup> <https://www.theccc.org.uk/publication/sixth-carbon-budget-and-welsh-emissions-targets-call-for-evidence-summary>

<sup>58</sup> [Welsh emissions targets: Summary of responses to Call for Evidence](#) (CCC, 2020)

<sup>59</sup> See <https://gov.wales/low-carbon-delivery-plan-2-engagement-plan>

<sup>60</sup> See <https://gov.wales/consultations>

## Competition Assessment

This impact assessment does not include a Competition Assessment because the regulations do not provide for specific policies. It is not possible, therefore, to consider the specific impacts on competition within individual markets.

The competition filter test	
Question	Answer
<b>Q1:</b> In the market(s) affected by the new regulation, does any firm have more than 10% market share?	
<b>Q2:</b> In the market(s) affected by the new regulation, does any firm have more than 20% market share?	
<b>Q3:</b> In the market(s) affected by the new regulation, do the largest three firms together have at least 50% market share?	
<b>Q4:</b> Would the costs of the regulation affect some firms substantially more than others?	
<b>Q5:</b> Is the regulation likely to affect the market structure, changing the number or size of businesses/organisation?	
<b>Q6:</b> Would the regulation lead to higher set-up costs for new or potential suppliers that existing suppliers do not have to meet?	
<b>Q7:</b> Would the regulation lead to higher ongoing costs for new or potential suppliers that existing suppliers do not have to meet?	
<b>Q8:</b> Is the sector characterised by rapid technological change?	
<b>Q9:</b> Would the regulation restrict the ability of suppliers to choose the price, quality, range or location of their products?	

## ***Post implementation review***

### **Government progress review**

The Environment (Wales) Act 2016 requires Welsh Ministers to prepare and lay a statement after each budgetary period setting out whether Wales has met the budget, whether they have debited or credited any carbon units and giving details on the type and number of units. The statement must explain what the Welsh Ministers consider to be the reasons why the carbon budget for the period has, or has not, been met. In particular, it must include the Welsh Ministers' assessment of the extent to which their proposals and policies for meeting the carbon budget for the period have been carried out and have contributed to the carbon budget for the period being met or not. This statement must be laid before the end of the second year after the budgetary period, allowing time for the emissions data to be compiled, which requires 18 months from the close of year.

With regards to each interim target and the 2050 target, Welsh Ministers must also prepare and lay a statement before the Senedd. This statement must be made before the end of the second year after the relevant interim target year. This statement will provide the Welsh Government's assessment of the total amount of emissions in that year, whether the interim emissions target has been met, and the total amount of carbon credits or debits for that year. The statement must also explain what the Welsh Ministers consider to be the reasons why the target has, or has not, been met.

### **Independent progress review**

The Act provides for the CCC to monitor and report on progress. No later than six months after the Welsh Ministers lay the final progress statement for a budgetary period, the CCC must provide a report setting out their views on:

- the way in which the carbon budget for the period was or was not met; and
- the action taken by the Welsh Ministers to reduce net Welsh emissions of greenhouse gases during the period.

Following the Welsh Government's progress reports on the 2030 and 2040 interim targets, the CCC is required to advise whether the forthcoming interim target(s) and 2050 target represent the highest achievable targets for Wales. If not, they must state what the highest achievable target is.

# Annex A: Heat-related mortality in Wales at 2°C and 1.5°C of global warming

## *Introduction*

Officials worked with academic experts on climate impacts to explore one example of how Wales might benefit from adopting and achieving a more ambitious emissions reduction pathway, if matched by other countries.<sup>61</sup> Heat-related mortality was chosen because it is the most direct way in which climate change is expected to affect public health and there is a strong, direct correlation between summer temperatures and increased mortality.

Temperature thresholds of 2°C and 1.5°C were selected because Wales's existing legislated emissions reduction pathway is broadly aligned to a 2°C rise in global average temperature, assuming similar effort from other countries, while the CCC's new recommended pathway is more closely aligned to a rise of 1.5°C. They are also the temperature goals in the Paris Agreement.

## *How is Wales's exposure to extreme summer temperatures projected to change?*

Overall, Wales's summer mean temperature is projected to change around 20% faster than the global mean and by 30-45% faster than the global mean during the hottest 5% of summer days.<sup>62</sup> This means Wales's hottest summer days are getting hotter and more extreme relative to mean temperatures.

## *How is this change expected to affect heat-related mortality?*

Mortality increases as temperature increases above a regionally-specific threshold.<sup>63</sup> Mortality occurs throughout the summer months, even on days that are not extreme heatwaves. As well as increasing temperature extremes, climate change means Wales will experience more warmer days and, as a result, increased heat-related mortality.

Based on current baseline mortality rates, modelling of the recent past (1990-2019) suggests, on average, 25 heat-related deaths occur per year in Wales, increasing to 48, 67, and 137 heat-related deaths under 1.5°C, 2°C and 3°C warming scenarios respectively (see Figure 1 for error bars). **Limiting**

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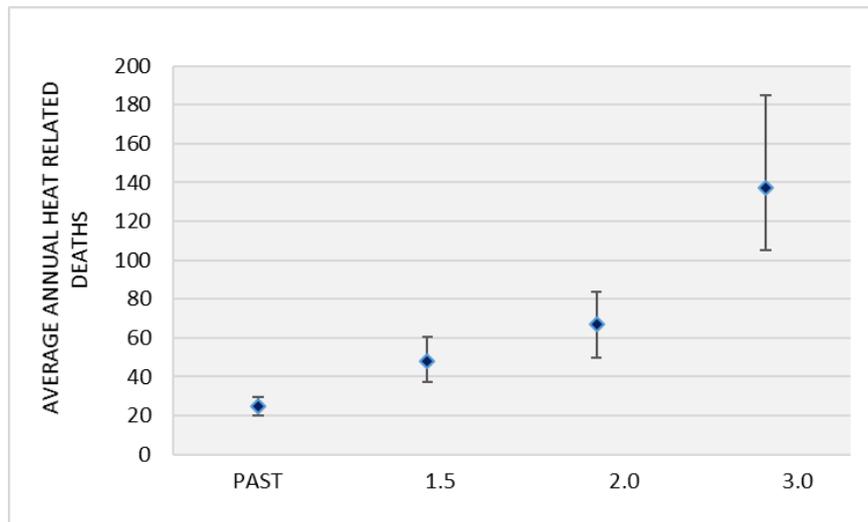
<sup>61</sup> Setting and achieving tighter emissions targets in Wales alone will have a negligible impact on global temperature and on Wales's climate. We are therefore reliant on the collective effort of all countries to reduce the frequency and severity of negative climate change impacts in Wales, such as heatwaves.

<sup>62</sup> UK Climate Projections 2018 data:

<https://www.metoffice.gov.uk/research/approach/collaboration/ukcp/index>

<sup>63</sup> By around 1.5% for every 1°C above ~17.2°C for Wales. [Climate change effects on human health: projections of temperature-related mortality for the UK during the 2020s, 2050s and 2080s](#), Hajat et al, Journal of Epidemiology & Community Health (2014, Volume 68, Issue 7).

warming to 1.5°C would therefore avoid 29% of the additional heat-related mortality at 2°C.<sup>64</sup>



*Fig. 1: Modelled average heat-related mortality per year in Wales for the past and 3 warming scenarios. Error bars signify 10-90% uncertainty in the projected climate.*

### **Who is likely to be most affected?**

Not everyone is equally vulnerable to heat-related illness. There are certain factors that increase an individual's risk during a heatwave, including:<sup>65</sup>

- Older age: especially women over 75 years old, those living on their own, or in a care home;
- Chronic and severe illness: including heart conditions, diabetes, respiratory or renal insufficiency, Parkinson's disease or severe mental illness;
- Inability to adapt behaviour to keep cool: having Alzheimer's, a disability, being bed bound, too much alcohol, babies and the very young; and
- Environmental factors and overexposure: living in a top floor flat, being homeless, activities or jobs that are in hot places or outdoors and include high levels of physical exertion.

### **Which locations are likely to be most affected?**

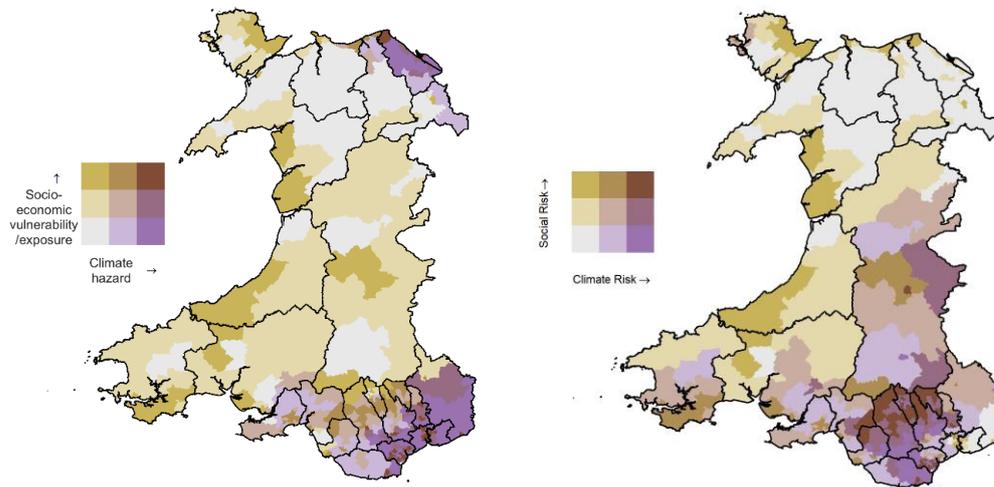
New research overlays heat-related climate hazard metrics with socio-economic factors.<sup>66</sup> The left-hand plot in Figure 2 shows that the locations with greatest absolute risk over the past 30 years (i.e. exposed to extreme heat hazards and at higher socio-economic levels of vulnerability and exposure) are

<sup>64</sup> Unpublished research (funded by the [UK Climate Resilience Program](#)) was carried out in support of this paper.

<sup>65</sup> [Caring for Patients Before and During a Heatwave: Advice for health and social care professionals](#), WG 2012

<sup>66</sup> Climate hazard metrics: Daily maximum and minimum temperature, vapour pressure (a measure of humidity), and degree days (variability of temperature extremes over a certain threshold). Socio-economic factors: population density, deprivation and proportion of population aged over 65.

in southeast and northeast Wales. The right-hand plot shows that when socio-economic factors are taken into account in combination with the projected change in climate hazards, locations at the greatest increase in risk are in Powys and across South Wales. Although these regions show the greatest increase in climate hazards, in absolute terms the southeast and northeast of Wales will still remain at the highest risk.



*Fig.2: Left-hand plot shows current risk based on the past 30 years; right-hand plot shows the change in climate hazards between 1.5°C and 2°C of global warming – those places facing the greatest change in risk if we do not achieve 1.5°C (socio-economic factors remain stationary in time)*

### **Can Wales expect fewer cold-related deaths?**

This question has not been explored in the context of the higher targets and a comparison of 2°C and 1.5°C of global warming. However, research undertaken in 2014 suggests that by the 2080s the number of heat-related deaths may increase by around 340% and the number of cold-related deaths may reduce by around 40%. The number of heat-related deaths is not expected to surpass the numbers of cold-related deaths by the 2080s but the ratio of heat- to cold-related deaths is projected to increase from 1:35 to 1:5.<sup>67</sup>

<sup>67</sup> [Climate change effects on human health: projections of temperature-related mortality for the UK during the 2020s, 2050s and 2080s](#), Hajat et al, Journal of Epidemiology & Community Health (2014, Volume 68, Issue 7). Figures quoted draw on the mean estimates.



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## WRITTEN STATEMENT BY THE WELSH GOVERNMENT

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**TITLE**        **Wales' pathway to achieve net zero emissions**

**DATE**        **9 February 2021**

**BY**            **Lesley Griffiths MS, Minister for Environment, Energy and Rural Affairs**

Today I am laying regulations in the Senedd which will formally commit Wales, for the first time, to legally binding targets to deliver the goal of net-zero emissions. In advice Welsh Government received from our statutory advisor the Climate Change Committee (CCC) in 2017 and 2019, a net zero goal for the Welsh economy was not considered by their independent analysis to be credible, feasible or affordable. Now, on the basis of further evidence and analysis, this view has changed. Specifically, the CCC recommended:

- Carbon Budget 2 (2021-25): 37% average reduction with credit ("offset") limit of 0%
- Carbon Budget 3 (2026-30): 58% average reduction
- 2030 target: 63% reduction
- 2040 target: 89% reduction
- 2050 target: 100% reduction (net zero)

We welcome this change in advice. It is thanks to the CCC and all those who have contributed to their Call for Evidence, we now have the science to support our long held ambition of a net zero goal for Wales. It is only with the independent scrutiny of the CCC, working with business, academia and civil society in Wales, we can ensure climate goals set by Government are ambitious and evidence-based, creating a solid foundation on which to build a low carbon Wales.

The recommended emissions reductions pathway set by CCC in their advice would mean our goals in Wales would be consistent with meeting the Paris 1.5°C goal. Even this pathway, more ambitious than any previously agreed in international climate negotiations, carries a very significant degree of risk and we would continue

to see the impact of rising temperatures, intense weather events and extreme pressures on the natural environment for decades to come.

Furthermore, it remains the case our global trajectory is a way off such an outcome, recently reported by the United Nations to be more than 3°C – a level that could see even more destructive weather events than those which have devastated Welsh communities in the last 12 months, displacement of hundreds of millions of people around the world, and irreparable damage to the most iconic and vital ecosystems in Wales and globally.

In the Welsh Government declaration of a climate emergency in 2019, we stated our position that the seriousness of the threat to our society and our planet means we cannot afford to simply accept the advice we receive as the limit of our ambition but instead must see it as a starting point that we are required to make every effort to exceed. This reflects the principle of progression enshrined in the Paris Agreement as well as the goal of a Globally Responsible Wales enshrined in the Wellbeing of Future Generations Act.

In its most recent advice in December 2020, CCC confirm that the 2020s are the “decisive decade” and our plan for the second carbon budget to be published in 2021 should focus on the need to “outperform” the recommended 37% average reduction in emissions with a clear line of sight to a 58% average reduction through the third carbon budget up to 2030, in order to set Wales on the path to net zero by the middle of this century, as required of all richer, developed nations by the terms of the Paris Agreement.

The new targets will be extraordinarily challenging to meet. Our efforts as a Government must focus on making the transition to net zero a just transition, where the costs and benefits are shared fairly across our society. We have chosen to front-load action in the next 15 years to avoid the cumulative emissions which delayed action would incur, and to send a strong signal about the need to take action today rather than leaving the hard-work for others. A central challenge in this respect is to identify where jobs may be lost in Wales and how government can support workers, in social partnership with our trades unions and businesses, to become a part of the new low carbon workforce.

As well as climate change being a consistent theme in the papers that Ministers in every portfolio bring to Cabinet, I have reinstated the Ministerial Task and Finish Group to focus on the delivery of the next Low Carbon Plan, which will require an immediate and substantial increase in effort on an All-Wales basis.

As has continued to be the case over recent years, the analysis suggests the most significant potential to accelerate emissions reductions in Wales is based on evidence suggesting greater abatement is possible in the industry and power sectors. This reflects the presence of a small number of high-emitting point sources in Wales, such as Port Talbot steelworks.

Yet whilst highlighting the significance of technological and investment challenges, CCC also observe that the necessary change can only be delivered with changes in

the lives of every community in Wales, changes which if delivered effectively can bring benefits to every one of our citizens.

Last summer we published an engagement plan<sup>1</sup> explaining our approach to collaboration and involvement throughout 2020 and 2021, as to how we see every public body, business and citizen in Wales as being able to play their part in determining how we meet increasingly ambitious climate goals. Together, we will set out how we intend to deliver our new net zero ambition in our next All Wales Plan, which we will publish in advance of the United Nations climate summit, COP26, which is being held in Glasgow.

In this context, we welcome the news last month that Blaenau Gwent will host Wales' first Citizen's Assembly on Climate, an initiative which has received Welsh Government support as part of our drive to support the creation of exemplar low carbon communities in the course of expanding the provision of high quality social housing. Reaching more ambitious climate goals will require many more such local initiatives, meaningful and accessible to citizens, as part of our national effort.

Just as local efforts are essential to underpin our collective national effort in Wales, the actions we take here are an integral part of delivering net zero emissions across the UK. Just as support from Welsh Government enables local action within our borders, it is vital that to reach net zero emissions the UK must play its part. Today, I hope all members of the Senedd will join us in calling on UK Government to step up to the challenge and take the actions we need to ensure a swift, fair and equitable transition to our low carbon future.

I would urge all those who share our commitment to a world-leading response to the climate emergency in Wales to consider for themselves the CCC advice and the urgent challenges to Wales contained in it, to work with us to accelerate our action on climate and to work with us to identify those areas where through collective effort we can go even further.

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<sup>1</sup> <https://gov.wales/low-carbon-delivery-plan-2-engagement-plan>

## SL(5)747 – The Climate Change (Carbon Budgets) (Wales) (Amendment) Regulations 2021

### Background and Purpose

Part 2 of the Environment (Wales) Act 2016 (“the 2016 Act”) requires the Welsh Ministers to put in place statutory emissions reduction targets for reducing emissions of greenhouse gases in Wales.

Section 31(1) of the 2016 Act requires that the Welsh Ministers set carbon budgets for each 5-year budgetary period between 2016 and 2050.

These Regulations:

- amend the carbon budget for the budgetary period 2021-2025 so it is limited to an average of 37% (in place of the previous figure of 33%) lower than the baseline;
- set the carbon budget for the budgetary period 2026-2030 so it is limited to an average of 58% lower than the baseline

These Regulations form part of a suite of four instruments that are referred to collectively as the Climate Change (Wales) Regulations 2021.

### 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(vi) – that its drafting appears to be defective or it fails to fulfil statutory requirements.**

The preamble refers to a draft of the regulations being “laid before and approved by a resolution of *the* Senedd Cymru” [*emphasis added*]. It appears that the inclusion of the definite article is erroneous, as the Government of Wales Act 2006 refers to “Senedd Cymru” throughout, without “the” preceding it.

### 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.

### **Legal Advisers**

**Legislation, Justice and Constitution Committee**

**22 February 2021**



Senedd Cymru

**Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad**

—

Welsh Parliament

**Pack Page 252**

**Legislation, Justice and Constitution Committee**

*Draft Regulations laid before Senedd Cymru under section 48(3) of the Environment (Wales) Act 2016, for approval by resolution of Senedd Cymru.*

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DRAFT WELSH STATUTORY  
INSTRUMENTS

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**2021 No. (W.)**

**CLIMATE CHANGE, WALES**

**The Climate Change (Carbon  
Budgets) (Wales) (Amendment)  
Regulations 2021**

**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

The purpose of Part 2 of the Environment (Wales) Act 2016 (“the Act”) is to require the Welsh Ministers to meet targets for reducing net Welsh emissions of greenhouse gases from Wales. Section 29 places a duty upon the Welsh Ministers to ensure that net Welsh emissions for the year 2050 are at least 100% lower than the baseline emissions figures.

Section 31(1) of the Act requires that the Welsh Ministers set carbon budgets for each 5-year budgetary period between 2016 and 2050. Section 32(1)(b) requires that each carbon budget set by the Welsh Ministers is set at a level consistent with meeting the 2050 emissions target and the interim emissions target for any interim target year that falls within or after that budgetary period.

Regulation 2 amends the carbon budget for the budgetary period 2021-2025 so it is limited to an average of 37% lower than the baseline.

Regulation 3 sets the carbon budget for the budgetary period 2026-2030 so it is limited to an average of 58% lower than the baseline.

In accordance with section 32 of the Act, the Welsh Ministers in drafting these Regulations have had regard to the factors listed in section 32(3).

In accordance with section 49 of the Act, the Welsh Ministers have obtained and taken into account the advice of the advisory body before laying draft regulations.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained from the Welsh Government, Cathays Park, Cardiff, CF10 3NQ.

*Draft Regulations laid before Senedd Cymru under section 48(3) of the Environment (Wales) Act 2016, for approval by resolution of Senedd Cymru.*

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DRAFT WELSH STATUTORY  
INSTRUMENTS

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**2021 No. (W.)**

**CLIMATE CHANGE, WALES**

**The Climate Change (Carbon  
Budgets) (Wales) (Amendment)  
Regulations 2021**

*Made*

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*Coming into force*

*12 March 2021*

In accordance with section 48(3) of the Environment (Wales) Act 2016(1) (“the Act”), a draft of this instrument was laid before and approved by a resolution of the Senedd Cymru(2).

Before the draft was laid the Welsh Ministers—

- (a) satisfied themselves that each carbon budget is set at a level consistent with meeting the 2050 emissions target and the interim emissions target for any interim target year that falls within or after that budgetary period, in accordance with section 32(1)(b) of the Act,
- (b) had regard to the matters listed in section 32(3) of the Act, and
- (c) obtained and took into account the advice of the Committee on Climate Change(3), in accordance with section 49(1) of the Act.

The Committee on Climate Change has recommended that the carbon budget for the budgetary period 2021-

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(1) 2016 anaw 3.

(2) The reference in the Environment (Wales) Act 2016 to the National Assembly for Wales now has effect as a reference to Senedd Cymru, by virtue of section 150A(2) of the Government of Wales Act 2006 (c. 32).

(3) The Committee on Climate Change is the relevant advisory body to the Welsh Ministers by virtue of section 44(3) of the Environment (Wales) Act 2016.

2025 be amended, and that the carbon budget for the budgetary period 2026-2030 be set.

Accordingly, the Welsh Ministers, in exercise of the powers conferred by section 31(1) of the Act, and in accordance with section 32(2)(b) of the Act, make the following Regulations.

**Title and commencement**

**1.**—(1) The title of these Regulations is the Climate Change (Carbon Budgets) (Wales) (Amendment) Regulations 2021.

(2) These Regulations come into force on 12 March 2021.

**Amendment to carbon budget for 2021 to 2025 budgetary period**

**2.** In regulation 2(2) of the Climate Change (Carbon Budgets) (Wales) Regulations 2018<sup>(1)</sup>, for “33%” substitute “37%”.

**Carbon budget for 2026 to 2030 budgetary period**

**3.** The carbon budget for the 2026-2030 budgetary period is limited to an average of 58% lower than the baseline.

*Name*

Minister for Environment, Energy and Rural Affairs,  
one of the Welsh Ministers

*Date*

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(1) S.I. 2018/1303 (W. 257).

# **Explanatory Memorandum to the Climate Change (Wales) Regulations 2021**

Explanatory Memorandum to:

- **The Environment (Wales) Act 2016 (Amendment of 2050 Emissions Target) Regulations 2021**
- **The Climate Change (Interim Emissions Targets) (Wales) (Amendment) Regulations 2021**
- **The Climate Change (Carbon Budgets) (Wales) (Amendment) Regulations 2021**
- **The Climate Change (Net Welsh Emissions Account Credit Limit) (Wales) Regulations 2021**

This Explanatory Memorandum has been prepared by the Economy, Skills and Natural Resources Group and is laid before Senedd Cymru in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

## ***Minister's Declaration***

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Climate Change (Wales) Regulations 2021:

- The Environment (Wales) Act 2016 (Amendment of 2050 Emissions Target) Regulations 2021
- The Climate Change (Interim Emissions Targets) (Wales) (Amendment) Regulations 2021
- The Climate Change (Carbon Budgets) (Wales) (Amendment) Regulations 2021
- The Climate Change (Net Welsh Emissions Account Credit Limit) (Wales) Regulations 2021

I am satisfied that the benefits justify the likely costs.

**Lesley Griffiths MS**  
**Minister for Environment, Energy and Rural Affairs**

9 February 2021

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# PART 1

## **1. Description**

A suite of four regulations are covered within this Explanatory Memorandum and are referred to collectively as the Climate Change (Wales) Regulations 2021. Under Part 2 of the Environment (Wales) Act 2016 (“the Act”) Wales committed to reducing emissions of greenhouse gases from Wales by at least 80% in 2050. The Climate Change (Wales) Regulations 2018 established a system of interim emissions targets and carbon budgeting to create an emissions reduction trajectory towards the 2050 target. They also set out how the Welsh Ministers can utilise international carbon credits and set the credit (“offset”) limit for Carbon Budget 1 (CB1, 2016-20). Finally, they provided for how we will deal with emissions from international shipping and internal aviation in calculating our emissions.

The Climate Change (Wales) Regulations 2018, which supported the delivery of the Act, were namely:

- The Climate Change (Interim Emissions Targets) (Wales) Regulations 2018
- The Climate Change (Carbon Budgets) (Wales) Regulations 2018
- The Climate Change (International Aviation and International Shipping) (Wales) Regulations 2018
- The Climate Change (Net Welsh Emissions Account Credit Limit) (Wales) Regulations 2018
- The Carbon Accounting (Wales) Regulations 2018

The Climate Change (Wales) Regulations 2021 amend the 2050 target, the interim targets for 2040 and 2030, and CB2 (2021-25). They also set CB3 (2026-30) and the offset limit for CB2.

## **2. Matters of special interest to the Legislation, Justice and Constitution Committee**

Section 31(4)(b) of the Environment (Wales) Act 2016 requires the Welsh Ministers to set CB3 in 2020, five years before the start of the budgetary period. In accordance with Section 49, before laying draft regulations the Welsh Ministers are required to request and take into account the advice of the advisory body. Under section 49(6) of the Act, if thereafter the Welsh Ministers propose making different provision from that recommended by the advisory body, they must also lay before the Senedd a statement setting out the reasons why. By virtue of no declaration being made by Welsh Ministers appointing an advisory body, Section 44 by default appoints the Climate Change Committee (CCC) to be our statutory advisory body.

In December 2019 the Minister for Environment, Energy and Rural Affairs requested advice from the CCC, including its recommendation for the level of CB3. The Minister requested the advice be published in September 2020 to allow for CB3 to be set by the end of that year. The CCC committed to this

timeline but subsequently, in June 2020, informed the Minister this would no longer be possible due to the challenges posed by the Covid-19 pandemic. The CCC moved publication of the advice to December 2020. The Minister decided it would not be manifestly unreasonable to choose to accommodate a small delay in setting CB3 in order to ensure legislation is brought forward on the basis of proper, thorough advice. The Welsh Ministers have obtained and taken into account the advice of the advisory body in relation to the Climate Change (Wales) Regulations 2021 now laid before the Senedd.

The Act does not establish a deadline for setting the offset limit for each carbon budget. The Welsh Ministers intend to set the CB3 offset limit no later than 2025.

The Carbon Accounting (Wales) Regulations 2018 utilise the UK Registry to host the Welsh credit account. Until the UK left the European Union, the UK Registry was governed by Commission Regulation (EU) 389/2013 establishing a union registry pursuant to Directive 2003/87/EC establishing a system for greenhouse gas emissions trading within the EU. Having left the EU, the UK no longer has access to the EU registries system. Officials are liaising with UK Government counterparts about a new, standalone UK Registry. Once this is established, the Welsh Ministers will need to amend the Carbon Accounting (Wales) Regulations 2018 to ensure provision for registering and keeping track of carbon units held by the Welsh Ministers. It is not expected Welsh Ministers will need to buy offsets in CB1 and it is expected the new UK Registry will be operational well in advance of the end of CB2.

### **3. Legislative background**

The purpose of Part 2 of the Environment (Wales) Act 2016 is to require the Welsh Ministers to meet targets for reducing emissions of greenhouse gases in Wales. Part 2 puts in place a statutory emissions reduction target that requires the Welsh Ministers to ensure that net emissions of greenhouse gases in Wales, for the year 2050, are at least 80% lower than the baseline.

Part 2 also requires that the Welsh Ministers, by regulations approved by the Senedd, set interim emissions reduction targets for the years 2020, 2030 and 2040, and establish a system of 5-yearly carbon budgeting that together create an emissions reduction pathway to the 2050 target. The Climate Change (Wales) Regulations 2018 fulfilled this requirement.

#### The Environment (Wales) Act 2016 (Amendment of 2050 Emissions Target) Regulations 2021

- Section 29(3) allows the Welsh Ministers to amend the 2050 emissions target.
- Section 32 sets out the principles for amending the 2050 target.

#### The Climate Change (Interim Emissions Targets) (Wales) (Amendment) Regulations 2021

- Section 30(1) allows the Welsh Ministers to amend the interim emissions targets.

- Section 32 sets out the principles for amending the interim emissions targets.

#### The Climate Change (Carbon Budgets) (Wales) (Amendment) Regulations 2021

- Section 31 allows the Welsh Ministers to amend and set carbon budgets.
- Section 32 sets out the principles for amending and setting a carbon budget.

#### The Climate Change (Net Welsh Emissions Account Credit Limit) (Wales) Regulations 2021

- Section 33 provides that the Welsh Ministers must limit how many traded carbon units can be credited to the net Welsh emissions account in a given period. These regulations set the offset limit for Carbon Budget 2.

Section 32(2) of the Act prevents the Welsh Ministers from making regulations changing the 2050 emissions target, an interim emissions target or a carbon budget unless at least one of the following conditions is met:

- they are satisfied that it is appropriate to make the change as a result of significant developments in
  - scientific knowledge about climate change, or
  - EU or international law or policy relating to climate change;
- the change has been recommended by the advisory body;
- the change is in connection with provision made under section 35(1) or 37(2).<sup>1</sup>

As required by the Act, the Welsh Ministers asked the CCC to provide advice to inform the development of the regulations. On 17 December 2020, following a Call for Evidence, the CCC provided their advice to the Welsh Ministers. The report, '[The path to a net zero Wales](#)', includes the CCC's recommendations on:

- The level of the 2050 target;
- The level of the 2030 and 2040 targets;
- The level of CB2 and CB3; and
- The limit for the use of offset credits in CB2.

In giving their advice on the level of the targets and budgets the CCC developed four different emissions scenarios across all sectors of the economy.<sup>2</sup> Drawing on these scenarios, the CCC then produced a fifth – the Balanced Net Zero Pathway that forms the basis of their recommendations.

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<sup>1</sup> Section 35(1) relates to emissions from international aviation and international shipping. Section 37(2) relates to the definition of 'greenhouse gas'.

<sup>2</sup> Electricity supply, residential buildings, non-residential buildings, fuel supply, manufacturing and construction, surface transport, aviation, shipping, agriculture, land use, land use change and forestry, waste and F-gases.

The Climate Change (Wales) Regulations 2021 are brought forward in accordance with Section 32(2)(b) and follow the recommendations of the advisory body.

Section 32(3) of the Act requires the Welsh Ministers when making regulations changing the 2050 emissions target, or setting or changing an interim emissions target or a carbon budget, to have regard to the following:

- The most recent report under section 8 on the state of natural resources in relation to Wales
- The most recent future trends report under section 11 of the Well-being of Future Generations (Wales) Act 2015
- The most recent report (if any) under section 23 of that Act (Future Generations report)
- Scientific knowledge about climate change
- Technology relevant to climate change
- EU and international law and policy relating to climate change (including international agreements on measures designed to limit increases in global average temperatures)

The Climate Change (Wales) Regulations 2021 are brought forward in accordance with Section 32(3) of the Act.

### **Procedures for laying regulations**

The regulations are subject to the approval of the Senedd via the draft affirmative procedure.

In accordance with Section 49, before laying draft regulations the Welsh Ministers are required to request and take into account the advice of the advisory body. By virtue of no declaration being made by Welsh Ministers appointing an advisory body, Section 44 by default appoints the Climate Change Committee (CCC) to be the statutory advisory body. Where regulations make different provision to the advice provided by the CCC, the Welsh Ministers must lay a statement before the Senedd setting out the reasons why.

The Climate Change (Wales) Regulations 2021 follow the advice of the advisory body.

## ***4. Purpose and intended effect of the legislation*** **Environment (Wales) Act 2016 (Amendment of 2050 Emissions Target) (Wales) Regulations 2021**

### *Current situation*

Section 29 of the Act establishes a statutory emissions reduction target that requires the Welsh Ministers to ensure that net emissions of greenhouse gases in Wales, for the year 2050, are at least 80% lower than the baseline.

### *Purpose*

The purpose of this regulation is to increase the 2050 target to at least 100% lower than the baseline ('net zero').

### *Intended effect*

The intended effect of this regulation is to bring Wales's 2050 target in line with the CCC's recommendation, reflecting developments in scientific knowledge, public opinion and global ambition since the original target was set in 2016.

## **Climate Change (Interim Emissions Targets) (Wales) (Amendment) Regulations 2021**

### *Current situation*

The Climate Change (Interim Emissions Targets) (Wales) Regulations 2018 set the interim targets that represented a pathway to the 2050 target established in the Act as follows:

- a 2020 target for an emissions reduction of 27% against the baseline
- a 2030 target for an emissions reduction of 45% against the baseline
- a 2040 target for an emissions reduction of 67% against the baseline

### *Purpose*

The purpose of this legislation is to set targets for 2030 and 2040 that represent a pathway to the new net zero target for 2050:

- a 2030 target for an emissions reduction of 63% against the baseline
- a 2040 target for an emissions reduction of 89% against the baseline

### *Intended effect*

The intended effect of this regulation is to establish targets for 2030 and 2040 in line with the CCC's recommendations, frontloading action in the 2020s. Reducing emissions early matters as it is global cumulative emissions that drive climate outcomes. The Welsh Ministers must set each interim emissions target at a level they are satisfied is consistent with meeting the 2050 emissions target.<sup>3</sup>

## **Climate Change (Carbon Budgets) (Wales) (Amendment) Regulations 2021**

### *Current situation*

A carbon budget sets a maximum limit on the total amount of Welsh emissions permitted over a 5-year budget period. The Climate Change (Carbon Budgets) (Wales) Regulations 2018 set Carbon Budgets 1 and 2 as follows:

- CB1 (2016-2020): an average of 23% below the baseline

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<sup>3</sup> Section 32(1)(a) of the Act.

- CB2 (2021-2025): an average of 33% below the baseline

### *Purpose*

The purpose of this legislation is to set CB2 and CB3 at levels that represent a pathway to the new targets for 2030, 2040 and 2050:

- CB2 (2021-2025): an average of 37% below the baseline
- CB3 (2026-2030): an average of 58% below the baseline

### *Intended effect*

The intended effect of this regulation is to establish carbon budgets for the 2020s in line with the CCC's recommendations. The Welsh Ministers must set each carbon budget at a level they are satisfied is consistent with meeting:

- the 2050 emissions target; and
- the interim target for any interim target year that falls within or after that budgetary period.<sup>4</sup>

## **Climate Change (Net Welsh Emissions Account Credit Limit) (Wales) Regulations 2021**

### *Current situation*

The Climate Change (Net Welsh Emissions Account Credit Limit) (Wales) Regulations 2018 set the limit on the use of carbon units for CB1.

### *Purpose*

The Act requires Welsh Ministers to set a limit on the total amount that the Net Welsh Emissions Account can be reduced through the use of carbon units. The Carbon Accounting (Wales) Regulations 2018 defines carbon units as the international offset credits generated through Certified Emission Reduction (CER). Offset credits provide a means by which Wales can invest in emission reduction activities overseas and use the emission reductions achieved to offset domestic emissions within the Welsh targets.

The purpose of this regulation is to set the limit on the use of carbon units for CB2 (2021-2025).

### *Intended effect*

The intended effect of this regulation is to set the offset limit for CB2 in line with the CCC's recommendation and ensure that CB2 is met solely by reducing domestic emissions. As the CCC's recommendation is to outperform CB2 on the way to more ambitious CB3 and the 2030 targets, the CCC concludes that it is not appropriate to meet CB2 with any use of carbon units i.e. the offset limit for CB2 should be set at 0%.

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<sup>4</sup> Section 32(1)(b) of the Act.

## **PART 2 – REGULATORY IMPACT ASSESSMENT**

### ***Introduction***

The four regulations that make up The Climate Change (Wales) Regulations 2021 all relate to Wales's emissions reduction pathway to 2050 and are highly interdependent. This RIA therefore considers options for the pathway as a whole, rather than each regulation in turn. The pathway set in regulations represents the strategic decarbonisation framework but many individual policy measures are required to achieve the pathway. There are multiple ways to deliver the pathway and so the actual costs and benefits can only be determined once the measures to meet the carbon budgets have been agreed; policy-level impact assessments are required to conduct this analysis.

Since the Senedd passed the Climate Change (Wales) Regulations in 2018, science, technology, markets and cost assumptions have changed, showing the inherent uncertainties in modelling emission pathways and estimating costs. The Welsh Government is focussed on developing and taking the actions needed to meet the carbon budgets and targets and so is reliant on the Climate Change Committee (CCC) advice. This means there are only two options presented in this RIA, both drawing on CCC expertise.

### ***Options***

#### **Option 1: Retain current emissions pathway ('do minimum')<sup>5</sup>**

Option 1 fulfils the statutory duty to set CB3 and does so at a level consistent with the existing 80% pathway and the CCC's 2017 advice. It also increases the average reduction required in CB2 from the existing 33% to 37% to take account of the early closure of Aberthaw Power Station. The Welsh Government endorsed this principle when accepting the CCC's 2017 advice. Finally, this option sets the CB2 offset limit at 0%, in line with the CCC's recommendation in their 2020 advice. It leaves all the decadal targets unchanged.

- Carbon Budget 2 (2021-25): 37% average reduction with a 0% offset limit
- Carbon Budget 3 (2026-30): 43% average reduction<sup>6</sup>
- 2030: 45% reduction
- 2040: 67% reduction
- 2050: at least 80% reduction against the baseline

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<sup>5</sup> These targets are all set against the 2017 CCC advice, which was in turn based upon scientific understanding of GHG emissions at that time (1990-2015 GHG emission data are used as the basis). However, understanding of emissions has progressed since then and the latest CCC analysis is considerably revised to take account of these changes. The Option 1 pathway does not take any of these adjustments into account.

<sup>6</sup> There is no statutory deadline for setting each offset limit. We will set the CB3 offset limit no later than 2025.

## Option 2: Accept the CCC’s recommendations in the December 2020 advice

- Carbon Budget 2 (2021-25): 37% average reduction with a 0% offset limit<sup>7</sup>
- Carbon Budget 3 (2026-30): 58% average reduction<sup>8</sup>
- 2030: 63% reduction
- 2040: 89% reduction
- 2050: at least 100% reduction against the baseline

### Costs and benefits

#### Costs

We estimate the Present Value of resource costs of Option 2 will lead to additional resource costs of between £6bn and £10bn over the period to 2050.<sup>9</sup> The best estimate, based on the Balanced Pathway that the CCC’s recommendations are drawn from, is that the cost is likely to be in the upper third of this range. Upper and lower bounds are drawn from analysis of all of the CCC’s scenarios in their December advice.<sup>10</sup>

**Note:** The resource costs of the net zero transition are not attributed as part of this analysis. Costs are likely to be shared between the Welsh and UK Governments, the private sector, investors and citizens.

	Best estimate	Lower bound	Upper bound
Option 1	£4.7bn	£3.3bn	£5.5bn
Option 2	£14.1bn	£10.1bn	£15.9bn
Additional cost of Option 2	<b>£9.4bn</b>	£5.9bn	£10.4bn

**Table 1:** Present Value of resource costs of Options 1 and 2<sup>11</sup>

<sup>7</sup> The CCC’s recommendation for CB2 was a 37% average reduction in law with a commitment to outperform it. This is the minimum required to meet the Balanced Pathway. Our costs analysis incorporates the CCC’s recommendation for CB2 with a view to meeting the 2030 recommendation and later targets.

<sup>8</sup> There is no statutory deadline for setting each offset limit. We will set the CB3 offset limit no later than 2025.

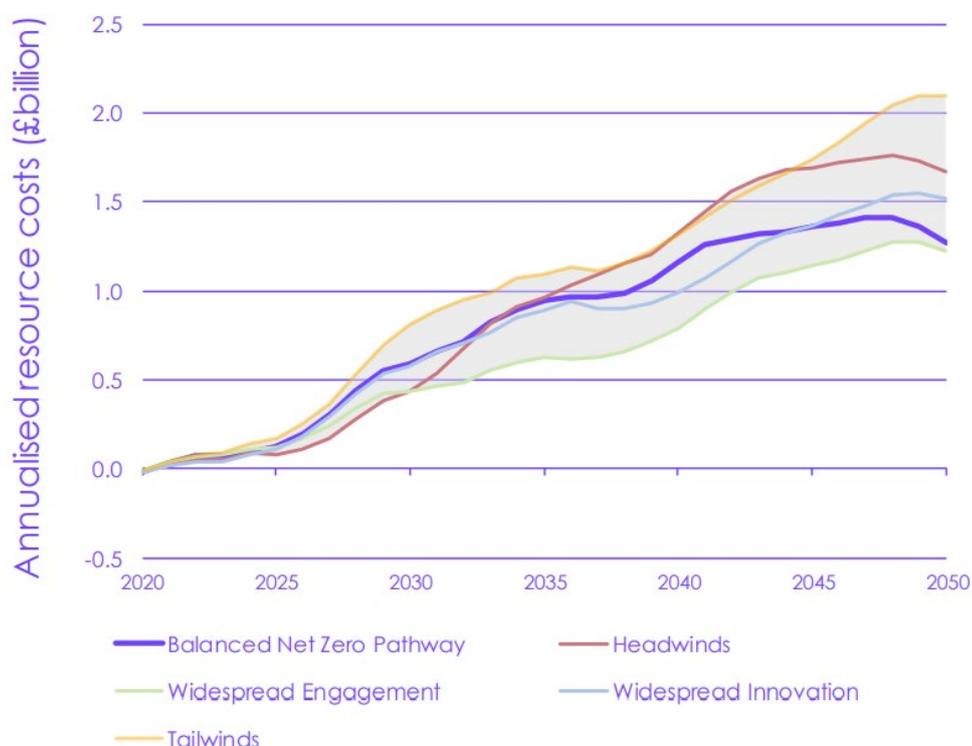
<sup>9</sup> Resource costs are discounted using the Social Time Preference Rate’ (STPR) (3.5%) to provide the Present Value of resource costs. Additional resource costs indicate the extra spend required to provide the same goods and services but in a low-carbon way. They are calculated by annualising the capital investment costs over their lifetimes using a suitable cost of capital and subtracting in-year operating cost savings.

<sup>10</sup> Headwinds, Widespread Engagement, Widespread Innovation, and Tailwinds – in addition to the Balanced Pathway.

<sup>11</sup> Figures may not sum due to rounding and comparisons across multiple CCC scenarios.

## Comparison with the CCC estimate

Figure 1 shows that the CCC forecast the resource cost of their Balanced Pathway to be approximately £25bn.<sup>12</sup>



**Figure 1:** Annualised resource costs of the CCC’s scenarios; CCC analysis

The reasons for the difference between our estimate and the CCC’s estimate are twofold:

1. The CCC does not apply discounting to their estimates. The effect of discounting is the sole reason for the difference between their £25bn figure and the £14.1bn figure in Table 1.
2. The CCC compares the costs of achieving a net zero target with a hypothetical counterfactual<sup>13</sup> of no-further climate-action from today. The counterfactual against which the costs in this RIA are compared is the existing statutory 80% target (Option 1).

## Methodological approach

**Note:** Our cost estimates have been derived entirely from the CCC analysis and we have not undertaken our own modelling.

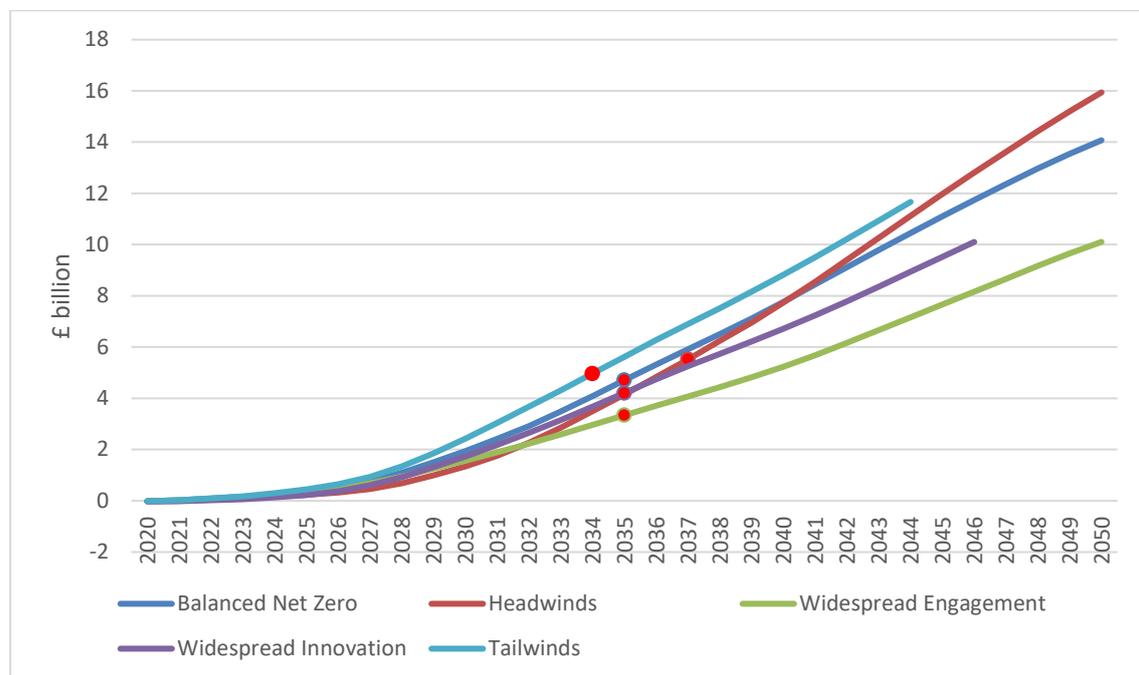
<sup>12</sup> The CCC report resource costs on an annual rather than cumulative basis. The £25 billion figure is the summation of the annual resource cost in each of the 30 years it takes to reach the net zero target. For detail on the CCC’s methodology, including assumptions, uncertainties and sensitivities, see Chapter 5 of [The Sixth Carbon Budget – The UK’s path to Net Zero](#).

<sup>13</sup> The CCC’s counterfactual in the 2020 advice differs from all previous CCC publications. For more information see p.20 of [The Sixth Carbon Budget Methodology Report](#) (CCC, 2020).

The costs of both options are based on the scenarios produced by the CCC in their December advice. The costs of Option 1 are calculated by taking the annualised resource costs up to the point at which the particular scenario reaches the 80% target, whereas the costs of Option 2 take into account the whole pathway to net zero.

Figure 2 shows the cumulative annual resource costs for each scenario from 2020 onwards, up to the year where net zero emissions is reached. The point at which 80% is reached varies in the different scenarios (Table 2) and is indicated by the red dot in Figure 2. The additional costs of Option 2 are derived from the difference between the red dot and the end of the line.

The CCC’s scenarios rely to varying degrees on engineered greenhouse gas removals, such as Bioenergy with Carbon Capture and Storage (BECCS). The Balanced Pathway recommended by the CCC in their 2020 advice leads to a 96% reduction in Welsh emissions in 2050.<sup>14</sup> The CCC advises that Wales can credibly meet net zero in the Balanced Pathway either with a 4% share (approximately 2MtCO<sub>2</sub>e) of total UK engineered removals or through increased action in other areas, including land use and behavioural changes. However, the CCC’s analysis does not allocate a specific level of engineered removals to each UK nation. The analysis behind the figures in Table 1 includes Wales’s share of the UK costs of engineered removals in each CCC scenario up to 2050, in order to estimate the full cost of achieving net zero. Alternative ways of bridging the emissions gap would incur different costs.



**Figure 2:** Cumulative Present Value of resource costs for each scenario; WG, using CCC analysis

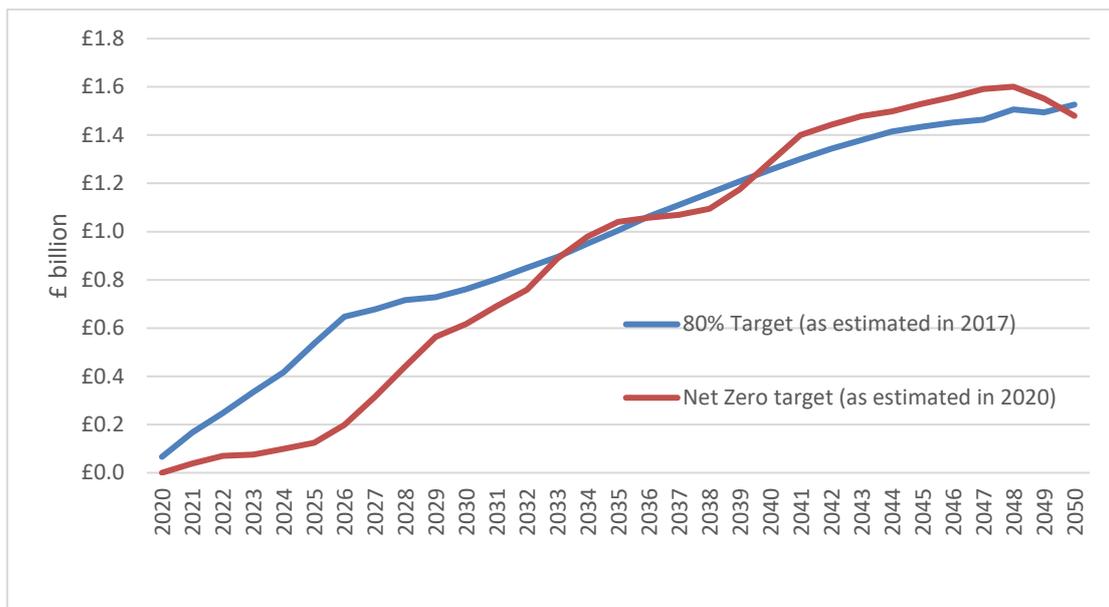
	<b>80%</b>	<b>Net zero</b>
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<sup>14</sup> The other CCC scenarios that do not reach net zero by 2050 are Headwinds (93%) and Widespread Engagement (99%).

Balanced Pathway	2035	2050
Headwinds	2037	2050
Widespread Engagement	2035	2050
Widespread Innovation	2035	2046
Tailwinds	2034	2044

**Table 2:** Years in which emission reduction targets are met under the CCC’s scenarios; WG, using CCC analysis<sup>15</sup>

We adopted this approach to estimate the costs of Option 1 because the CCC’s 2017 cost estimate of an 80% target can no longer be considered robust, due to significant falls in the costs of technology and methodological changes undertaken by the CCC.<sup>16</sup> To illustrate the impact of these changes, Figure 3 shows the estimated resource cost of achieving an 80% target (produced in 2017) compared to the cost of achieving a net zero target (produced in 2020). This shows the uncertainty of estimating future resource costs, as they are highly sensitive to differences in behaviour change and the level of innovation in low carbon technologies.



**Figure 3:** Annualised resource cost of Option 1 (2017) and Option 2 (2020) (£billion); WG, using CCC analysis<sup>17</sup>

<sup>15</sup> Our analysis assumes a small amount of engineered greenhouse gas removals in the Balanced Pathway and Headwinds scenario before 2035 and 2037 respectively. This has been accounted for in the costs in Table 1. For the purposes of our analysis, the Balanced Pathway, Headwinds and Widespread Engagement Scenarios reach net zero in 2050 with varying amounts of engineered removals.

<sup>16</sup> The changes and their implications are summarised in Box 1.2 on p.27 of [The Sixth Carbon Budget Methodology Report](#) (CCC, 2020).

<sup>17</sup> Option 2 (Net Zero target) is based on our undiscounted cost analysis of the CCC’s Balanced Pathway and includes the costs of engineered removals required to reach net zero.

### *Where the costs are likely to fall*

The CCC is clear that the costs should not be interpreted as being solely delivered through Welsh Government expenditure, nor as costs that only Welsh businesses and households have to bear. The extent to which costs and savings are shared across the UK – including the amount of expenditure through Welsh Government budgets – will be determined by policy at both UK and Welsh Government level. Many of the actions to reduce emissions will likely be paid for at UK level and/or socialised across the whole of the UK. The CCC provides the following examples:

- The costs associated with building new low-carbon generation will be shared across all consumers of electricity on the GB grid. The CCC has reflected this by allocating resource and investment costs for electricity supply to Wales in proportion to consumption, rather than make assumptions on where new zero-carbon generating capacity is located.<sup>18</sup>
- The costs of decarbonising industrial clusters could be met through a combination of direct financing from the UK Exchequer and/or be passed through to the end-users of low-carbon products.
- A market mechanism for greenhouse gas removals could see the UK aviation industry offsetting emissions by paying for removals, including planting trees, in all areas of the UK.

An expert advisory group convened by the CCC suggested that the private sector could deliver the majority of the investments in a transition to Net Zero.<sup>19</sup> For this to happen, the Welsh and UK Governments will need to ensure appropriate regulatory and taxation regimes are in place. Given the CCC anticipates a small overall economic impact and assumes the private sector to finance most of the transition, the CCC expects the overall impact on public finances to 2050 to be limited.

Table 1 shows a larger total Present Value of resource costs for Option 2 than Option 1. This means that Option 2 may result in increased costs for households, at least in the short-term. However, in Option 2 households are likely to benefit from reduced operating costs over time. There is evidence to suggest that the benefits of Option 2 may outweigh the costs; the benefits are explored in further detail below.

In December 2020 HM Treasury published an interim report for its Net Zero Review.<sup>20</sup> The report recognises the implications for households arising from the structural changes required by the transition to a net zero economy but does not seek to calculate the impact of the transition on any particular group.

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<sup>18</sup> This assumption typically causes the estimate of Wales' share of UK costs to be lower than its share of UK abatement, because Wales is currently a significant net exporter of gas-fired power to the UK, but the costs of actions to decarbonise power will be shared by all electricity users in the UK.

<sup>19</sup> For detail, see Chapter 5 of [The Sixth Carbon Budget – The UK's path to Net Zero](#).

<sup>20</sup> [Net Zero Review: Interim Report](#) (HM Treasury, December 2020)

The report acknowledges the inherent uncertainties in forecasting how the net zero transition will affect households by concluding that:

“The transition is a dynamic process that will take place over several decades, and its impact on individual households will ultimately depend on a range of factors including: the development of new low-carbon sectors in the UK; the pace of transition and policy levers chosen; the price of low-carbon alternatives to households and businesses’ current activities; and the dynamism of the labour and capital market.”

Households are exposed to the net zero transition through:

1. The goods and services they buy (household consumption). Different types of household will have different levels of exposure to the transition. For example, higher-income households consume more carbon in absolute terms, but lower-income households tend to consume more carbon relative to their income. HMT analysis suggests that the highest-income households emit around three times as much carbon as the lowest-income households, while on average their income is approximately eight times greater. Furthermore, regional analysis suggests that the average household greenhouse gas footprint in Wales is around the average, when compared to other parts of the UK.<sup>21</sup>
2. Labour market effects. There are likely to be large transitional labour market effects between sectors, with people in certain occupations (skilled trade, and process plant and machine workers) more likely to work in more carbon-intensive industries. People in these occupations are also disproportionately likely to have a lower level of education and to be lower income workers. HMT analysis suggests that people with lower and middle levels of education are employed in jobs with over 20% higher carbon intensity than highly educated employees, on average.
3. Changes to the value of assets. The interim report does not include analysis of this aspect. The net zero transition could affect household business profits, subsequently affecting households that own them (negatively or positively, depending on the household assets owned).

### ***Benefits***

The CCC’s December advice considers the benefits of net zero in the areas of prosperity, health and natural capital. The benefits discussed here follow the CCC’s approach of comparing a net zero pathway (Option 2) with a future of no further climate action, rather than comparing the benefits of Options 1 and 2 directly.

While it is not possible to quantitatively compare the macroeconomic, health and natural capital benefits under the options considered, it is reasonable to assume greater net benefits will accrue under Option 2 in relation to health and natural capital. This is because a net zero target will likely demand a greater policy response relevant to these areas, for example more tree planting, and this should increase the benefits flowing from these actions. Option 2 also

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<sup>21</sup> [Net Zero Review: Interim Report](#) (HM Treasury, December 2020, p.75)

frontloads climate action in the next 15 years, which would achieve the benefits earlier than Option 1 and result in greater cumulative benefit overall.

### **Prosperity and resilience**

In the near term, the CCC report that GDP is likely to increase, especially as the economy rebuilds after the COVID-19 crisis. The negative economic impacts from COVID-19 mean the economy is not at full capacity and so present an opportunity for projects which are both ready to implement and which have a high fiscal multiplier effect. According to Hepburn et al (2020), green projects considered to have high multiplier values and strong climate benefits include building efficiency spending for renovations and retrofits, and natural capital investment for eco-system resilience and regeneration (such as restoration of carbon-rich habitats and climate friendly agriculture).<sup>22</sup>

The CCC endorses this position, arguing that now is an ideal time to encourage investment, based on historically low interest rates and a potential demand shortage for cheap capital. Economic recovery from the COVID-19 pandemic necessitates stimulus, and many of the measures detailed in their advice have been shown to have high economic multipliers. However, it should be noted that other fiscal spending not linked to environmental policy may also have a high fiscal multiplier effect during periods of spare capacity. Furthermore, we cannot know for how long the economy will be at limited capacity as a result of COVID-19.

The CCC stresses that the estimates of annualised resource costs are not the same as macroeconomic impacts because resource costs are a microeconomic measure which do not account for wider dynamic interactions in the economy. For example, resource costs incorporate investment costs but do not account for the increase in GDP if that investment is made domestically. Furthermore, the shift away from fossil fuel imports is likely to have major benefits to the country's trade balance, which the resource costs also do not account for.

Macroeconomic analysis conducted in support of the CCC's advice demonstrates that despite the added resource costs involved, the net zero transition is expected to boost UK GDP by around 2% by 2030, levelling off at around a 3% increase by 2050.<sup>23</sup> The analysis estimates that UK net employment will be between 0.5-1% higher than the baseline of no further climate action between 2025-2050, with this employment growth largely resulting from the net zero investment programme.

The CCC reports that actions needed for the transition to net zero in Wales can stimulate economic growth, create jobs, and aid a recovery from the pandemic, as well as increasing resilience to future climate risks. Legislating the CCC's recommended targets would send a clear signal that Wales is open for low-carbon investment and take forward the commitment to "respond energetically to the climate emergency by pursuing a strong decarbonisation agenda", set

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<sup>22</sup> [Will COVID-19 fiscal recovery packages accelerate or retard progress on climate change?](#) (Hepburn et al, May 2020)

<sup>23</sup> [Economic impact of the Sixth Carbon Budget](#) (Cambridge Econometrics, 2020)

out in the 'COVID-19 Reconstruction: Challenges and Priorities' paper, published in October 2020.<sup>24</sup> This will also help to encourage private investment at a time when it is needed to support Wales' economic recovery from the COVID-19 crisis. It could also help Wales secure competitive positions in growing global markets for low-carbon goods and services.

## **Health**

There is clear evidence for the health benefits of the net zero transition. Some of these come directly from changes required to achieve net zero (e.g. more active travel and dietary changes) and some indirectly from the implications of those changes (e.g. better air quality from reduced burning of fossil fuels and more liveable buildings as insulation is improved). These benefits are difficult to quantify, but the CCC states that they "unquestionably offset some, if not all, of the overall resource costs of achieving emissions targets".

The CCC's Expert Advisory Group on Health concurred strongly with the CCC's previous assessment that climate action could bring significant benefits to health. The Group identified five key areas in which action would bring benefits to public health and reduction of health inequalities while contributing to the mitigation of – and adaptation to – climate change:

1. Improved air quality delivered by a move to a cleaner energy system and moving away from fossil fuel combustion in most sectors of the UK.
2. Healthier modes of transport, particularly due to the health benefits of walking and cycling and reducing air pollution from road vehicles.
3. More comfortable and efficient homes that are low-carbon, energy efficient and designed for a changing climate.
4. Better diets with a focus on healthy and sustainable alternatives to the highest carbon foods.
5. Sustainable economic and employment models that better support health and wellbeing.

While noting the potential benefits to public health, the Group noted that the biggest driver of health outcomes in the UK remains economic inequality. A just transition is therefore an essential part of a successful climate policy and health policy.

There are also some potential health risks associated with achieving net zero. One such risk is a greater risk of airborne infection where increased energy efficiency in buildings is not accompanied by adequate ventilation.<sup>25</sup>

## **Natural capital and well-being**

Each of the CCC's scenarios for Wales include measures to improve Wales' natural capital:

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<sup>24</sup> [COVID-19 Reconstruction: Challenges and Priorities](#) (WG, 2020)

<sup>25</sup> University of Leeds study quoted in 'Could Energy Efficiency Actually Increase Hospital Infection Rates?' (2013): <http://www.buildings.com/articles/30879/could-energy-efficiency-actually-increase-hospital-infection-rates>

- Provisioning services. The scenarios include an increase in renewable energy generation – particularly wind – consistent with the Welsh Government's target to generate renewable electricity equivalent to 70% of Welsh consumption by 2030.
- Regulation services. The Balanced Pathway includes the planting of between 4,500 and 7,500 hectares of trees per year, from 2025 to 2050, which will also contribute to improved air quality. Trees filter rainwater before it reaches receiving waters, thus improving water quality. Strategic planting of trees on flood plains can also regulate flooding. Trees can also reduce storm water runoff and slow storm flow. Significant areas of peatland will also be restored which – in addition to carbon sequestration – provide other vital services, such as water regulation, flood protection and habitats for wildlife.
- Cultural services. The natural environment provides a range of cultural services, such as increased amenity benefits, improved mental health, educational benefits and spiritual well-being.
- Supporting Services. In agriculture, the scenarios include soil and crop measures that aim to increase the efficiency of fertiliser use. These have benefits to water and soil quality, and biodiversity.

### *A just transition to Net Zero<sup>26</sup>*

The CCC expects the transition to bring many benefits for UK households. By 2035, in the CCC's scenarios, people's homes will be better insulated, their cars will be cheaper to drive, they will have cleaner air, quieter streets, more access to green spaces and more opportunities to improve their health. Policy should aim to share these benefits broadly across the population.

The CCC also highlights the risk of uneven costs. In the long term, energy costs and energy bills are expected to fall significantly but electricity costs are likely to rise first. Although improvements to energy efficiency could largely offset these costs, the CCC says that the additional costs should not be automatically added to energy bills, which is a regressive approach. It notes that continuing to add climate policy costs primarily to electricity prices, but not gas prices, adversely affects particular groups (those with electric heating).

### **New job opportunities**

The opportunities for jobs growth have, to date, largely been focused on deploying renewable electricity. Research conducted by the International Labour Organisation suggests that growth in renewable energy sources leads to greater job creation than growth in non-renewable energy sources.<sup>27</sup> The CCC anticipates that the next phase of decarbonisation will go beyond renewable electricity towards electric vehicles, low-carbon hydrogen, carbon capture usage and storage (CCUS) and buildings decarbonisation. Low-carbon industrial products will be in increasing demand across the world.

<sup>26</sup> For more detail, see Chapter 6 of [The Sixth Carbon Budget – The UK's path to Net Zero](#).

<sup>27</sup> ['The transition in play: Worldwide employment trends in the electricity sector'](#), (International Labour Organization, Research Department Working Paper No. 28, G. Montt, N. Maitre, S. Amo-Agyei, 2018)

The macroeconomic analysis published alongside the CCC's advice also provides some insights into potential employment effects.<sup>28</sup> It identifies boosts in employment in the utilities sector and in manufacturing and construction, while there will likely be job losses in oil and gas production and aviation. At a UK level, the analysis estimates net employment growth of between 0.5-1% compared with the baseline of no further climate action between 2025-2050, resulting from the economic stimulus effect of the major investment programme implied by the CCC's Balanced Pathway.

### **Pressure on existing jobs**

A transition to Net Zero will also reduce demand for certain high-carbon services and technologies, such as fossil fuel extraction, processing and distribution, aviation, fossil fuel machinery and some livestock and dairy. This could see jobs in some key sectors significantly affected, though in each area there will also be new employment opportunities.

### **Regional considerations**

The opportunities and challenges of the low-carbon transition will vary regionally. For example areas with older, energy inefficient housing could face higher energy bills. Rural areas off the gas grid, who typically pay more for heating fuel, could have more to gain from a switch to low-carbon heating. Current and future transport infrastructure can limit the ability of the local population to walk, cycle or use public transport, and may affect the opportunity for, and costs of, running an electric vehicle. However, a transition to electric vehicles alongside an increase in active travel will lead to a decrease in local air pollution, benefitting health. A shift to healthier diets, and improved quality of housing is expected to lead to lower costs for the health service. An increase in tree-planting and urban green spaces will provide more green recreational space. Relative wealth will be important, including the ability to fund changes locally.

### ***CCC Expert Advisory Group on the costs and benefits of a UK net-zero emissions target***

In 2019, the CCC set up the Advisory Group on the Costs and Benefits of Net Zero. The Advisory Group produced a Chair's Report based on the Group's deliberations and written submissions.<sup>29</sup>

The thrust of the report was that the costs and benefits of deep decarbonisation are unknowable with any precision, as they are both very uncertain in themselves and depend both on the decarbonisation policies and the timescale over which they are pursued. However, that said, the Group drew the following conclusions:

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<sup>28</sup> [Economic impact of the Sixth Carbon Budget](#) (Cambridge Econometrics, 2020)

<sup>29</sup> [Report to the CCC](#) (Advisory Group on the Costs and Benefits of Net Zero, May 2019)

- The climate science suggests that there are very large potential benefits of limiting the average global temperature rise to 1.5°C rather than 2°C, which provides a justification for a Net Zero as opposed to an 80% emission reduction target;
- The costs of reducing greenhouse gas (GHG) emissions have been grossly over-estimated in the past; recent modelling suggests that costs might be around 1% of GDP, but ongoing reductions in the costs of zero-carbon technologies suggest that in the future the costs might turn negative (i.e. zero-carbon electricity may turn out to be cheaper than fossil fuel generation, even if the climate benefits are not considered);
- The costs of reaching Net Zero by a certain date (e.g. 2050) will be lower the sooner the requisite policies are put in place to achieve it, to give investors certainty about the direction of travel and to fit in with investment cycles to minimise the stranding of long-lived high carbon infrastructure;
- The health co-benefits of reducing fossil fuel use and greenhouse gas emissions could be very substantial in terms of improved air quality, active travel and healthier lower-meat diets;
- However low (or negative) the costs of Net Zero turned out to be, the transition to Net Zero would involve deep structural changes that would affect people, communities and economic sectors in very different ways. There would be winners and losers. The political acceptability of the transition would depend on it being seen to be fair, as well as this being desirable on ethical grounds;
- Achieving Net Zero by 2050 will require wide-ranging policies that are credible, consistent across government, long-term and of a stringency to transform major techno-socioeconomic systems of society (including energy, food, transport, waste and resource use). The required policy approach “includes a stable long-term direction with clear governance, regular reviews for flexibility, use of markets to find the best solutions, support for large-scale deployment of new technologies as well as research and development, and approaches that are tailored to the needs of each sector, while maintaining consistency across the system.”

Their report emphasised that the benefits (including decreased climate risk) of net zero outweigh the costs, that good policy design is vital to keep costs low and maximise benefits and that clarity around the decarbonisation pathway is a key enabler of innovation.

In April 2020 the CCC asked the Advisory Group to reflect on whether the economic circumstances consequent on and subsequent to COVID-19 are likely to have affected the Group’s conclusions in its 2019 Report, as set out above. The Group concluded that, if anything, their recommendations from 2019 have been reinforced by events since.<sup>30</sup>

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<sup>30</sup> [Supplementary report to the CCC](#) (Advisory Group on the Costs and Benefits of Net Zero, December 2020)

“The climate science has not changed, justifying the pursuit of a 1.5°C target [and net zero]...There is now a much greater economic rationale for substantial public investment, and the right measures to crowd in private investment, than there was [in 2019].”

### *Administrative costs*

The administrative cost burden on the Welsh Government arises from establishing and maintaining the legislative framework for emissions reduction, developing policy, and then monitoring and reporting progress against the targets and carbon budgets. These costs are expected to be broadly similar under each of the options presented above.

### **Environment Act factors**

Section 32(3) of the Environment (Wales) Act 2016 lists a number of reports and factors that Welsh Ministers must have regard to when changing the 2050 emissions target, or setting or changing an interim emissions target or carbon budget. The reports and factors are:

- the most recent State of Natural Resources Report;
- the most recent Future Trends Report;
- the most recent Future Generations Report;
- scientific knowledge about climate change;
- technology relevant to climate change; and
- EU and international law and policy relating to climate change (including international agreements on measures designed to limit increases in global average temperatures).

### **State of Natural Resources Report**

In December 2020 Natural Resources Wales (NRW) published the first documents as part of the second State of Natural Resources Report (SoNaRR 2020). Among these documents are NRW’s assessments of the four aims of the Sustainable Management of Natural Resources (SMNR). In its assessment of the achievement of SMNR Aim one (Stocks of natural resources are safeguarded and enhanced), NRW finds that climate change is having a “substantial effect on biodiversity and ecosystems” through:<sup>31</sup>

- shifting species ranges;
- localised extinctions;
- changes to life-cycle events;
- sea level rise;
- exacerbating the increase in invasive species including disease vectors; and
- altering the abundance and distribution of biodiversity.

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<sup>31</sup> [SoNaRR 2020: Assessment of the Achievement of SMNR Aim 1: Stocks of Natural Resources are Safeguarded and Enhanced](#) (NRW, 2020)

The projected increase in frequency and intensity of droughts, fluvial and coastal floods and heatwaves are all likely to further reduce overall ecosystem resilience.

NRW concludes that “Overall Wales’s natural resources are not safeguarded or enhanced to the degree that we can say we are achieving sustainable management.”<sup>32</sup> It identifies decarbonisation as one of four opportunities for action to improve performance against Aim one. NRW has also published natural resource registers showing how climate change is causing pressures and impacts on the eight ecosystems within SoNaRR.<sup>33</sup>

Ecosystem	Key pressures			
	Changing weather patterns	Sea level rise	Increased water temperature	Ocean acidification
Coastal margins				
Enclosed farmland				
Freshwater				
Marine				
Mountains, moorlands and heaths				
Semi-natural grasslands				
Urban				
Woodlands				

**Table 3:** Key pressures on ecosystems caused by climate change (NRW, SoNaRR 2020)

The full chapter on how climate change is threatening ecosystem resilience and ecosystem services will be published in March 2021.

## Future Trends Report

The most recent Future Trends Report dates from 2017, with the next report due in summer 2021.<sup>34</sup> The report identifies key future social, economic, environmental and cultural trends for Wales, under six themes that impact all aspects of government and public administration. Climate change is one of the themes, along with population, health, economy and infrastructure, land use and natural resources, and society and culture. The report essentially asks two questions:

1. Where might Wales be going? (Trends)
2. What could this mean? (Influencing factors)

<sup>32</sup> [SoNaRR 2020: Assessment of the Achievement of SMNR Aim 1: Stocks of Natural Resources are Safeguarded and Enhanced](#) (NRW, 2020, p.22)

<sup>33</sup> [SoNaRR2020: Natural resource registers](#) (NRW, 2020)

<sup>34</sup> [Future Trends Report](#) (Welsh Government, 2017)

## *Trends*

### **Population**

Wales' population is projected to increase over the next 20 years, possibly by around 5%. Around half of this growth could be due to natural change (births and deaths) and half due to in-migration from the rest of the UK or internationally. The UK's exit from the European Union could lead to more controlled migration in the future and a subsequently lower population growth rate.

Over the next 20 years, the percentage of over 65s in Wales is set to increase from around 20% to around 25% of the entire population. The population aged over 75 in Wales is also projected to increase from 9% of the population in 2014 to around 13% in 2030. The number of young people (aged under 16) is projected to increase up to 2023 and then fall slightly up to 2030.

The number of households in Wales is projected to grow faster than the overall population. This would lead to smaller household sizes.

### **Economy and infrastructure**

The global shift of economic growth away from more mature economies has meant that the UK has, over the last 50 years, slipped down global GDP leagues in terms of the overall economy size as less mature economies catch up with those that developed earlier. However, this does not mean that growth will stop in developed countries. Importantly, the overall size of a country's economy is less important for wellbeing than the income per head, and by this measure the UK displays better resilience. However, since the recession in 2008, a productivity slowdown has sharply reduced growth rates. The UK and Wales have been particularly affected.

Wales has great untapped growth potential to generate energy, including from renewable sources. There is currently significant growth in the community level low carbon energy sector in Wales.<sup>35</sup>

The provision of broadband infrastructure is developing rapidly after a slower start relative to the rest of the UK. This was in part due to Wales' demographics and the high level of rural households that are harder to connect to conventional wired broadband. The rapid increase in mobile internet infrastructure looks set to continue, which should help to reach those households that cannot currently access higher speed internet.

Current trends suggest that, despite growth in rail use, private vehicles are set to remain the dominant mode of transport in Wales in the short to medium term at least. The expected advent of autonomous or driverless vehicles in the next 10 to 15 years could in turn have implications for our transport systems.

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<sup>35</sup> When the Future Trends Report was published in 2017, the total number of locally-owned projects was 63,071 with a capacity of 529MWe. The latest figures, from 2019, are 68,560 projects and a capacity of 549MWe. See <https://gov.wales/energy-generation> for more detail.

## **Climate change**

Even in the best case scenario, there are likely to be significant national as well as global impacts beyond those already observed. Global temperature increases are likely to exceed the two degree threshold, unless significant and rapid action is taken globally.

There are potentially significant impacts to Wales from exceeding the global two degrees threshold. The latest UK Climate Change Risk Assessment identified the following areas for priority action:

- Flooding and coastal change risks to communities, businesses and infrastructure.
- Risks to health, wellbeing and productivity from high temperatures.
- Risk of shortages in the public water supply, and for agriculture, energy generation and industry, with impacts on freshwater ecology.
- Risks to natural capital including terrestrial, coastal, marine and freshwater ecosystems, soils and biodiversity.

Infrastructure across Wales is already exposed to a range of climate hazards, which are projected to increase both in frequency and severity. Such infrastructure includes transport networks, underground infrastructure, energy and digital infrastructure and public water supplies. Impacts on some assets have the potential to cascade on to others as part of interdependent networks. Flooding poses the greatest long-term risk to infrastructure performance from climate change, but the growing risks from heat, water scarcity and slope instability caused by severe weather could also be significant.

## **Land use and natural resources**

By 2050, average river flows in winter may rise by 10-15%. However, in the summer and early autumn they could reduce by over 50% and as much as 80% in some places. Droughts and flood events may become more common. Climate change may also affect the rates of groundwater recharge.

Soil carbon has been stable in improved land for 30 years. Recent increases in soil carbon in woodland until 2007 have now stabilised with no further increase detected. However, a significant decline in soil carbon in habitat land over the last 10 years has been detected and further work is needed to identify possible reasons for this.

Housing need in Wales is growing due to the number of households increasing faster than the number of available properties. In contrast, there is likely to be less suitable land available for development as flood plains and other lower lying land becomes increasingly prone to flooding.

## *Influencing factors*

### **Political**

The exit of the UK from the European Union may be the most immediate and potentially most disrupting factor to these identified trends. It is probable that this process will have a significant and wide ranging impact on Wales,

potentially impacting on economic growth and migration to Wales from both Europe and beyond.

There are also risks to the economic growth rate given the increasing potential for politically led 'de-globalisation'. Decreasing global trade patterns and the potential for increased protectionism could have a significant effect on both the mix and extent of various industries in Wales.

### **Economic**

Economic growth rates could affect the amount of investment made in the research and development of new technologies, both globally and in Wales and the UK.

### **Social**

Behavioural change among the Welsh population will be an unknown and potentially significant influence on how these trends unfold.

### **Technological**

There is the potential for technological advances to dramatically improve the effectiveness and availability of low carbon energy. Mass production of current technologies such as solar power and energy storage may also help to dramatically increase the deployment of low carbon energy.

If the more pessimistic prediction for climate change occurs, there is a possibility that 'climate fixing' technology such as bioengineering may be employed to lower CO<sub>2</sub> levels in the atmosphere and levels of warming. The deployment of such technologies could have potentially significant effects and may not help to combat such effects as the acidification of the oceans.

Advances in household, transport and energy technologies could have a transformative effect on population behaviours, even over fairly short timescales.

### **Legislative**

Ratification of the United Nations Paris Agreement has set the global legal context for climate change. The international context around climate change has now changed with a roadmap in place for global decarbonisation, setting a new long-term target for net zero global emissions in the second half of this century and key legislative requirements at all levels.

### **Environmental**

There are a wide range of climate change scenarios and models. The next 20 years may be crucial in determining which of the various longer term warming scenarios will occur.

As the impacts from climate change become more prevalent, there may be an increasing risk of climate related disruption to global and regional economic networks. These could take the form of disruptions in crop production, or an increasing risk of flooding. The sensitivity of the climate to the rising levels of CO<sub>2</sub> in the atmosphere will be key to the extent to which infrastructure might be

disrupted. The more pessimistic scenarios also have the potential to impact significantly on population growth and migration levels, given the possibility of increased risk in terms of failures elsewhere in food production/ transportation and access to other resources, along with associated global conflicts.

There are some potential climate related risks that could impact negatively on health trends, not just in Wales but globally. One example is the greater risk of extreme hot weather events, the incidences of which are unpredictable. Climate change could also bring increasing risks of newly emerging infectious disease. Likewise, future air quality levels could be a major associated influencing factor. In contrast, there are also likely to be some opportunities presented by a warming trend. For example, the amount of energy required to maintain warm homes would reduce.

The level of sensitivity of Wales' biodiversity and habitats to climate change will be the key to how natural resources trends may evolve. There are risks from climate change in the frequency and the magnitude of extreme weather and wildfire events. Climate change is influencing the expansion or contraction of some species' ranges and populations, and the increasing frequency of extreme climatic events, predicted in many climate change scenarios, may have serious implications.

## **Future Generations Report**

The most recent Future Generations Report was published in May 2020.<sup>36</sup> Chapter 5 specifically focuses on decarbonisation.

### *People's perception of decarbonisation*

Concerns about climate change reached a record high in 2019 (85% in the UK). The Commissioner says that one of the things people have emphasised in conversations with her is the importance of having a more proactive government with stronger targets and regulation.

### *What future generations need*

The report says we need to reduce our emissions in Wales by at least 95% by 2050, preferably sooner, to avoid catastrophic climate change. This means that in Wales we need to make an urgent transition to a low carbon economy and society.

Young people have had a significant impact on securing action on climate change in Wales. Public awareness, especially amongst the younger generation, has increased considerably in the last 12 months. Following the Fridays for Future protests, the Commissioner believes that 2019 was the year when children and young people showed politicians and decision makers across Wales and the world that they must do more to act on climate change. Young people are now demanding greater action and climate justice, calling on global leaders to take urgent action.

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<sup>36</sup> [The Future Generations Report 2020](#) (Future Generations Commissioner for Wales)

The report argues that we need to address climate change because it is an equality and social justice issue and it will disproportionately affect the most vulnerable communities in Wales and across the world. Vulnerable communities are more likely to be exposed to the risks and impacts of climate change, without the ability to cope with or recover from those impacts.

### **Scientific knowledge about climate change**

Two reports by the Intergovernmental Panel on Climate Change (IPCC) summarise the core of scientific knowledge about climate change: the Fifth Assessment Report (IPCC-AR5) and the Special Report on Global Warming of 1.5°C (IPCC-SR1.5).<sup>37</sup>

#### *Key conclusions from IPCC-AR5*<sup>38</sup>

- The climate is changing as a result of global greenhouse gas emissions; the IPCC concluded that it was unequivocal that humans were influencing the climate
- Many climate impacts are being detected across the world
- Further emissions will lead to further warming and change
- There is no simple threshold beyond which climate change moves from safe to dangerous
- The increase in global temperature is determined mainly by total carbon dioxide emissions over time, which must fall to near zero in order to limit warming

#### *Summary of IPCC-SR1.5*

At COP21 in Paris, the Intergovernmental Panel on Climate Change (IPCC) was invited to provide a Special Report in 2018 on the impacts of global warming of 1.5°C above pre-industrial levels and related global greenhouse gas emission pathways. The report found that:<sup>39</sup>

- Human activities are estimated to have caused approximately 1.0°C of global warming above pre-industrial levels, with a likely range of 0.8°C to 1.2°C.
- Global warming is likely to reach 1.5°C between 2030 and 2052 if it continues to increase at the current rate (high confidence).
- Climate-related risks for natural and human systems are higher for global warming of 1.5°C than at present, but lower than at 2°C (high confidence). These risks depend on the magnitude and rate of warming, geographic location, levels of development and vulnerability, and on the choices and implementation of adaptation and mitigation options (high confidence).
- Climate models project robust differences in regional climate characteristics between present-day and global warming of 1.5°C, and

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<sup>37</sup> [Fifth Assessment Report](#) (IPCC, 2013) and [Special Report on Global Warming of 1.5°C](#) (IPCC, 2018)

<sup>38</sup> As quoted in [The Sixth Carbon Budget – The UK's path to Net Zero](#) (CCC, December 2020, p.355)

<sup>39</sup> [https://www.ipcc.ch/site/assets/uploads/sites/2/2019/06/SR15\\_Headline-statements.pdf](https://www.ipcc.ch/site/assets/uploads/sites/2/2019/06/SR15_Headline-statements.pdf)

between 1.5°C and 2°C. These differences include increases in: mean temperature in most land and ocean regions (high confidence), hot extremes in most inhabited regions (high confidence), heavy precipitation in several regions (medium confidence), and the probability of drought and precipitation deficits in some regions (medium confidence).

The IPCC's projected differences between global warming of 1.5°C and 2°C include:

- Increased climate-related risks to health, livelihoods, food security, water supply, human security, and economic growth.
- Global mean sea level rise of around 0.1 metre lower by 2100 (medium confidence). A slower rate of sea level rise enables greater opportunities for adaptation in the human and ecological systems of small islands, low-lying coastal areas and deltas (medium confidence).
- Lower impacts on biodiversity and ecosystems, including species loss and extinction, and lower impacts on terrestrial, freshwater and coastal ecosystems – enabling them to retain more of their services to humans (high confidence).
- Reduced increases in ocean temperature as well as associated increases in ocean acidity and decreases in ocean oxygen levels (high confidence).
- Consequently, reduced risks to marine biodiversity, fisheries, and ecosystems, and their functions and services to humans, as illustrated by recent changes to Arctic sea ice and warm-water coral reef ecosystems (high confidence).
- Most adaptation needs will be lower (high confidence).

### *New observations of climate*

In its December advice to the UK Government, the CCC also listed new observations of climate since its last UK Carbon Budget 5 advice in 2015:<sup>40</sup>

- The five years since 2015 have seen the five warmest years (globally) on record.
- The global average level of human-induced warming is now in excess of 1.1°C when defined consistent with practices used by the World Metrological Organisation and IPCC-SR1.5. Best estimates indicate that human activities are responsible for 100% of the warming observed since 1850-1900. The observed rate of increase in global temperature (~0.2°C per decade) has proceeded consistent with the near-term warming projection made by the IPCC-AR5 report (a 0.12-0.42°C per decade increase).
- Global sea levels have continued to rise, with the rate of increase over the last five years being the fastest observed to date. Global average sea levels are now estimated to be around 20 cm above levels in 1900.

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<sup>40</sup> [The Sixth Carbon Budget – The UK's path to Net Zero](#) (CCC, December 2020, p.359)

- In the UK, the 2010–2019 decade was the second warmest cardinal decade on record after 2000–2009. In 2019, the highest ever temperature reached in the UK was recorded as well as the warmest ever recorded winter temperature. Considerably more high temperature records were set in the UK over than 2010s than low temperature records.
- Human-induced climate change has been clearly shown to increase the frequency and intensity of many (but not all) extreme weather events, with particularly clear signals in extreme heat and many heavy rainfall events.

### *Tipping points*

While many impacts of climate change broadly reflect relatively gradual changes caused by steady increases in global average temperature, parts of Earth’s system have the potential to change abruptly. Once passed, these ‘tipping points’ cause a dramatic shift that can be irreversible. Examples of tipping points include loss of the Amazon rainforest or the West Antarctic ice sheet.

The IPCC introduced the idea of tipping points two decades ago. At that time, these ‘large-scale discontinuities’ in the climate system were considered likely only if global warming exceeded 5°C above pre-industrial levels. IPCC Special Reports in 2018 and 2019 now suggest that tipping points could be exceeded even between 1 and 2 °C of warming.<sup>41</sup>

In an article in *Nature* in November 2019, Professor Tim Lenton and others report that evidence is mounting that tipping points could be “more likely than was thought, have high impacts and are interconnected across different biophysical systems, potentially committing the world to long-term irreversible changes.”<sup>42</sup> In their view, if tipping points are indeed looking more likely, then the costs associated with the resulting impacts mean warming must be limited to 1.5°C. They consider several cryosphere tipping points are dangerously close, but mitigating greenhouse gas emissions could still slow down the inevitable accumulation of impacts and help us to adapt. We might already have committed future generations to living with sea-level rises of around 10 m over thousands of years but that timescale is still under our control. The rate of melting depends on the magnitude of warming above the tipping point. At 1.5°C, it could take 10,000 years to unfold; above 2°C it could take less than 1,000 years. They conclude that “both the risk and urgency of the situation are acute...we might already have lost control of whether tipping happens”. We may still have some control over the level of damage arising from tipping and therefore “the consideration of tipping points helps to define that we are in a climate emergency and strengthens [2019’s] chorus of calls for urgent climate action.”

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<sup>41</sup> SR1.5°C (IPCC, 2018) and [Special Report on the Ocean and Cryosphere in a Changing Climate](#) (IPCC, 2019)

<sup>42</sup> Climate tipping points – too risky to bet against, Professor Tim Lenton et al, *Nature* (November 2019), <https://www.nature.com/articles/d41586-019-03595-0>

## **Technology relevant to climate change**

In discussing the role of technology and innovation in reaching net zero, the CCC advice considered both established and emerging technologies. It also explored the role of digitalisation.<sup>43</sup>

### *Established technologies*

In some sectors, such as power generation, technologies already exist to achieve “near-full decarbonisation”, and global trends are pushing efficiencies up and costs down. In other sectors, such as heating for buildings, technologies exist but the estimated costs are relatively high. The CCC advises that “where there is uncertainty around the costs or scale of competing low-carbon options a portfolio of options should be pursued.”

### *Emerging technologies*

The CCC’s analysis includes several areas where solutions have been proposed but “innovation will be required to go beyond the reach of established technologies or methods”. These areas include hydrogen, heavy goods vehicles and carbon capture and storage.

### *Digitalisation*

The CCC identifies digitalisation as “an important enabler” of the transition to net zero. It is seen as critical to the efficient production and use of energy across increasingly interconnected sectors, such as transport and buildings. The CCC anticipates that it will reduce the need for large amounts of back-up on the electricity grid by increasing the flexibility and dynamism of energy services e.g. vehicle-to-grid. It will also help reduce demands for energy, materials, food and water through predictive analysis, waste avoidance and video-conferencing.

### *Costs of technologies to achieve net-zero emissions*

Ambitious mitigation targets in developed countries can help establish the new industries required and drive down the cost of currently more expensive technologies needed to reach net zero CO<sub>2</sub> emissions, including carbon capture and storage, hydrogen, low-carbon heating and technologies to remove CO<sub>2</sub> from the atmosphere.

## **EU and international law and policy relating to climate change**

### *Paris Agreement*

The Paris Agreement committed countries to keeping the increase in global average temperature to well below 2°C above pre-industrial levels and pursuing efforts to limit the increase to 1.5°C. In order to achieve this, countries agreed on the need for global emissions to peak as soon as possible and to achieve a balance between global emissions and removals (net zero) in the second half of the 21<sup>st</sup> Century, “on the basis of equity, and in the context of sustainable development and efforts to eradicate poverty”.<sup>44</sup> Global average temperature is

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<sup>43</sup> [The Sixth Carbon Budget – The UK’s path to Net Zero](#) (CCC, December 2020, p.402-405)

<sup>44</sup> [Paris Agreement](#) (United Nations, 2015)

already around 1.1°C above pre-industrial levels.<sup>45</sup> The UK ratified the Paris Agreement in November 2016.

The Paris Agreement requires countries to produce Nationally Determined Contributions (NDCs) every five years. NDCs must reflect each country's highest possible ambition towards the global temperature goal. The UK was part of the EU's NDC agreed in 2015, which requires an average reduction across Member States of at least 40% by 2030. On 12 December 2020, ahead of the end of the Brexit transition period, the UK published its own NDC. This included a 2030 emissions reduction target of at least 68%. This figure is based on a recommendation from the CCC, which uses the same scenario as that for the CCC's recommendations for Wales (the Balanced Pathway).

### *Wales's contribution to the Paris Agreement and UK NDC*

Countries agreed to implement the Paris Agreement in a way that would “reflect equity and the principle of common but differentiated responsibilities and respective capabilities, in the light of different national circumstances.”<sup>46</sup> Relative to many other countries, Wales is rich and has high historical emissions, going back centuries. Wales is now responsible for around 0.1% of global emissions each year, although since 1750 the UK has the 5<sup>th</sup> highest cumulative emissions in the world.<sup>47</sup>

The global budget for limiting average global temperature rise to 1.5°C or 2°C can be informed by the latest climate science but the distribution of that budget between countries is a political and moral decision. There is no single agreed methodology or formula that can be used to define a country's fair contribution to mitigating climate change: it is a value judgment that must consider equality, capability and responsibility.

While there is no agreed methodology, the IPCC has summarised what the academic literature on ‘effort share’ approaches suggests regional targets should be, based on a review of 40 studies.<sup>48</sup> The approaches fall into three broad categories:

1. **Economically efficient:** These achieve the required abatement at least global cost (equal marginal abatement cost)
2. **Historical responsibility:** These assign emissions commitments on the basis of historic contribution to the climate emergency since 1990
3. **Forward-looking:** These assign emissions on the basis of a country's projected capability (income) or on the basis of convergence in global emissions per capita

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<sup>45</sup> [WMO confirms 2019 as second hottest year on record](#), World Meteorological Organisation (15 January 2020)

<sup>46</sup> [Paris Agreement](#), Article 2.2

<sup>47</sup> Carbon Brief analysis: <https://twitter.com/CarbonBrief/status/1120715988532629506>

<sup>48</sup> [Regional GHG reduction targets based on effort sharing: a comparison of studies](#), Niklas Höhne, Michel Den Elzen & Donovan Escalante (Climate Policy, 2013)

## *International comparisons*

Wales is a founding member of the Under2 Coalition, a global community of state and regional governments committed to ambitious climate action in line with the Paris Agreement.<sup>49</sup> The coalition includes more than 220 governments who represent over 1.3 billion people and 43% of the global economy.

121 states and regions disclosed their climate and environmental data as part of the Global States and Regions Annual Disclosure 2020.<sup>50</sup> Of these, 18 have set net zero targets, ranging from 2030 (Jämtland, Sweden) to 2045 (Scotland, California and Australian Capital Territory) to 2050 (including Catalonia and New York State). Hawaii aims to be net-negative by 2045.

Outside the Under2 Coalition, 7 countries have set net zero targets in law (for 2050, apart from Sweden for 2045). A further 7 countries have declared net zero targets in policy documents and 12 more have submitted net zero targets to the UN. Japan has recently declared its intent to achieve net zero by 2050, while China has done so for 2060. Joe Biden was elected president of the USA on a climate platform to aim for net zero emissions by 2050.<sup>51</sup>

Each government decides how to define the target, considering its formality (whether it is set in legislation or simply a policy target), scope (whether it covers all greenhouse gases or just CO<sub>2</sub> and whether it includes emissions from international aviation and shipping or not) and the approach to international offsetting (whether it is permitted or not).

## *European law and policy*

In December 2019, the European Council agreed the objective of achieving a climate-neutral EU by 2050. This had previously been endorsed by the European Parliament in March 2019. The European Commission's (EC) proposed new European Climate Law would impose a legally binding target of net zero greenhouse gas emissions by 2050.<sup>52</sup>

In December 2020, EU leaders agreed on a binding EU target for a net domestic reduction of at least 55% in greenhouse gas emissions by 2030, compared to 1990.<sup>53</sup> The previous target, set in 2014, was for at least a 40% reduction by 2030. The new target has been submitted to the UN as the EU's NDC.

EU climate legislation already in place includes the EU Emissions Trading System (ETS), the Effort Sharing Regulation (ESR), and the Land Use, and the Land Use Change and Forestry Regulation (LULUCF). The Renewable Energy Directive (RED II), the Energy Efficiency Directive and the Regulation on the Governance of the Energy and Climate Action also contribute in driving commitments to renewable energy. The EU acknowledges that without

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<sup>49</sup> <https://www.under2coalition.org/>

<sup>50</sup> [Annual Disclosure Report](#) (Under2 Coalition, 2020)

<sup>51</sup> [Which countries have a net zero carbon goal?](#) (Climate Change News)

<sup>52</sup> [https://ec.europa.eu/clima/policies/eu-climate-action/law\\_en](https://ec.europa.eu/clima/policies/eu-climate-action/law_en)

<sup>53</sup> <https://www.consilium.europa.eu/en/policies/climate-change>

enhancement these policies will fall short of the 55% target. It is therefore discussing potential policy changes, including strengthening carbon pricing in the EU through an extension of the ETS to new sectors, a carbon border adjustment mechanism to mitigate the risk of carbon leakage, and is reconsidering international aviation and shipping emissions with the ambition to include these within the EU ETS. The EC intends to make detailed legislative proposals by June 2021.<sup>54</sup>

## **Integrated Impact Assessment**

Having considered the regulations against our mandatory and non-mandatory impact assessments, we do not believe it is possible to quantify their impact as they simply provide the statutory framework for emissions reduction. The impact of taking action to meet the targets and carbon budgets depends on the measures and policies chosen. These policies will be set out in a report for each carbon budget period, the next being published in November 2021. Policies to deliver our carbon budgets are subject to an engagement process and impact assessments, including RIA where appropriate.

Additionally, the global nature of the climate emergency means it is not possible to determine the effect of more ambitious Welsh targets on climate-related risks in Wales, such as flooding, and the subsequent impact on the matters covered by the impact assessments, for example equality.

However, *if* Wales achieves the more ambitious targets *and* other countries make comparable effort, we increase the likelihood of limiting average global temperature rise to 1.5°C. If this temperature goal is met, we will limit Wales's exposure to climate change impacts. One such impact is heat-related mortality. We have worked with researchers at Bristol and East Anglia Universities to develop a short case study on heat-related mortality in Wales at 2°C and 1.5°C of global warming (see Annex A).

## **Summary**

### *CCC advice*

The CCC has concluded that a net zero target is now credible and the right target for Wales. Its December 2020 advice is a blueprint for achieving net zero and provides a detailed vision for realising this more ambitious goal.

The expected cost of achieving net zero has fallen since the CCC's 2019 advice. The estimated annualised resource cost has fallen from £3-5billion per year to significantly less than £2billion per year through to 2050. The CCC has also demonstrated that operational savings are expected to largely offset the investment costs for achieving net zero towards the middle of this century, and supporting research suggests a potential positive impact on GDP overall. The CCC's Advisory Group on the Costs and Benefits of Net Zero declared that the benefits (including decreased climate risk) of net zero outweigh the costs. In

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<sup>54</sup> <http://europeanmemoranda.cabinetoffice.gov.uk/memorandum/communication-from-the-commission-to-the-european-parliament-the-council-the-european-economic-social-committee-1600418191>

addition to economic impacts, the CCC identified likely significant positive impacts for health and biodiversity in their Balanced Pathway.

### *Environment Act factors*

SoNaRR highlights the substantial effect of climate change on biodiversity and ecosystems. It also identifies decarbonisation as a key opportunity to improve the sustainable management of natural resources and reduce several key pressures on all ecosystems.

The Future Trends Report considers several trends relevant to achieving climate change targets, notably an increasing, ageing population and more people living alone. Older people tend to have a higher carbon footprint than younger people and an increase in households suggests higher demand for heating and electricity. The Report also notes behaviour change as a key influencing factor on how the trends unfold; behaviour change is fundamental to achieving the CCC's Balanced Pathway. The Future Generations Report draws attention to the significant shift in public concern about climate change and increasing support for greater action, particularly among children and young people.

There is a very strong scientific basis for increased efforts to tackle climate change. IPCC-SR1.5 shows that keeping average global temperature increase to 1.5°C would reduce climate-related risks to health, livelihoods, food security, water supply, human security, and economic growth, when compared to a 2°C rise. Option 2 is more aligned to achieving 1.5°C than Option 1, which relates more closely 2°C.

Technology to support the net zero transition is well-advanced and commercially deployed in many important areas, while further innovation is required in others. “The clarity of a net-zero goal could help stimulate innovation. Under a net zero target all sectors need to decarbonise or offset their emissions. This removes uncertainty and the temptation of sectors to lobby for a larger share of the remaining 20% of emissions [under the existing 80% target]. This clarity could cut the cost of capital as well as stimulating innovation, thereby bringing down the overall cost of mitigation.”<sup>55</sup>

There are many ways of determining Wales's fair contribution to the Paris Agreement and the UK's NDC. However, the CCC's Balanced Pathway is the only 'bottom-up' scenario available that describes *how* the targets can be met. The CCC states that its December 2020 recommendations “reflect the goals and requirements of the Paris Agreement” for the following reasons:<sup>56</sup>

1. The Balanced Pathway has been explicitly designed to reflect Wales's 'highest possible ambition' within Wales' particular capabilities
2. It would reduce Wales's annual per-capita emissions to under 3tCO<sub>2</sub>e per person before 2040, in line with global pathways consistent with meeting the 1.5°C goal

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<sup>55</sup> [Report to the CCC](#) (Advisory Group on Costs and Benefits of Net Zero, 2019, p.23)

<sup>56</sup> [The path to a Net Zero Wales](#) (CCC, December 2020, p.57)

In the last year there has been a notable shift in global ambition on climate change; many more countries have now adopted a net zero target or ambition, or are considering one. Joining the 'net zero club' would demonstrate Wales's support for new industries and provide the best opportunity for attracting green investment and jobs. It would also align with Wales's well-being goal to be a globally responsible nation.

**Having considered both the CCC advice and the Environment Act factors, Option 2 is the preferred option.**

## **Consultation**

In preparing their advice the CCC ran a public Call for Evidence to capture input from organisations and individuals on matters relevant to the regulations, as well as UK Carbon Budget 6. The Call for Evidence ran from 5 December 2019 to 5 February 2020. The Welsh Government and CCC ran two stakeholder events during the period: one in Llandudno on 20 January 2020 and one in Cardiff on 21 January 2020, with around 60 delegates attending in total.

There were four questions in the Call for Evidence with a Wales focus. These each received between 11 and 37 responses.<sup>57</sup> A high-level overview of the responses and a list of respondents is available in the CCC's Summary of responses document.<sup>58</sup>

We have published our Engagement Approach for Low Carbon Delivery Plan 2 that describes how we intend to involve and collaborate with people and stakeholders throughout 2021.<sup>59</sup> We also continue to consult on the policies required to meet the carbon budgets and targets, for example the Electric Vehicle Charging Strategy, Building Regulations Part L and F Review, and the Agriculture (Wales) Bill.<sup>60</sup>

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<sup>57</sup> <https://www.theccc.org.uk/publication/sixth-carbon-budget-and-welsh-emissions-targets-call-for-evidence-summary>

<sup>58</sup> [Welsh emissions targets: Summary of responses to Call for Evidence](#) (CCC, 2020)

<sup>59</sup> See <https://gov.wales/low-carbon-delivery-plan-2-engagement-plan>

<sup>60</sup> See <https://gov.wales/consultations>

## Competition Assessment

This impact assessment does not include a Competition Assessment because the regulations do not provide for specific policies. It is not possible, therefore, to consider the specific impacts on competition within individual markets.

The competition filter test	
Question	Answer
<b>Q1:</b> In the market(s) affected by the new regulation, does any firm have more than 10% market share?	
<b>Q2:</b> In the market(s) affected by the new regulation, does any firm have more than 20% market share?	
<b>Q3:</b> In the market(s) affected by the new regulation, do the largest three firms together have at least 50% market share?	
<b>Q4:</b> Would the costs of the regulation affect some firms substantially more than others?	
<b>Q5:</b> Is the regulation likely to affect the market structure, changing the number or size of businesses/organisation?	
<b>Q6:</b> Would the regulation lead to higher set-up costs for new or potential suppliers that existing suppliers do not have to meet?	
<b>Q7:</b> Would the regulation lead to higher ongoing costs for new or potential suppliers that existing suppliers do not have to meet?	
<b>Q8:</b> Is the sector characterised by rapid technological change?	
<b>Q9:</b> Would the regulation restrict the ability of suppliers to choose the price, quality, range or location of their products?	

## ***Post implementation review***

### **Government progress review**

The Environment (Wales) Act 2016 requires Welsh Ministers to prepare and lay a statement after each budgetary period setting out whether Wales has met the budget, whether they have debited or credited any carbon units and giving details on the type and number of units. The statement must explain what the Welsh Ministers consider to be the reasons why the carbon budget for the period has, or has not, been met. In particular, it must include the Welsh Ministers' assessment of the extent to which their proposals and policies for meeting the carbon budget for the period have been carried out and have contributed to the carbon budget for the period being met or not. This statement must be laid before the end of the second year after the budgetary period, allowing time for the emissions data to be compiled, which requires 18 months from the close of year.

With regards to each interim target and the 2050 target, Welsh Ministers must also prepare and lay a statement before the Senedd. This statement must be made before the end of the second year after the relevant interim target year. This statement will provide the Welsh Government's assessment of the total amount of emissions in that year, whether the interim emissions target has been met, and the total amount of carbon credits or debits for that year. The statement must also explain what the Welsh Ministers consider to be the reasons why the target has, or has not, been met.

### **Independent progress review**

The Act provides for the CCC to monitor and report on progress. No later than six months after the Welsh Ministers lay the final progress statement for a budgetary period, the CCC must provide a report setting out their views on:

- the way in which the carbon budget for the period was or was not met; and
- the action taken by the Welsh Ministers to reduce net Welsh emissions of greenhouse gases during the period.

Following the Welsh Government's progress reports on the 2030 and 2040 interim targets, the CCC is required to advise whether the forthcoming interim target(s) and 2050 target represent the highest achievable targets for Wales. If not, they must state what the highest achievable target is.

# Annex A: Heat-related mortality in Wales at 2°C and 1.5°C of global warming

## *Introduction*

Officials worked with academic experts on climate impacts to explore one example of how Wales might benefit from adopting and achieving a more ambitious emissions reduction pathway, if matched by other countries.<sup>61</sup> Heat-related mortality was chosen because it is the most direct way in which climate change is expected to affect public health and there is a strong, direct correlation between summer temperatures and increased mortality.

Temperature thresholds of 2°C and 1.5°C were selected because Wales's existing legislated emissions reduction pathway is broadly aligned to a 2°C rise in global average temperature, assuming similar effort from other countries, while the CCC's new recommended pathway is more closely aligned to a rise of 1.5°C. They are also the temperature goals in the Paris Agreement.

## *How is Wales's exposure to extreme summer temperatures projected to change?*

Overall, Wales's summer mean temperature is projected to change around 20% faster than the global mean and by 30-45% faster than the global mean during the hottest 5% of summer days.<sup>62</sup> This means Wales's hottest summer days are getting hotter and more extreme relative to mean temperatures.

## *How is this change expected to affect heat-related mortality?*

Mortality increases as temperature increases above a regionally-specific threshold.<sup>63</sup> Mortality occurs throughout the summer months, even on days that are not extreme heatwaves. As well as increasing temperature extremes, climate change means Wales will experience more warmer days and, as a result, increased heat-related mortality.

Based on current baseline mortality rates, modelling of the recent past (1990-2019) suggests, on average, 25 heat-related deaths occur per year in Wales, increasing to 48, 67, and 137 heat-related deaths under 1.5°C, 2°C and 3°C warming scenarios respectively (see Figure 1 for error bars). **Limiting**

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<sup>61</sup> Setting and achieving tighter emissions targets in Wales alone will have a negligible impact on global temperature and on Wales's climate. We are therefore reliant on the collective effort of all countries to reduce the frequency and severity of negative climate change impacts in Wales, such as heatwaves.

<sup>62</sup> UK Climate Projections 2018 data:

<https://www.metoffice.gov.uk/research/approach/collaboration/ukcp/index>

<sup>63</sup> By around 1.5% for every 1°C above ~17.2°C for Wales. [Climate change effects on human health: projections of temperature-related mortality for the UK during the 2020s, 2050s and 2080s](#), Hajat et al, Journal of Epidemiology & Community Health (2014, Volume 68, Issue 7).

warming to 1.5°C would therefore avoid 29% of the additional heat-related mortality at 2°C.<sup>64</sup>

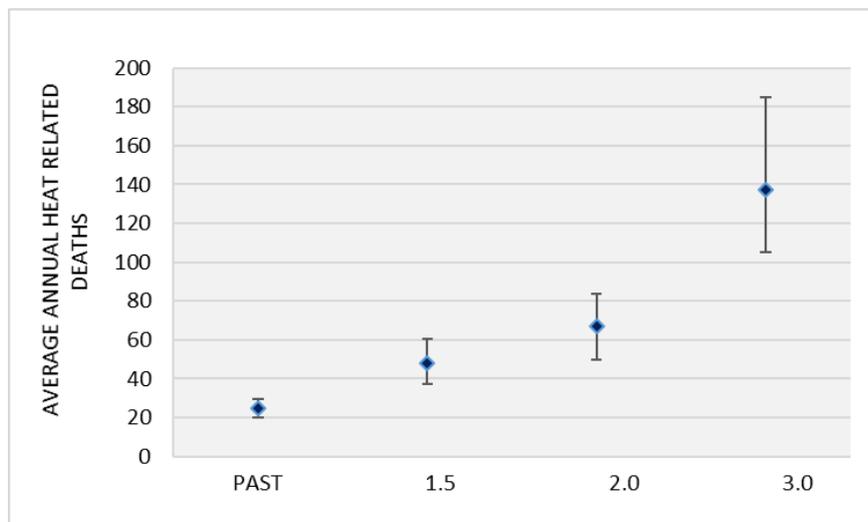


Fig. 1: Modelled average heat-related mortality per year in Wales for the past and 3 warming scenarios. Error bars signify 10-90% uncertainty in the projected climate.

### **Who is likely to be most affected?**

Not everyone is equally vulnerable to heat-related illness. There are certain factors that increase an individual's risk during a heatwave, including:<sup>65</sup>

- Older age: especially women over 75 years old, those living on their own, or in a care home;
- Chronic and severe illness: including heart conditions, diabetes, respiratory or renal insufficiency, Parkinson's disease or severe mental illness;
- Inability to adapt behaviour to keep cool: having Alzheimer's, a disability, being bed bound, too much alcohol, babies and the very young; and
- Environmental factors and overexposure: living in a top floor flat, being homeless, activities or jobs that are in hot places or outdoors and include high levels of physical exertion.

### **Which locations are likely to be most affected?**

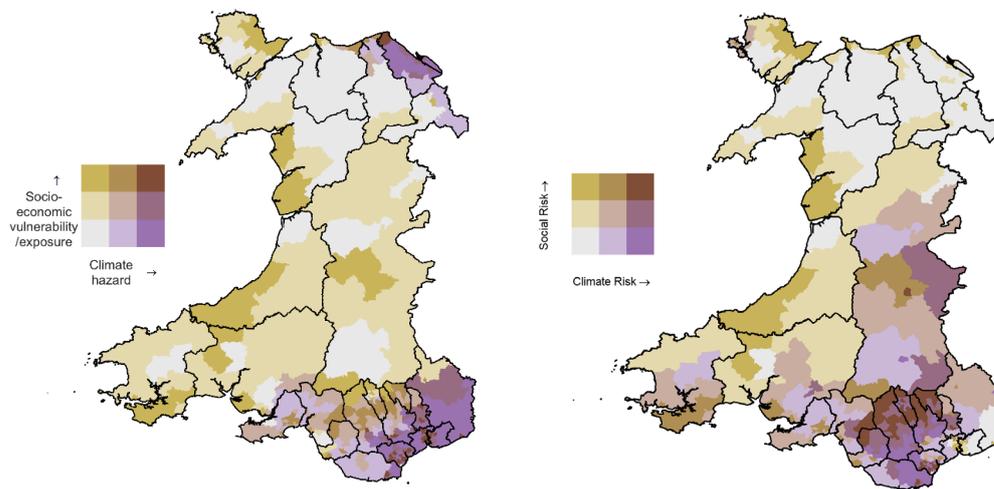
New research overlays heat-related climate hazard metrics with socio-economic factors.<sup>66</sup> The left-hand plot in Figure 2 shows that the locations with greatest absolute risk over the past 30 years (i.e. exposed to extreme heat hazards and at higher socio-economic levels of vulnerability and exposure) are

<sup>64</sup> Unpublished research (funded by the [UK Climate Resilience Program](#)) was carried out in support of this paper.

<sup>65</sup> [Caring for Patients Before and During a Heatwave: Advice for health and social care professionals](#), WG 2012

<sup>66</sup> Climate hazard metrics: Daily maximum and minimum temperature, vapour pressure (a measure of humidity), and degree days (variability of temperature extremes over a certain threshold). Socio-economic factors: population density, deprivation and proportion of population aged over 65.

in southeast and northeast Wales. The right-hand plot shows that when socio-economic factors are taken into account in combination with the projected change in climate hazards, locations at the greatest increase in risk are in Powys and across South Wales. Although these regions show the greatest increase in climate hazards, in absolute terms the southeast and northeast of Wales will still remain at the highest risk.



*Fig.2: Left-hand plot shows current risk based on the past 30 years; right-hand plot shows the change in climate hazards between 1.5°C and 2°C of global warming – those places facing the greatest change in risk if we do not achieve 1.5°C (socio-economic factors remain stationary in time)*

### **Can Wales expect fewer cold-related deaths?**

This question has not been explored in the context of the higher targets and a comparison of 2°C and 1.5°C of global warming. However, research undertaken in 2014 suggests that by the 2080s the number of heat-related deaths may increase by around 340% and the number of cold-related deaths may reduce by around 40%. The number of heat-related deaths is not expected to surpass the numbers of cold-related deaths by the 2080s but the ratio of heat- to cold-related deaths is projected to increase from 1:35 to 1:5.<sup>67</sup>

<sup>67</sup> [Climate change effects on human health: projections of temperature-related mortality for the UK during the 2020s, 2050s and 2080s](#), Hajat et al, Journal of Epidemiology & Community Health (2014, Volume 68, Issue 7). Figures quoted draw on the mean estimates.

# Agenda Item 3.8

## SL(5)748 – The Climate Change (Net Welsh Emissions Account Credit Limit) (Wales) Regulations 2021

### Background and Purpose

Part 2 of the Environment (Wales) Act 2016 (“the 2016 Act”) requires the Welsh Ministers to put in place statutory emissions reduction targets for reducing emissions of greenhouse gases in Wales.

Section 33 of the 2016 Act provides that the net Welsh emissions account for a period is the amount of net Welsh emissions of greenhouse gases plus any carbon units debited from the account, and minus any carbon units credited to the account during the period.

Section 33(4) of the 2016 Act requires the Welsh Ministers to set a limit on the amount of carbon units that may be credited to the net Welsh emissions account for a budgetary period.

These Regulations set the limit for the budgetary period 2021-2025 to 0% of the carbon budget.

These Regulations form part of a suite of four instruments that are referred to collectively as the Climate Change (Wales) Regulations 2021.

### 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

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

The preamble refers to a draft of the regulations being “laid before and approved by a resolution of *the* Senedd Cymru” [*emphasis added*]. It appears that the inclusion of the definite article is erroneous, as the Government of Wales Act 2006 refers to “Senedd Cymru” throughout, without “the” preceding it.

### 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.



**Legal Advisers**  
**Legislation, Justice and Constitution Committee**  
**22 February 2021**



*Draft Regulations laid before Senedd Cymru under section 48(3) of the Environment (Wales) Act 2016, for approval by resolution of Senedd Cymru.*

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DRAFT WELSH STATUTORY  
INSTRUMENTS

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**2021 No. (W.)**

**CLIMATE CHANGE, WALES**

**The Climate Change (Net Welsh  
Emissions Account Credit Limit)  
(Wales) Regulations 2021**

**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations set a limit on the amount of carbon units that may be credited to the net Welsh emissions account in accordance with section 33(4) of the Environment (Wales) Act 2016 (“the Act”).

Section 33 of the Act provides that the net Welsh emissions account for a period is the amount of net Welsh emissions of greenhouse gases plus any carbon units debited from the account, and minus any carbon units credited to the account during the period.

Section 33(4) of the Act requires the Welsh Ministers to set a limit on the amount of carbon units that may be credited to the net Welsh emissions account for a budgetary period.

Regulation 2 limits the number of carbon units that may be credited to the net Welsh emissions account for the budgetary period 2021-2025 to 0% of the carbon budget.

In accordance with section 49 of the Act, the Welsh Ministers have obtained and taken into account the advice of the advisory body before laying draft regulations.

The Welsh Ministers’ Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained from the Welsh Government, Cathays Park, Cardiff, CF10 3NQ.

*Draft Regulations laid before Senedd Cymru under section 48(3) of the Environment (Wales) Act 2016, for approval by resolution of Senedd Cymru.*

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DRAFT WELSH STATUTORY  
INSTRUMENTS

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**2021 No. (W.)**

**CLIMATE CHANGE, WALES**

**The Climate Change (Net Welsh  
Emissions Account Credit Limit)  
(Wales) Regulations 2021**

*Made*

\*\*\*

*Coming into force*

*12 March 2021*

In accordance with section 48(3) of the Environment (Wales) Act 2016<sup>(1)</sup> (“the Act”), a draft of this instrument was laid before and approved by a resolution of the Senedd Cymru<sup>(2)</sup>.

Before the draft was laid the Welsh Ministers obtained and took into account the advice of the Committee on Climate Change<sup>(3)</sup>, in accordance with section 49(1) of the Act.

Accordingly, the Welsh Ministers, in exercise of the powers conferred by section 33(4) of the Act, make the following Regulations.

**Title and commencement**

**1.—(1)** The title of these Regulations is the Climate Change (Net Welsh Emissions Account Credit Limit) (Wales) Regulations 2021.

- 
- (1) 2016 anaw 3.  
(2) The reference in section 48(3) of the Environment (Wales) Act 2016 to the National Assembly for Wales now has effect as a reference to Senedd Cymru, by virtue of section 150A(2) of the Government of Wales Act 2006 (c. 32).  
(3) The Committee on Climate Change is the relevant advisory body to the Welsh Ministers by virtue of section 44(3) of the Environment (Wales) Act 2016.

(2) These Regulations come into force on 12 March 2021.

**Carbon units limit**

2. The limit on the amount of carbon units that may be credited to the net Welsh emissions account for the budgetary period 2021-2025 is 0% of the carbon budget.

*Name*

Minister for Environment, Energy and Rural Affairs,  
one of the Welsh Ministers

Date

# **Explanatory Memorandum to the Climate Change (Wales) Regulations 2021**

Explanatory Memorandum to:

- **The Environment (Wales) Act 2016 (Amendment of 2050 Emissions Target) Regulations 2021**
- **The Climate Change (Interim Emissions Targets) (Wales) (Amendment) Regulations 2021**
- **The Climate Change (Carbon Budgets) (Wales) (Amendment) Regulations 2021**
- **The Climate Change (Net Welsh Emissions Account Credit Limit) (Wales) Regulations 2021**

This Explanatory Memorandum has been prepared by the Economy, Skills and Natural Resources Group and is laid before Senedd Cymru in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

## ***Minister's Declaration***

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Climate Change (Wales) Regulations 2021:

- The Environment (Wales) Act 2016 (Amendment of 2050 Emissions Target) Regulations 2021
- The Climate Change (Interim Emissions Targets) (Wales) (Amendment) Regulations 2021
- The Climate Change (Carbon Budgets) (Wales) (Amendment) Regulations 2021
- The Climate Change (Net Welsh Emissions Account Credit Limit) (Wales) Regulations 2021

I am satisfied that the benefits justify the likely costs.

**Lesley Griffiths MS**  
**Minister for Environment, Energy and Rural Affairs**

9 February 2021

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# PART 1

## **1. Description**

A suite of four regulations are covered within this Explanatory Memorandum and are referred to collectively as the Climate Change (Wales) Regulations 2021. Under Part 2 of the Environment (Wales) Act 2016 (“the Act”) Wales committed to reducing emissions of greenhouse gases from Wales by at least 80% in 2050. The Climate Change (Wales) Regulations 2018 established a system of interim emissions targets and carbon budgeting to create an emissions reduction trajectory towards the 2050 target. They also set out how the Welsh Ministers can utilise international carbon credits and set the credit (“offset”) limit for Carbon Budget 1 (CB1, 2016-20). Finally, they provided for how we will deal with emissions from international shipping and internal aviation in calculating our emissions.

The Climate Change (Wales) Regulations 2018, which supported the delivery of the Act, were namely:

- The Climate Change (Interim Emissions Targets) (Wales) Regulations 2018
- The Climate Change (Carbon Budgets) (Wales) Regulations 2018
- The Climate Change (International Aviation and International Shipping) (Wales) Regulations 2018
- The Climate Change (Net Welsh Emissions Account Credit Limit) (Wales) Regulations 2018
- The Carbon Accounting (Wales) Regulations 2018

The Climate Change (Wales) Regulations 2021 amend the 2050 target, the interim targets for 2040 and 2030, and CB2 (2021-25). They also set CB3 (2026-30) and the offset limit for CB2.

## **2. Matters of special interest to the Legislation, Justice and Constitution Committee**

Section 31(4)(b) of the Environment (Wales) Act 2016 requires the Welsh Ministers to set CB3 in 2020, five years before the start of the budgetary period. In accordance with Section 49, before laying draft regulations the Welsh Ministers are required to request and take into account the advice of the advisory body. Under section 49(6) of the Act, if thereafter the Welsh Ministers propose making different provision from that recommended by the advisory body, they must also lay before the Senedd a statement setting out the reasons why. By virtue of no declaration being made by Welsh Ministers appointing an advisory body, Section 44 by default appoints the Climate Change Committee (CCC) to be our statutory advisory body.

In December 2019 the Minister for Environment, Energy and Rural Affairs requested advice from the CCC, including its recommendation for the level of CB3. The Minister requested the advice be published in September 2020 to allow for CB3 to be set by the end of that year. The CCC committed to this

timeline but subsequently, in June 2020, informed the Minister this would no longer be possible due to the challenges posed by the Covid-19 pandemic. The CCC moved publication of the advice to December 2020. The Minister decided it would not be manifestly unreasonable to choose to accommodate a small delay in setting CB3 in order to ensure legislation is brought forward on the basis of proper, thorough advice. The Welsh Ministers have obtained and taken into account the advice of the advisory body in relation to the Climate Change (Wales) Regulations 2021 now laid before the Senedd.

The Act does not establish a deadline for setting the offset limit for each carbon budget. The Welsh Ministers intend to set the CB3 offset limit no later than 2025.

The Carbon Accounting (Wales) Regulations 2018 utilise the UK Registry to host the Welsh credit account. Until the UK left the European Union, the UK Registry was governed by Commission Regulation (EU) 389/2013 establishing a union registry pursuant to Directive 2003/87/EC establishing a system for greenhouse gas emissions trading within the EU. Having left the EU, the UK no longer has access to the EU registries system. Officials are liaising with UK Government counterparts about a new, standalone UK Registry. Once this is established, the Welsh Ministers will need to amend the Carbon Accounting (Wales) Regulations 2018 to ensure provision for registering and keeping track of carbon units held by the Welsh Ministers. It is not expected Welsh Ministers will need to buy offsets in CB1 and it is expected the new UK Registry will be operational well in advance of the end of CB2.

### ***3. Legislative background***

The purpose of Part 2 of the Environment (Wales) Act 2016 is to require the Welsh Ministers to meet targets for reducing emissions of greenhouse gases in Wales. Part 2 puts in place a statutory emissions reduction target that requires the Welsh Ministers to ensure that net emissions of greenhouse gases in Wales, for the year 2050, are at least 80% lower than the baseline.

Part 2 also requires that the Welsh Ministers, by regulations approved by the Senedd, set interim emissions reduction targets for the years 2020, 2030 and 2040, and establish a system of 5-yearly carbon budgeting that together create an emissions reduction pathway to the 2050 target. The Climate Change (Wales) Regulations 2018 fulfilled this requirement.

#### The Environment (Wales) Act 2016 (Amendment of 2050 Emissions Target) Regulations 2021

- Section 29(3) allows the Welsh Ministers to amend the 2050 emissions target.
- Section 32 sets out the principles for amending the 2050 target.

#### The Climate Change (Interim Emissions Targets) (Wales) (Amendment) Regulations 2021

- Section 30(1) allows the Welsh Ministers to amend the interim emissions targets.

- Section 32 sets out the principles for amending the interim emissions targets.

#### The Climate Change (Carbon Budgets) (Wales) (Amendment) Regulations 2021

- Section 31 allows the Welsh Ministers to amend and set carbon budgets.
- Section 32 sets out the principles for amending and setting a carbon budget.

#### The Climate Change (Net Welsh Emissions Account Credit Limit) (Wales) Regulations 2021

- Section 33 provides that the Welsh Ministers must limit how many traded carbon units can be credited to the net Welsh emissions account in a given period. These regulations set the offset limit for Carbon Budget 2.

Section 32(2) of the Act prevents the Welsh Ministers from making regulations changing the 2050 emissions target, an interim emissions target or a carbon budget unless at least one of the following conditions is met:

- they are satisfied that it is appropriate to make the change as a result of significant developments in
  - scientific knowledge about climate change, or
  - EU or international law or policy relating to climate change;
- the change has been recommended by the advisory body;
- the change is in connection with provision made under section 35(1) or 37(2).<sup>1</sup>

As required by the Act, the Welsh Ministers asked the CCC to provide advice to inform the development of the regulations. On 17 December 2020, following a Call for Evidence, the CCC provided their advice to the Welsh Ministers. The report, '[The path to a net zero Wales](#)', includes the CCC's recommendations on:

- The level of the 2050 target;
- The level of the 2030 and 2040 targets;
- The level of CB2 and CB3; and
- The limit for the use of offset credits in CB2.

In giving their advice on the level of the targets and budgets the CCC developed four different emissions scenarios across all sectors of the economy.<sup>2</sup> Drawing on these scenarios, the CCC then produced a fifth – the Balanced Net Zero Pathway that forms the basis of their recommendations.

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<sup>1</sup> Section 35(1) relates to emissions from international aviation and international shipping. Section 37(2) relates to the definition of 'greenhouse gas'.

<sup>2</sup> Electricity supply, residential buildings, non-residential buildings, fuel supply, manufacturing and construction, surface transport, aviation, shipping, agriculture, land use, land use change and forestry, waste and F-gases.

The Climate Change (Wales) Regulations 2021 are brought forward in accordance with Section 32(2)(b) and follow the recommendations of the advisory body.

Section 32(3) of the Act requires the Welsh Ministers when making regulations changing the 2050 emissions target, or setting or changing an interim emissions target or a carbon budget, to have regard to the following:

- The most recent report under section 8 on the state of natural resources in relation to Wales
- The most recent future trends report under section 11 of the Well-being of Future Generations (Wales) Act 2015
- The most recent report (if any) under section 23 of that Act (Future Generations report)
- Scientific knowledge about climate change
- Technology relevant to climate change
- EU and international law and policy relating to climate change (including international agreements on measures designed to limit increases in global average temperatures)

The Climate Change (Wales) Regulations 2021 are brought forward in accordance with Section 32(3) of the Act.

### **Procedures for laying regulations**

The regulations are subject to the approval of the Senedd via the draft affirmative procedure.

In accordance with Section 49, before laying draft regulations the Welsh Ministers are required to request and take into account the advice of the advisory body. By virtue of no declaration being made by Welsh Ministers appointing an advisory body, Section 44 by default appoints the Climate Change Committee (CCC) to be the statutory advisory body. Where regulations make different provision to the advice provided by the CCC, the Welsh Ministers must lay a statement before the Senedd setting out the reasons why.

The Climate Change (Wales) Regulations 2021 follow the advice of the advisory body.

## ***4. Purpose and intended effect of the legislation*** **Environment (Wales) Act 2016 (Amendment of 2050 Emissions Target) (Wales) Regulations 2021**

### *Current situation*

Section 29 of the Act establishes a statutory emissions reduction target that requires the Welsh Ministers to ensure that net emissions of greenhouse gases in Wales, for the year 2050, are at least 80% lower than the baseline.

### *Purpose*

The purpose of this regulation is to increase the 2050 target to at least 100% lower than the baseline ('net zero').

### *Intended effect*

The intended effect of this regulation is to bring Wales's 2050 target in line with the CCC's recommendation, reflecting developments in scientific knowledge, public opinion and global ambition since the original target was set in 2016.

## **Climate Change (Interim Emissions Targets) (Wales) (Amendment) Regulations 2021**

### *Current situation*

The Climate Change (Interim Emissions Targets) (Wales) Regulations 2018 set the interim targets that represented a pathway to the 2050 target established in the Act as follows:

- a 2020 target for an emissions reduction of 27% against the baseline
- a 2030 target for an emissions reduction of 45% against the baseline
- a 2040 target for an emissions reduction of 67% against the baseline

### *Purpose*

The purpose of this legislation is to set targets for 2030 and 2040 that represent a pathway to the new net zero target for 2050:

- a 2030 target for an emissions reduction of 63% against the baseline
- a 2040 target for an emissions reduction of 89% against the baseline

### *Intended effect*

The intended effect of this regulation is to establish targets for 2030 and 2040 in line with the CCC's recommendations, frontloading action in the 2020s. Reducing emissions early matters as it is global cumulative emissions that drive climate outcomes. The Welsh Ministers must set each interim emissions target at a level they are satisfied is consistent with meeting the 2050 emissions target.<sup>3</sup>

## **Climate Change (Carbon Budgets) (Wales) (Amendment) Regulations 2021**

### *Current situation*

A carbon budget sets a maximum limit on the total amount of Welsh emissions permitted over a 5-year budget period. The Climate Change (Carbon Budgets) (Wales) Regulations 2018 set Carbon Budgets 1 and 2 as follows:

- CB1 (2016-2020): an average of 23% below the baseline

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<sup>3</sup> Section 32(1)(a) of the Act.

- CB2 (2021-2025): an average of 33% below the baseline

### *Purpose*

The purpose of this legislation is to set CB2 and CB3 at levels that represent a pathway to the new targets for 2030, 2040 and 2050:

- CB2 (2021-2025): an average of 37% below the baseline
- CB3 (2026-2030): an average of 58% below the baseline

### *Intended effect*

The intended effect of this regulation is to establish carbon budgets for the 2020s in line with the CCC's recommendations. The Welsh Ministers must set each carbon budget at a level they are satisfied is consistent with meeting:

- the 2050 emissions target; and
- the interim target for any interim target year that falls within or after that budgetary period.<sup>4</sup>

## **Climate Change (Net Welsh Emissions Account Credit Limit) (Wales) Regulations 2021**

### *Current situation*

The Climate Change (Net Welsh Emissions Account Credit Limit) (Wales) Regulations 2018 set the limit on the use of carbon units for CB1.

### *Purpose*

The Act requires Welsh Ministers to set a limit on the total amount that the Net Welsh Emissions Account can be reduced through the use of carbon units. The Carbon Accounting (Wales) Regulations 2018 defines carbon units as the international offset credits generated through Certified Emission Reduction (CER). Offset credits provide a means by which Wales can invest in emission reduction activities overseas and use the emission reductions achieved to offset domestic emissions within the Welsh targets.

The purpose of this regulation is to set the limit on the use of carbon units for CB2 (2021-2025).

### *Intended effect*

The intended effect of this regulation is to set the offset limit for CB2 in line with the CCC's recommendation and ensure that CB2 is met solely by reducing domestic emissions. As the CCC's recommendation is to outperform CB2 on the way to more ambitious CB3 and the 2030 targets, the CCC concludes that it is not appropriate to meet CB2 with any use of carbon units i.e. the offset limit for CB2 should be set at 0%.

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<sup>4</sup> Section 32(1)(b) of the Act.

# PART 2 – REGULATORY IMPACT ASSESSMENT

## *Introduction*

The four regulations that make up The Climate Change (Wales) Regulations 2021 all relate to Wales's emissions reduction pathway to 2050 and are highly interdependent. This RIA therefore considers options for the pathway as a whole, rather than each regulation in turn. The pathway set in regulations represents the strategic decarbonisation framework but many individual policy measures are required to achieve the pathway. There are multiple ways to deliver the pathway and so the actual costs and benefits can only be determined once the measures to meet the carbon budgets have been agreed; policy-level impact assessments are required to conduct this analysis.

Since the Senedd passed the Climate Change (Wales) Regulations in 2018, science, technology, markets and cost assumptions have changed, showing the inherent uncertainties in modelling emission pathways and estimating costs. The Welsh Government is focussed on developing and taking the actions needed to meet the carbon budgets and targets and so is reliant on the Climate Change Committee (CCC) advice. This means there are only two options presented in this RIA, both drawing on CCC expertise.

## *Options*

### **Option 1: Retain current emissions pathway ('do minimum')<sup>5</sup>**

Option 1 fulfils the statutory duty to set CB3 and does so at a level consistent with the existing 80% pathway and the CCC's 2017 advice. It also increases the average reduction required in CB2 from the existing 33% to 37% to take account of the early closure of Aberthaw Power Station. The Welsh Government endorsed this principle when accepting the CCC's 2017 advice. Finally, this option sets the CB2 offset limit at 0%, in line with the CCC's recommendation in their 2020 advice. It leaves all the decadal targets unchanged.

- Carbon Budget 2 (2021-25): 37% average reduction with a 0% offset limit
- Carbon Budget 3 (2026-30): 43% average reduction<sup>6</sup>
- 2030: 45% reduction
- 2040: 67% reduction
- 2050: at least 80% reduction against the baseline

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<sup>5</sup> These targets are all set against the 2017 CCC advice, which was in turn based upon scientific understanding of GHG emissions at that time (1990-2015 GHG emission data are used as the basis). However, understanding of emissions has progressed since then and the latest CCC analysis is considerably revised to take account of these changes. The Option 1 pathway does not take any of these adjustments into account.

<sup>6</sup> There is no statutory deadline for setting each offset limit. We will set the CB3 offset limit no later than 2025.

## Option 2: Accept the CCC’s recommendations in the December 2020 advice

- Carbon Budget 2 (2021-25): 37% average reduction with a 0% offset limit<sup>7</sup>
- Carbon Budget 3 (2026-30): 58% average reduction<sup>8</sup>
- 2030: 63% reduction
- 2040: 89% reduction
- 2050: at least 100% reduction against the baseline

### Costs and benefits

#### Costs

We estimate the Present Value of resource costs of Option 2 will lead to additional resource costs of between £6bn and £10bn over the period to 2050.<sup>9</sup> The best estimate, based on the Balanced Pathway that the CCC’s recommendations are drawn from, is that the cost is likely to be in the upper third of this range. Upper and lower bounds are drawn from analysis of all of the CCC’s scenarios in their December advice.<sup>10</sup>

**Note:** The resource costs of the net zero transition are not attributed as part of this analysis. Costs are likely to be shared between the Welsh and UK Governments, the private sector, investors and citizens.

	Best estimate	Lower bound	Upper bound
Option 1	£4.7bn	£3.3bn	£5.5bn
Option 2	£14.1bn	£10.1bn	£15.9bn
Additional cost of Option 2	<b>£9.4bn</b>	£5.9bn	£10.4bn

**Table 1:** Present Value of resource costs of Options 1 and 2<sup>11</sup>

<sup>7</sup> The CCC’s recommendation for CB2 was a 37% average reduction in law with a commitment to outperform it. This is the minimum required to meet the Balanced Pathway. Our costs analysis incorporates the CCC’s recommendation for CB2 with a view to meeting the 2030 recommendation and later targets.

<sup>8</sup> There is no statutory deadline for setting each offset limit. We will set the CB3 offset limit no later than 2025.

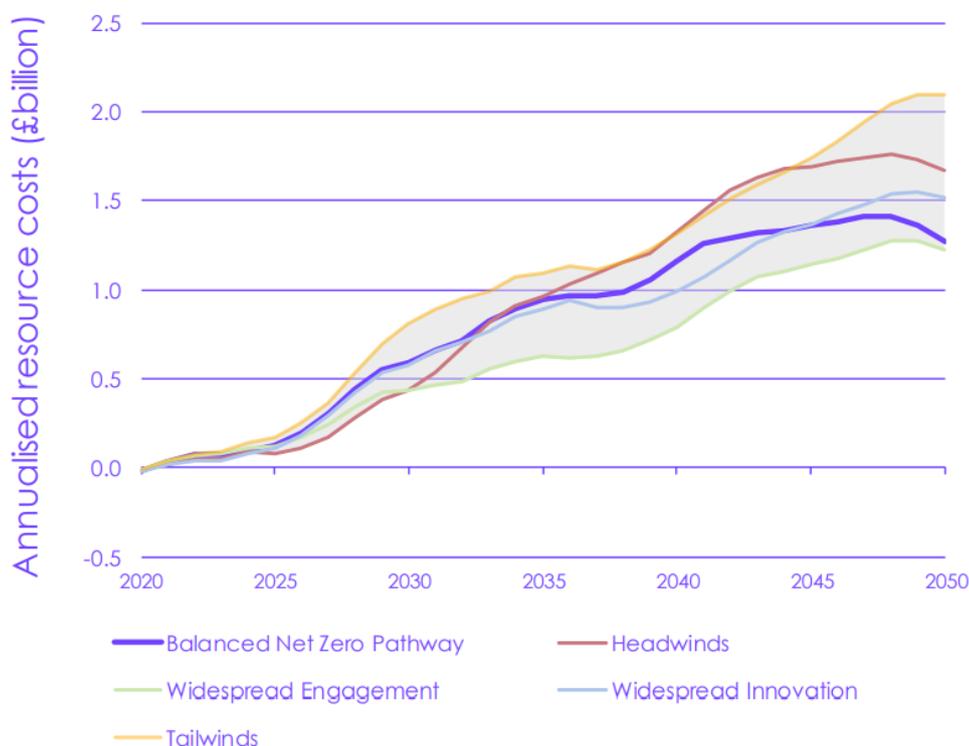
<sup>9</sup> Resource costs are discounted using the Social Time Preference Rate’ (STPR) (3.5%) to provide the Present Value of resource costs. Additional resource costs indicate the extra spend required to provide the same goods and services but in a low-carbon way. They are calculated by annualising the capital investment costs over their lifetimes using a suitable cost of capital and subtracting in-year operating cost savings.

<sup>10</sup> Headwinds, Widespread Engagement, Widespread Innovation, and Tailwinds – in addition to the Balanced Pathway.

<sup>11</sup> Figures may not sum due to rounding and comparisons across multiple CCC scenarios.

## Comparison with the CCC estimate

Figure 1 shows that the CCC forecast the resource cost of their Balanced Pathway to be approximately £25bn.<sup>12</sup>



**Figure 1:** Annualised resource costs of the CCC’s scenarios; CCC analysis

The reasons for the difference between our estimate and the CCC’s estimate are twofold:

1. The CCC does not apply discounting to their estimates. The effect of discounting is the sole reason for the difference between their £25bn figure and the £14.1bn figure in Table 1.
2. The CCC compares the costs of achieving a net zero target with a hypothetical counterfactual<sup>13</sup> of no-further climate-action from today. The counterfactual against which the costs in this RIA are compared is the existing statutory 80% target (Option 1).

## Methodological approach

**Note:** Our cost estimates have been derived entirely from the CCC analysis and we have not undertaken our own modelling.

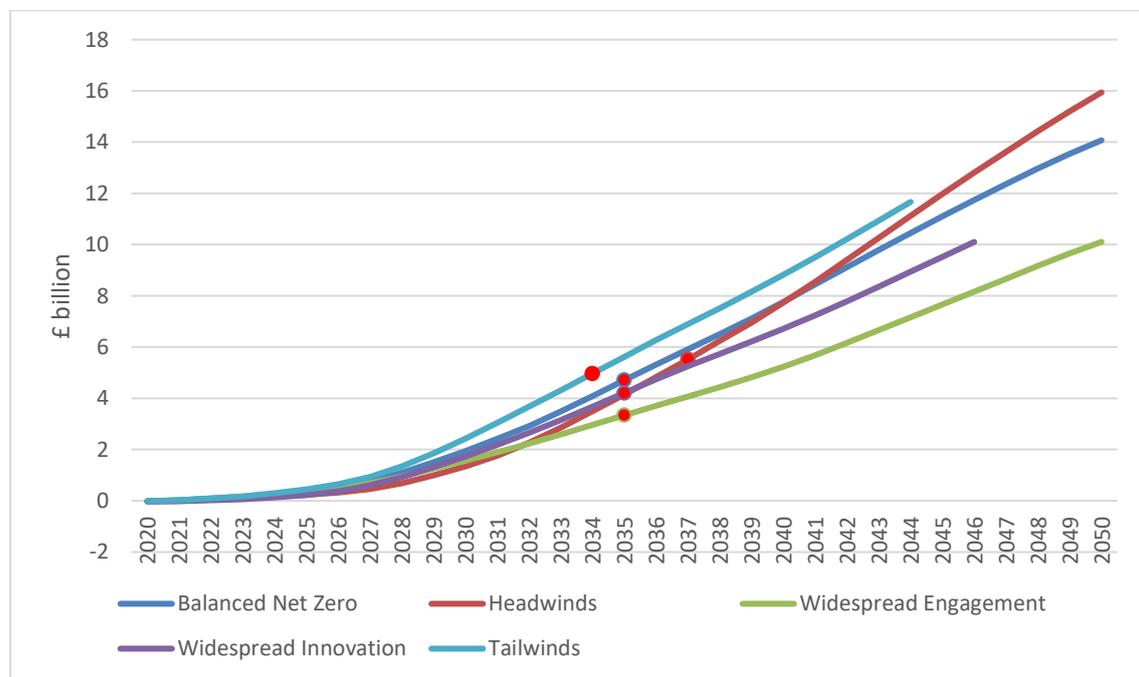
<sup>12</sup> The CCC report resource costs on an annual rather than cumulative basis. The £25 billion figure is the summation of the annual resource cost in each of the 30 years it takes to reach the net zero target. For detail on the CCC’s methodology, including assumptions, uncertainties and sensitivities, see Chapter 5 of [The Sixth Carbon Budget – The UK’s path to Net Zero](#).

<sup>13</sup> The CCC’s counterfactual in the 2020 advice differs from all previous CCC publications. For more information see p.20 of [The Sixth Carbon Budget Methodology Report](#) (CCC, 2020).

The costs of both options are based on the scenarios produced by the CCC in their December advice. The costs of Option 1 are calculated by taking the annualised resource costs up to the point at which the particular scenario reaches the 80% target, whereas the costs of Option 2 take into account the whole pathway to net zero.

Figure 2 shows the cumulative annual resource costs for each scenario from 2020 onwards, up to the year where net zero emissions is reached. The point at which 80% is reached varies in the different scenarios (Table 2) and is indicated by the red dot in Figure 2. The additional costs of Option 2 are derived from the difference between the red dot and the end of the line.

The CCC’s scenarios rely to varying degrees on engineered greenhouse gas removals, such as Bioenergy with Carbon Capture and Storage (BECCS). The Balanced Pathway recommended by the CCC in their 2020 advice leads to a 96% reduction in Welsh emissions in 2050.<sup>14</sup> The CCC advises that Wales can credibly meet net zero in the Balanced Pathway either with a 4% share (approximately 2MtCO<sub>2</sub>e) of total UK engineered removals or through increased action in other areas, including land use and behavioural changes. However, the CCC’s analysis does not allocate a specific level of engineered removals to each UK nation. The analysis behind the figures in Table 1 includes Wales’s share of the UK costs of engineered removals in each CCC scenario up to 2050, in order to estimate the full cost of achieving net zero. Alternative ways of bridging the emissions gap would incur different costs.



**Figure 2:** Cumulative Present Value of resource costs for each scenario; WG, using CCC analysis

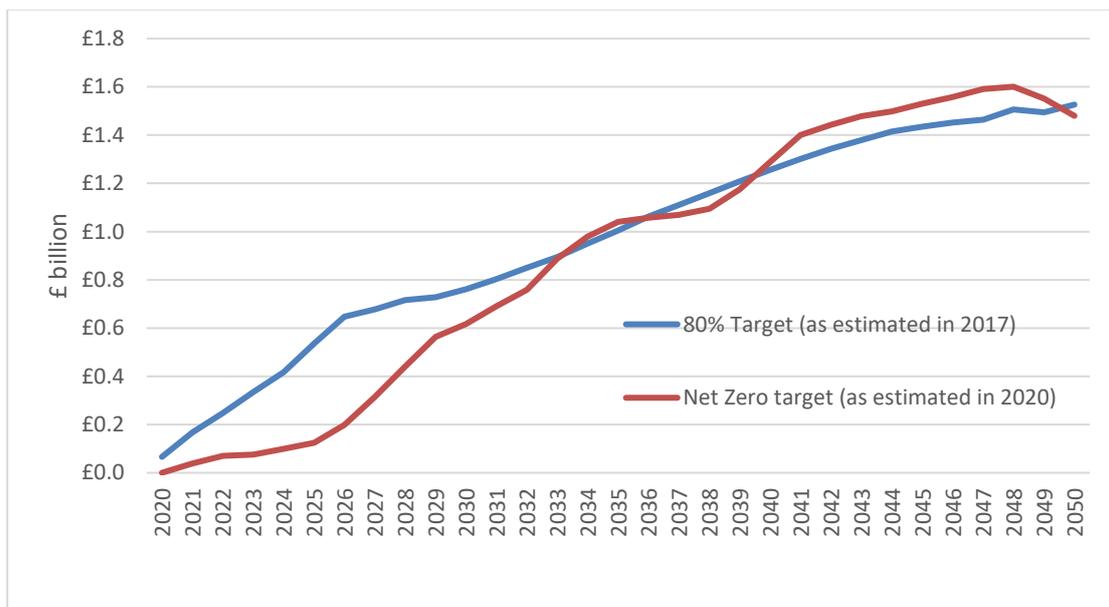
	<b>80%</b>	<b>Net zero</b>
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<sup>14</sup> The other CCC scenarios that do not reach net zero by 2050 are Headwinds (93%) and Widespread Engagement (99%).

Balanced Pathway	2035	2050
Headwinds	2037	2050
Widespread Engagement	2035	2050
Widespread Innovation	2035	2046
Tailwinds	2034	2044

**Table 2:** Years in which emission reduction targets are met under the CCC’s scenarios; WG, using CCC analysis<sup>15</sup>

We adopted this approach to estimate the costs of Option 1 because the CCC’s 2017 cost estimate of an 80% target can no longer be considered robust, due to significant falls in the costs of technology and methodological changes undertaken by the CCC.<sup>16</sup> To illustrate the impact of these changes, Figure 3 shows the estimated resource cost of achieving an 80% target (produced in 2017) compared to the cost of achieving a net zero target (produced in 2020). This shows the uncertainty of estimating future resource costs, as they are highly sensitive to differences in behaviour change and the level of innovation in low carbon technologies.



**Figure 3:** Annualised resource cost of Option 1 (2017) and Option 2 (2020) (£billion); WG, using CCC analysis<sup>17</sup>

<sup>15</sup> Our analysis assumes a small amount of engineered greenhouse gas removals in the Balanced Pathway and Headwinds scenario before 2035 and 2037 respectively. This has been accounted for in the costs in Table 1. For the purposes of our analysis, the Balanced Pathway, Headwinds and Widespread Engagement Scenarios reach net zero in 2050 with varying amounts of engineered removals.

<sup>16</sup> The changes and their implications are summarised in Box 1.2 on p.27 of [The Sixth Carbon Budget Methodology Report](#) (CCC, 2020).

<sup>17</sup> Option 2 (Net Zero target) is based on our undiscounted cost analysis of the CCC’s Balanced Pathway and includes the costs of engineered removals required to reach net zero.

### *Where the costs are likely to fall*

The CCC is clear that the costs should not be interpreted as being solely delivered through Welsh Government expenditure, nor as costs that only Welsh businesses and households have to bear. The extent to which costs and savings are shared across the UK – including the amount of expenditure through Welsh Government budgets – will be determined by policy at both UK and Welsh Government level. Many of the actions to reduce emissions will likely be paid for at UK level and/or socialised across the whole of the UK. The CCC provides the following examples:

- The costs associated with building new low-carbon generation will be shared across all consumers of electricity on the GB grid. The CCC has reflected this by allocating resource and investment costs for electricity supply to Wales in proportion to consumption, rather than make assumptions on where new zero-carbon generating capacity is located.<sup>18</sup>
- The costs of decarbonising industrial clusters could be met through a combination of direct financing from the UK Exchequer and/or be passed through to the end-users of low-carbon products.
- A market mechanism for greenhouse gas removals could see the UK aviation industry offsetting emissions by paying for removals, including planting trees, in all areas of the UK.

An expert advisory group convened by the CCC suggested that the private sector could deliver the majority of the investments in a transition to Net Zero.<sup>19</sup> For this to happen, the Welsh and UK Governments will need to ensure appropriate regulatory and taxation regimes are in place. Given the CCC anticipates a small overall economic impact and assumes the private sector to finance most of the transition, the CCC expects the overall impact on public finances to 2050 to be limited.

Table 1 shows a larger total Present Value of resource costs for Option 2 than Option 1. This means that Option 2 may result in increased costs for households, at least in the short-term. However, in Option 2 households are likely to benefit from reduced operating costs over time. There is evidence to suggest that the benefits of Option 2 may outweigh the costs; the benefits are explored in further detail below.

In December 2020 HM Treasury published an interim report for its Net Zero Review.<sup>20</sup> The report recognises the implications for households arising from the structural changes required by the transition to a net zero economy but does not seek to calculate the impact of the transition on any particular group.

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<sup>18</sup> This assumption typically causes the estimate of Wales' share of UK costs to be lower than its share of UK abatement, because Wales is currently a significant net exporter of gas-fired power to the UK, but the costs of actions to decarbonise power will be shared by all electricity users in the UK.

<sup>19</sup> For detail, see Chapter 5 of [The Sixth Carbon Budget – The UK's path to Net Zero](#).

<sup>20</sup> [Net Zero Review: Interim Report](#) (HM Treasury, December 2020)

The report acknowledges the inherent uncertainties in forecasting how the net zero transition will affect households by concluding that:

“The transition is a dynamic process that will take place over several decades, and its impact on individual households will ultimately depend on a range of factors including: the development of new low-carbon sectors in the UK; the pace of transition and policy levers chosen; the price of low-carbon alternatives to households and businesses’ current activities; and the dynamism of the labour and capital market.”

Households are exposed to the net zero transition through:

1. The goods and services they buy (household consumption). Different types of household will have different levels of exposure to the transition. For example, higher-income households consume more carbon in absolute terms, but lower-income households tend to consume more carbon relative to their income. HMT analysis suggests that the highest-income households emit around three times as much carbon as the lowest-income households, while on average their income is approximately eight times greater. Furthermore, regional analysis suggests that the average household greenhouse gas footprint in Wales is around the average, when compared to other parts of the UK.<sup>21</sup>
2. Labour market effects. There are likely to be large transitional labour market effects between sectors, with people in certain occupations (skilled trade, and process plant and machine workers) more likely to work in more carbon-intensive industries. People in these occupations are also disproportionately likely to have a lower level of education and to be lower income workers. HMT analysis suggests that people with lower and middle levels of education are employed in jobs with over 20% higher carbon intensity than highly educated employees, on average.
3. Changes to the value of assets. The interim report does not include analysis of this aspect. The net zero transition could affect household business profits, subsequently affecting households that own them (negatively or positively, depending on the household assets owned).

### *Benefits*

The CCC’s December advice considers the benefits of net zero in the areas of prosperity, health and natural capital. The benefits discussed here follow the CCC’s approach of comparing a net zero pathway (Option 2) with a future of no further climate action, rather than comparing the benefits of Options 1 and 2 directly.

While it is not possible to quantitatively compare the macroeconomic, health and natural capital benefits under the options considered, it is reasonable to assume greater net benefits will accrue under Option 2 in relation to health and natural capital. This is because a net zero target will likely demand a greater policy response relevant to these areas, for example more tree planting, and this should increase the benefits flowing from these actions. Option 2 also

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<sup>21</sup> [Net Zero Review: Interim Report](#) (HM Treasury, December 2020, p.75)

frontloads climate action in the next 15 years, which would achieve the benefits earlier than Option 1 and result in greater cumulative benefit overall.

### **Prosperity and resilience**

In the near term, the CCC report that GDP is likely to increase, especially as the economy rebuilds after the COVID-19 crisis. The negative economic impacts from COVID-19 mean the economy is not at full capacity and so present an opportunity for projects which are both ready to implement and which have a high fiscal multiplier effect. According to Hepburn et al (2020), green projects considered to have high multiplier values and strong climate benefits include building efficiency spending for renovations and retrofits, and natural capital investment for eco-system resilience and regeneration (such as restoration of carbon-rich habitats and climate friendly agriculture).<sup>22</sup>

The CCC endorses this position, arguing that now is an ideal time to encourage investment, based on historically low interest rates and a potential demand shortage for cheap capital. Economic recovery from the COVID-19 pandemic necessitates stimulus, and many of the measures detailed in their advice have been shown to have high economic multipliers. However, it should be noted that other fiscal spending not linked to environmental policy may also have a high fiscal multiplier effect during periods of spare capacity. Furthermore, we cannot know for how long the economy will be at limited capacity as a result of COVID-19.

The CCC stresses that the estimates of annualised resource costs are not the same as macroeconomic impacts because resource costs are a microeconomic measure which do not account for wider dynamic interactions in the economy. For example, resource costs incorporate investment costs but do not account for the increase in GDP if that investment is made domestically. Furthermore, the shift away from fossil fuel imports is likely to have major benefits to the country's trade balance, which the resource costs also do not account for.

Macroeconomic analysis conducted in support of the CCC's advice demonstrates that despite the added resource costs involved, the net zero transition is expected to boost UK GDP by around 2% by 2030, levelling off at around a 3% increase by 2050.<sup>23</sup> The analysis estimates that UK net employment will be between 0.5-1% higher than the baseline of no further climate action between 2025-2050, with this employment growth largely resulting from the net zero investment programme.

The CCC reports that actions needed for the transition to net zero in Wales can stimulate economic growth, create jobs, and aid a recovery from the pandemic, as well as increasing resilience to future climate risks. Legislating the CCC's recommended targets would send a clear signal that Wales is open for low-carbon investment and take forward the commitment to "respond energetically to the climate emergency by pursuing a strong decarbonisation agenda", set

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<sup>22</sup> [Will COVID-19 fiscal recovery packages accelerate or retard progress on climate change?](#) (Hepburn et al, May 2020)

<sup>23</sup> [Economic impact of the Sixth Carbon Budget](#) (Cambridge Econometrics, 2020)

out in the 'COVID-19 Reconstruction: Challenges and Priorities' paper, published in October 2020.<sup>24</sup> This will also help to encourage private investment at a time when it is needed to support Wales' economic recovery from the COVID-19 crisis. It could also help Wales secure competitive positions in growing global markets for low-carbon goods and services.

## **Health**

There is clear evidence for the health benefits of the net zero transition. Some of these come directly from changes required to achieve net zero (e.g. more active travel and dietary changes) and some indirectly from the implications of those changes (e.g. better air quality from reduced burning of fossil fuels and more liveable buildings as insulation is improved). These benefits are difficult to quantify, but the CCC states that they "unquestionably offset some, if not all, of the overall resource costs of achieving emissions targets".

The CCC's Expert Advisory Group on Health concurred strongly with the CCC's previous assessment that climate action could bring significant benefits to health. The Group identified five key areas in which action would bring benefits to public health and reduction of health inequalities while contributing to the mitigation of – and adaptation to – climate change:

1. Improved air quality delivered by a move to a cleaner energy system and moving away from fossil fuel combustion in most sectors of the UK.
2. Healthier modes of transport, particularly due to the health benefits of walking and cycling and reducing air pollution from road vehicles.
3. More comfortable and efficient homes that are low-carbon, energy efficient and designed for a changing climate.
4. Better diets with a focus on healthy and sustainable alternatives to the highest carbon foods.
5. Sustainable economic and employment models that better support health and wellbeing.

While noting the potential benefits to public health, the Group noted that the biggest driver of health outcomes in the UK remains economic inequality. A just transition is therefore an essential part of a successful climate policy and health policy.

There are also some potential health risks associated with achieving net zero. One such risk is a greater risk of airborne infection where increased energy efficiency in buildings is not accompanied by adequate ventilation.<sup>25</sup>

## **Natural capital and well-being**

Each of the CCC's scenarios for Wales include measures to improve Wales' natural capital:

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<sup>24</sup> [COVID-19 Reconstruction: Challenges and Priorities](#) (WG, 2020)

<sup>25</sup> University of Leeds study quoted in 'Could Energy Efficiency Actually Increase Hospital Infection Rates?' (2013): <http://www.buildings.com/articles/30879/could-energy-efficiency-actually-increase-hospital-infection-rates>

- Provisioning services. The scenarios include an increase in renewable energy generation – particularly wind – consistent with the Welsh Government's target to generate renewable electricity equivalent to 70% of Welsh consumption by 2030.
- Regulation services. The Balanced Pathway includes the planting of between 4,500 and 7,500 hectares of trees per year, from 2025 to 2050, which will also contribute to improved air quality. Trees filter rainwater before it reaches receiving waters, thus improving water quality. Strategic planting of trees on flood plains can also regulate flooding. Trees can also reduce storm water runoff and slow storm flow. Significant areas of peatland will also be restored which – in addition to carbon sequestration – provide other vital services, such as water regulation, flood protection and habitats for wildlife.
- Cultural services. The natural environment provides a range of cultural services, such as increased amenity benefits, improved mental health, educational benefits and spiritual well-being.
- Supporting Services. In agriculture, the scenarios include soil and crop measures that aim to increase the efficiency of fertiliser use. These have benefits to water and soil quality, and biodiversity.

### *A just transition to Net Zero*<sup>26</sup>

The CCC expects the transition to bring many benefits for UK households. By 2035, in the CCC's scenarios, people's homes will be better insulated, their cars will be cheaper to drive, they will have cleaner air, quieter streets, more access to green spaces and more opportunities to improve their health. Policy should aim to share these benefits broadly across the population.

The CCC also highlights the risk of uneven costs. In the long term, energy costs and energy bills are expected to fall significantly but electricity costs are likely to rise first. Although improvements to energy efficiency could largely offset these costs, the CCC says that the additional costs should not be automatically added to energy bills, which is a regressive approach. It notes that continuing to add climate policy costs primarily to electricity prices, but not gas prices, adversely affects particular groups (those with electric heating).

### **New job opportunities**

The opportunities for jobs growth have, to date, largely been focused on deploying renewable electricity. Research conducted by the International Labour Organisation suggests that growth in renewable energy sources leads to greater job creation than growth in non-renewable energy sources.<sup>27</sup> The CCC anticipates that the next phase of decarbonisation will go beyond renewable electricity towards electric vehicles, low-carbon hydrogen, carbon capture usage and storage (CCUS) and buildings decarbonisation. Low-carbon industrial products will be in increasing demand across the world.

<sup>26</sup> For more detail, see Chapter 6 of [The Sixth Carbon Budget – The UK's path to Net Zero](#).

<sup>27</sup> ['The transition in play: Worldwide employment trends in the electricity sector'](#), (International Labour Organization, Research Department Working Paper No. 28, G. Montt, N. Maitre, S. Amo-Agyei, 2018)

The macroeconomic analysis published alongside the CCC's advice also provides some insights into potential employment effects.<sup>28</sup> It identifies boosts in employment in the utilities sector and in manufacturing and construction, while there will likely be job losses in oil and gas production and aviation. At a UK level, the analysis estimates net employment growth of between 0.5-1% compared with the baseline of no further climate action between 2025-2050, resulting from the economic stimulus effect of the major investment programme implied by the CCC's Balanced Pathway.

### **Pressure on existing jobs**

A transition to Net Zero will also reduce demand for certain high-carbon services and technologies, such as fossil fuel extraction, processing and distribution, aviation, fossil fuel machinery and some livestock and dairy. This could see jobs in some key sectors significantly affected, though in each area there will also be new employment opportunities.

### **Regional considerations**

The opportunities and challenges of the low-carbon transition will vary regionally. For example areas with older, energy inefficient housing could face higher energy bills. Rural areas off the gas grid, who typically pay more for heating fuel, could have more to gain from a switch to low-carbon heating. Current and future transport infrastructure can limit the ability of the local population to walk, cycle or use public transport, and may affect the opportunity for, and costs of, running an electric vehicle. However, a transition to electric vehicles alongside an increase in active travel will lead to a decrease in local air pollution, benefitting health. A shift to healthier diets, and improved quality of housing is expected to lead to lower costs for the health service. An increase in tree-planting and urban green spaces will provide more green recreational space. Relative wealth will be important, including the ability to fund changes locally.

### *CCC Expert Advisory Group on the costs and benefits of a UK net-zero emissions target*

In 2019, the CCC set up the Advisory Group on the Costs and Benefits of Net Zero. The Advisory Group produced a Chair's Report based on the Group's deliberations and written submissions.<sup>29</sup>

The thrust of the report was that the costs and benefits of deep decarbonisation are unknowable with any precision, as they are both very uncertain in themselves and depend both on the decarbonisation policies and the timescale over which they are pursued. However, that said, the Group drew the following conclusions:

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<sup>28</sup> [Economic impact of the Sixth Carbon Budget](#) (Cambridge Econometrics, 2020)

<sup>29</sup> [Report to the CCC](#) (Advisory Group on the Costs and Benefits of Net Zero, May 2019)

- The climate science suggests that there are very large potential benefits of limiting the average global temperature rise to 1.5°C rather than 2°C, which provides a justification for a Net Zero as opposed to an 80% emission reduction target;
- The costs of reducing greenhouse gas (GHG) emissions have been grossly over-estimated in the past; recent modelling suggests that costs might be around 1% of GDP, but ongoing reductions in the costs of zero-carbon technologies suggest that in the future the costs might turn negative (i.e. zero-carbon electricity may turn out to be cheaper than fossil fuel generation, even if the climate benefits are not considered);
- The costs of reaching Net Zero by a certain date (e.g. 2050) will be lower the sooner the requisite policies are put in place to achieve it, to give investors certainty about the direction of travel and to fit in with investment cycles to minimise the stranding of long-lived high carbon infrastructure;
- The health co-benefits of reducing fossil fuel use and greenhouse gas emissions could be very substantial in terms of improved air quality, active travel and healthier lower-meat diets;
- However low (or negative) the costs of Net Zero turned out to be, the transition to Net Zero would involve deep structural changes that would affect people, communities and economic sectors in very different ways. There would be winners and losers. The political acceptability of the transition would depend on it being seen to be fair, as well as this being desirable on ethical grounds;
- Achieving Net Zero by 2050 will require wide-ranging policies that are credible, consistent across government, long-term and of a stringency to transform major techno-socioeconomic systems of society (including energy, food, transport, waste and resource use). The required policy approach “includes a stable long-term direction with clear governance, regular reviews for flexibility, use of markets to find the best solutions, support for large-scale deployment of new technologies as well as research and development, and approaches that are tailored to the needs of each sector, while maintaining consistency across the system.”

Their report emphasised that the benefits (including decreased climate risk) of net zero outweigh the costs, that good policy design is vital to keep costs low and maximise benefits and that clarity around the decarbonisation pathway is a key enabler of innovation.

In April 2020 the CCC asked the Advisory Group to reflect on whether the economic circumstances consequent on and subsequent to COVID-19 are likely to have affected the Group’s conclusions in its 2019 Report, as set out above. The Group concluded that, if anything, their recommendations from 2019 have been reinforced by events since.<sup>30</sup>

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<sup>30</sup> [Supplementary report to the CCC](#) (Advisory Group on the Costs and Benefits of Net Zero, December 2020)

“The climate science has not changed, justifying the pursuit of a 1.5°C target [and net zero]... There is now a much greater economic rationale for substantial public investment, and the right measures to crowd in private investment, than there was [in 2019].”

### *Administrative costs*

The administrative cost burden on the Welsh Government arises from establishing and maintaining the legislative framework for emissions reduction, developing policy, and then monitoring and reporting progress against the targets and carbon budgets. These costs are expected to be broadly similar under each of the options presented above.

### **Environment Act factors**

Section 32(3) of the Environment (Wales) Act 2016 lists a number of reports and factors that Welsh Ministers must have regard to when changing the 2050 emissions target, or setting or changing an interim emissions target or carbon budget. The reports and factors are:

- the most recent State of Natural Resources Report;
- the most recent Future Trends Report;
- the most recent Future Generations Report;
- scientific knowledge about climate change;
- technology relevant to climate change; and
- EU and international law and policy relating to climate change (including international agreements on measures designed to limit increases in global average temperatures).

### **State of Natural Resources Report**

In December 2020 Natural Resources Wales (NRW) published the first documents as part of the second State of Natural Resources Report (SoNaRR 2020). Among these documents are NRW’s assessments of the four aims of the Sustainable Management of Natural Resources (SMNR). In its assessment of the achievement of SMNR Aim one (Stocks of natural resources are safeguarded and enhanced), NRW finds that climate change is having a “substantial effect on biodiversity and ecosystems” through:<sup>31</sup>

- shifting species ranges;
- localised extinctions;
- changes to life-cycle events;
- sea level rise;
- exacerbating the increase in invasive species including disease vectors; and
- altering the abundance and distribution of biodiversity.

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<sup>31</sup> [SoNaRR 2020: Assessment of the Achievement of SMNR Aim 1: Stocks of Natural Resources are Safeguarded and Enhanced](#) (NRW, 2020)

The projected increase in frequency and intensity of droughts, fluvial and coastal floods and heatwaves are all likely to further reduce overall ecosystem resilience.

NRW concludes that “Overall Wales’s natural resources are not safeguarded or enhanced to the degree that we can say we are achieving sustainable management.”<sup>32</sup> It identifies decarbonisation as one of four opportunities for action to improve performance against Aim one. NRW has also published natural resource registers showing how climate change is causing pressures and impacts on the eight ecosystems within SoNaRR.<sup>33</sup>

Ecosystem	Key pressures			
	Changing weather patterns	Sea level rise	Increased water temperature	Ocean acidification
Coastal margins				
Enclosed farmland				
Freshwater				
Marine				
Mountains, moorlands and heaths				
Semi-natural grasslands				
Urban				
Woodlands				

**Table 3:** Key pressures on ecosystems caused by climate change (NRW, SoNaRR 2020)

The full chapter on how climate change is threatening ecosystem resilience and ecosystem services will be published in March 2021.

## Future Trends Report

The most recent Future Trends Report dates from 2017, with the next report due in summer 2021.<sup>34</sup> The report identifies key future social, economic, environmental and cultural trends for Wales, under six themes that impact all aspects of government and public administration. Climate change is one of the themes, along with population, health, economy and infrastructure, land use and natural resources, and society and culture. The report essentially asks two questions:

1. Where might Wales be going? (Trends)
2. What could this mean? (Influencing factors)

<sup>32</sup> [SoNaRR 2020: Assessment of the Achievement of SMNR Aim 1: Stocks of Natural Resources are Safeguarded and Enhanced](#) (NRW, 2020, p.22)

<sup>33</sup> [SoNaRR2020: Natural resource registers](#) (NRW, 2020)

<sup>34</sup> [Future Trends Report](#) (Welsh Government, 2017)

## *Trends*

### **Population**

Wales' population is projected to increase over the next 20 years, possibly by around 5%. Around half of this growth could be due to natural change (births and deaths) and half due to in-migration from the rest of the UK or internationally. The UK's exit from the European Union could lead to more controlled migration in the future and a subsequently lower population growth rate.

Over the next 20 years, the percentage of over 65s in Wales is set to increase from around 20% to around 25% of the entire population. The population aged over 75 in Wales is also projected to increase from 9% of the population in 2014 to around 13% in 2030. The number of young people (aged under 16) is projected to increase up to 2023 and then fall slightly up to 2030.

The number of households in Wales is projected to grow faster than the overall population. This would lead to smaller household sizes.

### **Economy and infrastructure**

The global shift of economic growth away from more mature economies has meant that the UK has, over the last 50 years, slipped down global GDP leagues in terms of the overall economy size as less mature economies catch up with those that developed earlier. However, this does not mean that growth will stop in developed countries. Importantly, the overall size of a country's economy is less important for wellbeing than the income per head, and by this measure the UK displays better resilience. However, since the recession in 2008, a productivity slowdown has sharply reduced growth rates. The UK and Wales have been particularly affected.

Wales has great untapped growth potential to generate energy, including from renewable sources. There is currently significant growth in the community level low carbon energy sector in Wales.<sup>35</sup>

The provision of broadband infrastructure is developing rapidly after a slower start relative to the rest of the UK. This was in part due to Wales' demographics and the high level of rural households that are harder to connect to conventional wired broadband. The rapid increase in mobile internet infrastructure looks set to continue, which should help to reach those households that cannot currently access higher speed internet.

Current trends suggest that, despite growth in rail use, private vehicles are set to remain the dominant mode of transport in Wales in the short to medium term at least. The expected advent of autonomous or driverless vehicles in the next 10 to 15 years could in turn have implications for our transport systems.

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<sup>35</sup> When the Future Trends Report was published in 2017, the total number of locally-owned projects was 63,071 with a capacity of 529MWe. The latest figures, from 2019, are 68,560 projects and a capacity of 549MWe. See <https://gov.wales/energy-generation> for more detail.

## **Climate change**

Even in the best case scenario, there are likely to be significant national as well as global impacts beyond those already observed. Global temperature increases are likely to exceed the two degree threshold, unless significant and rapid action is taken globally.

There are potentially significant impacts to Wales from exceeding the global two degrees threshold. The latest UK Climate Change Risk Assessment identified the following areas for priority action:

- Flooding and coastal change risks to communities, businesses and infrastructure.
- Risks to health, wellbeing and productivity from high temperatures.
- Risk of shortages in the public water supply, and for agriculture, energy generation and industry, with impacts on freshwater ecology.
- Risks to natural capital including terrestrial, coastal, marine and freshwater ecosystems, soils and biodiversity.

Infrastructure across Wales is already exposed to a range of climate hazards, which are projected to increase both in frequency and severity. Such infrastructure includes transport networks, underground infrastructure, energy and digital infrastructure and public water supplies. Impacts on some assets have the potential to cascade on to others as part of interdependent networks. Flooding poses the greatest long-term risk to infrastructure performance from climate change, but the growing risks from heat, water scarcity and slope instability caused by severe weather could also be significant.

## **Land use and natural resources**

By 2050, average river flows in winter may rise by 10-15%. However, in the summer and early autumn they could reduce by over 50% and as much as 80% in some places. Droughts and flood events may become more common. Climate change may also affect the rates of groundwater recharge.

Soil carbon has been stable in improved land for 30 years. Recent increases in soil carbon in woodland until 2007 have now stabilised with no further increase detected. However, a significant decline in soil carbon in habitat land over the last 10 years has been detected and further work is needed to identify possible reasons for this.

Housing need in Wales is growing due to the number of households increasing faster than the number of available properties. In contrast, there is likely to be less suitable land available for development as flood plains and other lower lying land becomes increasingly prone to flooding.

## *Influencing factors*

### **Political**

The exit of the UK from the European Union may be the most immediate and potentially most disrupting factor to these identified trends. It is probable that this process will have a significant and wide ranging impact on Wales,

potentially impacting on economic growth and migration to Wales from both Europe and beyond.

There are also risks to the economic growth rate given the increasing potential for politically led 'de-globalisation'. Decreasing global trade patterns and the potential for increased protectionism could have a significant effect on both the mix and extent of various industries in Wales.

### **Economic**

Economic growth rates could affect the amount of investment made in the research and development of new technologies, both globally and in Wales and the UK.

### **Social**

Behavioural change among the Welsh population will be an unknown and potentially significant influence on how these trends unfold.

### **Technological**

There is the potential for technological advances to dramatically improve the effectiveness and availability of low carbon energy. Mass production of current technologies such as solar power and energy storage may also help to dramatically increase the deployment of low carbon energy.

If the more pessimistic prediction for climate change occurs, there is a possibility that 'climate fixing' technology such as bioengineering may be employed to lower CO<sub>2</sub> levels in the atmosphere and levels of warming. The deployment of such technologies could have potentially significant effects and may not help to combat such effects as the acidification of the oceans.

Advances in household, transport and energy technologies could have a transformative effect on population behaviours, even over fairly short timescales.

### **Legislative**

Ratification of the United Nations Paris Agreement has set the global legal context for climate change. The international context around climate change has now changed with a roadmap in place for global decarbonisation, setting a new long-term target for net zero global emissions in the second half of this century and key legislative requirements at all levels.

### **Environmental**

There are a wide range of climate change scenarios and models. The next 20 years may be crucial in determining which of the various longer term warming scenarios will occur.

As the impacts from climate change become more prevalent, there may be an increasing risk of climate related disruption to global and regional economic networks. These could take the form of disruptions in crop production, or an increasing risk of flooding. The sensitivity of the climate to the rising levels of CO<sub>2</sub> in the atmosphere will be key to the extent to which infrastructure might be

disrupted. The more pessimistic scenarios also have the potential to impact significantly on population growth and migration levels, given the possibility of increased risk in terms of failures elsewhere in food production/ transportation and access to other resources, along with associated global conflicts.

There are some potential climate related risks that could impact negatively on health trends, not just in Wales but globally. One example is the greater risk of extreme hot weather events, the incidences of which are unpredictable. Climate change could also bring increasing risks of newly emerging infectious disease. Likewise, future air quality levels could be a major associated influencing factor. In contrast, there are also likely to be some opportunities presented by a warming trend. For example, the amount of energy required to maintain warm homes would reduce.

The level of sensitivity of Wales' biodiversity and habitats to climate change will be the key to how natural resources trends may evolve. There are risks from climate change in the frequency and the magnitude of extreme weather and wildfire events. Climate change is influencing the expansion or contraction of some species' ranges and populations, and the increasing frequency of extreme climatic events, predicted in many climate change scenarios, may have serious implications.

## **Future Generations Report**

The most recent Future Generations Report was published in May 2020.<sup>36</sup> Chapter 5 specifically focuses on decarbonisation.

### *People's perception of decarbonisation*

Concerns about climate change reached a record high in 2019 (85% in the UK). The Commissioner says that one of the things people have emphasised in conversations with her is the importance of having a more proactive government with stronger targets and regulation.

### *What future generations need*

The report says we need to reduce our emissions in Wales by at least 95% by 2050, preferably sooner, to avoid catastrophic climate change. This means that in Wales we need to make an urgent transition to a low carbon economy and society.

Young people have had a significant impact on securing action on climate change in Wales. Public awareness, especially amongst the younger generation, has increased considerably in the last 12 months. Following the Fridays for Future protests, the Commissioner believes that 2019 was the year when children and young people showed politicians and decision makers across Wales and the world that they must do more to act on climate change. Young people are now demanding greater action and climate justice, calling on global leaders to take urgent action.

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<sup>36</sup> [The Future Generations Report 2020](#) (Future Generations Commissioner for Wales)

The report argues that we need to address climate change because it is an equality and social justice issue and it will disproportionately affect the most vulnerable communities in Wales and across the world. Vulnerable communities are more likely to be exposed to the risks and impacts of climate change, without the ability to cope with or recover from those impacts.

### **Scientific knowledge about climate change**

Two reports by the Intergovernmental Panel on Climate Change (IPCC) summarise the core of scientific knowledge about climate change: the Fifth Assessment Report (IPCC-AR5) and the Special Report on Global Warming of 1.5°C (IPCC-SR1.5).<sup>37</sup>

#### *Key conclusions from IPCC-AR5*<sup>38</sup>

- The climate is changing as a result of global greenhouse gas emissions; the IPCC concluded that it was unequivocal that humans were influencing the climate
- Many climate impacts are being detected across the world
- Further emissions will lead to further warming and change
- There is no simple threshold beyond which climate change moves from safe to dangerous
- The increase in global temperature is determined mainly by total carbon dioxide emissions over time, which must fall to near zero in order to limit warming

#### *Summary of IPCC-SR1.5*

At COP21 in Paris, the Intergovernmental Panel on Climate Change (IPCC) was invited to provide a Special Report in 2018 on the impacts of global warming of 1.5°C above pre-industrial levels and related global greenhouse gas emission pathways. The report found that:<sup>39</sup>

- Human activities are estimated to have caused approximately 1.0°C of global warming above pre-industrial levels, with a likely range of 0.8°C to 1.2°C.
- Global warming is likely to reach 1.5°C between 2030 and 2052 if it continues to increase at the current rate (high confidence).
- Climate-related risks for natural and human systems are higher for global warming of 1.5°C than at present, but lower than at 2°C (high confidence). These risks depend on the magnitude and rate of warming, geographic location, levels of development and vulnerability, and on the choices and implementation of adaptation and mitigation options (high confidence).
- Climate models project robust differences in regional climate characteristics between present-day and global warming of 1.5°C, and

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<sup>37</sup> [Fifth Assessment Report](#) (IPCC, 2013) and [Special Report on Global Warming of 1.5°C](#) (IPCC, 2018)

<sup>38</sup> As quoted in [The Sixth Carbon Budget – The UK's path to Net Zero](#) (CCC, December 2020, p.355)

<sup>39</sup> [https://www.ipcc.ch/site/assets/uploads/sites/2/2019/06/SR15\\_Headline-statements.pdf](https://www.ipcc.ch/site/assets/uploads/sites/2/2019/06/SR15_Headline-statements.pdf)

between 1.5°C and 2°C. These differences include increases in: mean temperature in most land and ocean regions (high confidence), hot extremes in most inhabited regions (high confidence), heavy precipitation in several regions (medium confidence), and the probability of drought and precipitation deficits in some regions (medium confidence).

The IPCC's projected differences between global warming of 1.5°C and 2°C include:

- Increased climate-related risks to health, livelihoods, food security, water supply, human security, and economic growth.
- Global mean sea level rise of around 0.1 metre lower by 2100 (medium confidence). A slower rate of sea level rise enables greater opportunities for adaptation in the human and ecological systems of small islands, low-lying coastal areas and deltas (medium confidence).
- Lower impacts on biodiversity and ecosystems, including species loss and extinction, and lower impacts on terrestrial, freshwater and coastal ecosystems – enabling them to retain more of their services to humans (high confidence).
- Reduced increases in ocean temperature as well as associated increases in ocean acidity and decreases in ocean oxygen levels (high confidence).
- Consequently, reduced risks to marine biodiversity, fisheries, and ecosystems, and their functions and services to humans, as illustrated by recent changes to Arctic sea ice and warm-water coral reef ecosystems (high confidence).
- Most adaptation needs will be lower (high confidence).

### *New observations of climate*

In its December advice to the UK Government, the CCC also listed new observations of climate since its last UK Carbon Budget 5 advice in 2015:<sup>40</sup>

- The five years since 2015 have seen the five warmest years (globally) on record.
- The global average level of human-induced warming is now in excess of 1.1°C when defined consistent with practices used by the World Meteorological Organisation and IPCC-SR1.5. Best estimates indicate that human activities are responsible for 100% of the warming observed since 1850-1900. The observed rate of increase in global temperature (~0.2°C per decade) has proceeded consistent with the near-term warming projection made by the IPCC-AR5 report (a 0.12-0.42°C per decade increase).
- Global sea levels have continued to rise, with the rate of increase over the last five years being the fastest observed to date. Global average sea levels are now estimated to be around 20 cm above levels in 1900.

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<sup>40</sup> [The Sixth Carbon Budget – The UK's path to Net Zero](#) (CCC, December 2020, p.359)

- In the UK, the 2010–2019 decade was the second warmest cardinal decade on record after 2000–2009. In 2019, the highest ever temperature reached in the UK was recorded as well as the warmest ever recorded winter temperature. Considerably more high temperature records were set in the UK over than 2010s than low temperature records.
- Human-induced climate change has been clearly shown to increase the frequency and intensity of many (but not all) extreme weather events, with particularly clear signals in extreme heat and many heavy rainfall events.

### *Tipping points*

While many impacts of climate change broadly reflect relatively gradual changes caused by steady increases in global average temperature, parts of Earth’s system have the potential to change abruptly. Once passed, these ‘tipping points’ cause a dramatic shift that can be irreversible. Examples of tipping points include loss of the Amazon rainforest or the West Antarctic ice sheet.

The IPCC introduced the idea of tipping points two decades ago. At that time, these ‘large-scale discontinuities’ in the climate system were considered likely only if global warming exceeded 5°C above pre-industrial levels. IPCC Special Reports in 2018 and 2019 now suggest that tipping points could be exceeded even between 1 and 2 °C of warming.<sup>41</sup>

In an article in *Nature* in November 2019, Professor Tim Lenton and others report that evidence is mounting that tipping points could be “more likely than was thought, have high impacts and are interconnected across different biophysical systems, potentially committing the world to long-term irreversible changes.”<sup>42</sup> In their view, if tipping points are indeed looking more likely, then the costs associated with the resulting impacts mean warming must be limited to 1.5°C. They consider several cryosphere tipping points are dangerously close, but mitigating greenhouse gas emissions could still slow down the inevitable accumulation of impacts and help us to adapt. We might already have committed future generations to living with sea-level rises of around 10 m over thousands of years but that timescale is still under our control. The rate of melting depends on the magnitude of warming above the tipping point. At 1.5°C, it could take 10,000 years to unfold; above 2°C it could take less than 1,000 years. They conclude that “both the risk and urgency of the situation are acute...we might already have lost control of whether tipping happens”. We may still have some control over the level of damage arising from tipping and therefore “the consideration of tipping points helps to define that we are in a climate emergency and strengthens [2019’s] chorus of calls for urgent climate action.”

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<sup>41</sup> SR1.5°C (IPCC, 2018) and [Special Report on the Ocean and Cryosphere in a Changing Climate](#) (IPCC, 2019)

<sup>42</sup> Climate tipping points – too risky to bet against, Professor Tim Lenton et al, *Nature* (November 2019), <https://www.nature.com/articles/d41586-019-03595-0>

## **Technology relevant to climate change**

In discussing the role of technology and innovation in reaching net zero, the CCC advice considered both established and emerging technologies. It also explored the role of digitalisation.<sup>43</sup>

### *Established technologies*

In some sectors, such as power generation, technologies already exist to achieve “near-full decarbonisation”, and global trends are pushing efficiencies up and costs down. In other sectors, such as heating for buildings, technologies exist but the estimated costs are relatively high. The CCC advises that “where there is uncertainty around the costs or scale of competing low-carbon options a portfolio of options should be pursued.”

### *Emerging technologies*

The CCC’s analysis includes several areas where solutions have been proposed but “innovation will be required to go beyond the reach of established technologies or methods”. These areas include hydrogen, heavy goods vehicles and carbon capture and storage.

### *Digitalisation*

The CCC identifies digitalisation as “an important enabler” of the transition to net zero. It is seen as critical to the efficient production and use of energy across increasingly interconnected sectors, such as transport and buildings. The CCC anticipates that it will reduce the need for large amounts of back-up on the electricity grid by increasing the flexibility and dynamism of energy services e.g. vehicle-to-grid. It will also help reduce demands for energy, materials, food and water through predictive analysis, waste avoidance and video-conferencing.

### *Costs of technologies to achieve net-zero emissions*

Ambitious mitigation targets in developed countries can help establish the new industries required and drive down the cost of currently more expensive technologies needed to reach net zero CO<sub>2</sub> emissions, including carbon capture and storage, hydrogen, low-carbon heating and technologies to remove CO<sub>2</sub> from the atmosphere.

## **EU and international law and policy relating to climate change**

### *Paris Agreement*

The Paris Agreement committed countries to keeping the increase in global average temperature to well below 2°C above pre-industrial levels and pursuing efforts to limit the increase to 1.5°C. In order to achieve this, countries agreed on the need for global emissions to peak as soon as possible and to achieve a balance between global emissions and removals (net zero) in the second half of the 21<sup>st</sup> Century, “on the basis of equity, and in the context of sustainable development and efforts to eradicate poverty”.<sup>44</sup> Global average temperature is

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<sup>43</sup> [The Sixth Carbon Budget – The UK’s path to Net Zero](#) (CCC, December 2020, p.402-405)

<sup>44</sup> [Paris Agreement](#) (United Nations, 2015)

already around 1.1°C above pre-industrial levels.<sup>45</sup> The UK ratified the Paris Agreement in November 2016.

The Paris Agreement requires countries to produce Nationally Determined Contributions (NDCs) every five years. NDCs must reflect each country's highest possible ambition towards the global temperature goal. The UK was part of the EU's NDC agreed in 2015, which requires an average reduction across Member States of at least 40% by 2030. On 12 December 2020, ahead of the end of the Brexit transition period, the UK published its own NDC. This included a 2030 emissions reduction target of at least 68%. This figure is based on a recommendation from the CCC, which uses the same scenario as that for the CCC's recommendations for Wales (the Balanced Pathway).

### *Wales's contribution to the Paris Agreement and UK NDC*

Countries agreed to implement the Paris Agreement in a way that would “reflect equity and the principle of common but differentiated responsibilities and respective capabilities, in the light of different national circumstances.”<sup>46</sup> Relative to many other countries, Wales is rich and has high historical emissions, going back centuries. Wales is now responsible for around 0.1% of global emissions each year, although since 1750 the UK has the 5<sup>th</sup> highest cumulative emissions in the world.<sup>47</sup>

The global budget for limiting average global temperature rise to 1.5°C or 2°C can be informed by the latest climate science but the distribution of that budget between countries is a political and moral decision. There is no single agreed methodology or formula that can be used to define a country's fair contribution to mitigating climate change: it is a value judgment that must consider equality, capability and responsibility.

While there is no agreed methodology, the IPCC has summarised what the academic literature on ‘effort share’ approaches suggests regional targets should be, based on a review of 40 studies.<sup>48</sup> The approaches fall into three broad categories:

1. **Economically efficient:** These achieve the required abatement at least global cost (equal marginal abatement cost)
2. **Historical responsibility:** These assign emissions commitments on the basis of historic contribution to the climate emergency since 1990
3. **Forward-looking:** These assign emissions on the basis of a country's projected capability (income) or on the basis of convergence in global emissions per capita

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<sup>45</sup> [WMO confirms 2019 as second hottest year on record](#), World Meteorological Organisation (15 January 2020)

<sup>46</sup> [Paris Agreement](#), Article 2.2

<sup>47</sup> Carbon Brief analysis: <https://twitter.com/CarbonBrief/status/1120715988532629506>

<sup>48</sup> [Regional GHG reduction targets based on effort sharing: a comparison of studies](#), Niklas Höhne, Michel Den Elzen & Donovan Escalante (Climate Policy, 2013)

### *International comparisons*

Wales is a founding member of the Under2 Coalition, a global community of state and regional governments committed to ambitious climate action in line with the Paris Agreement.<sup>49</sup> The coalition includes more than 220 governments who represent over 1.3 billion people and 43% of the global economy.

121 states and regions disclosed their climate and environmental data as part of the Global States and Regions Annual Disclosure 2020.<sup>50</sup> Of these, 18 have set net zero targets, ranging from 2030 (Jämtland, Sweden) to 2045 (Scotland, California and Australian Capital Territory) to 2050 (including Catalonia and New York State). Hawaii aims to be net-negative by 2045.

Outside the Under2 Coalition, 7 countries have set net zero targets in law (for 2050, apart from Sweden for 2045). A further 7 countries have declared net zero targets in policy documents and 12 more have submitted net zero targets to the UN. Japan has recently declared its intent to achieve net zero by 2050, while China has done so for 2060. Joe Biden was elected president of the USA on a climate platform to aim for net zero emissions by 2050.<sup>51</sup>

Each government decides how to define the target, considering its formality (whether it is set in legislation or simply a policy target), scope (whether it covers all greenhouse gases or just CO<sub>2</sub> and whether it includes emissions from international aviation and shipping or not) and the approach to international offsetting (whether it is permitted or not).

### *European law and policy*

In December 2019, the European Council agreed the objective of achieving a climate-neutral EU by 2050. This had previously been endorsed by the European Parliament in March 2019. The European Commission's (EC) proposed new European Climate Law would impose a legally binding target of net zero greenhouse gas emissions by 2050.<sup>52</sup>

In December 2020, EU leaders agreed on a binding EU target for a net domestic reduction of at least 55% in greenhouse gas emissions by 2030, compared to 1990.<sup>53</sup> The previous target, set in 2014, was for at least a 40% reduction by 2030. The new target has been submitted to the UN as the EU's NDC.

EU climate legislation already in place includes the EU Emissions Trading System (ETS), the Effort Sharing Regulation (ESR), and the Land Use, and the Land Use Change and Forestry Regulation (LULUCF). The Renewable Energy Directive (RED II), the Energy Efficiency Directive and the Regulation on the Governance of the Energy and Climate Action also contribute in driving commitments to renewable energy. The EU acknowledges that without

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<sup>49</sup> <https://www.under2coalition.org/>

<sup>50</sup> [Annual Disclosure Report](#) (Under2 Coalition, 2020)

<sup>51</sup> [Which countries have a net zero carbon goal?](#) (Climate Change News)

<sup>52</sup> [https://ec.europa.eu/clima/policies/eu-climate-action/law\\_en](https://ec.europa.eu/clima/policies/eu-climate-action/law_en)

<sup>53</sup> <https://www.consilium.europa.eu/en/policies/climate-change>

enhancement these policies will fall short of the 55% target. It is therefore discussing potential policy changes, including strengthening carbon pricing in the EU through an extension of the ETS to new sectors, a carbon border adjustment mechanism to mitigate the risk of carbon leakage, and is reconsidering international aviation and shipping emissions with the ambition to include these within the EU ETS. The EC intends to make detailed legislative proposals by June 2021.<sup>54</sup>

## **Integrated Impact Assessment**

Having considered the regulations against our mandatory and non-mandatory impact assessments, we do not believe it is possible to quantify their impact as they simply provide the statutory framework for emissions reduction. The impact of taking action to meet the targets and carbon budgets depends on the measures and policies chosen. These policies will be set out in a report for each carbon budget period, the next being published in November 2021. Policies to deliver our carbon budgets are subject to an engagement process and impact assessments, including RIA where appropriate.

Additionally, the global nature of the climate emergency means it is not possible to determine the effect of more ambitious Welsh targets on climate-related risks in Wales, such as flooding, and the subsequent impact on the matters covered by the impact assessments, for example equality.

However, *if* Wales achieves the more ambitious targets *and* other countries make comparable effort, we increase the likelihood of limiting average global temperature rise to 1.5°C. If this temperature goal is met, we will limit Wales's exposure to climate change impacts. One such impact is heat-related mortality. We have worked with researchers at Bristol and East Anglia Universities to develop a short case study on heat-related mortality in Wales at 2°C and 1.5°C of global warming (see Annex A).

## **Summary**

### *CCC advice*

The CCC has concluded that a net zero target is now credible and the right target for Wales. Its December 2020 advice is a blueprint for achieving net zero and provides a detailed vision for realising this more ambitious goal.

The expected cost of achieving net zero has fallen since the CCC's 2019 advice. The estimated annualised resource cost has fallen from £3-5billion per year to significantly less than £2billion per year through to 2050. The CCC has also demonstrated that operational savings are expected to largely offset the investment costs for achieving net zero towards the middle of this century, and supporting research suggests a potential positive impact on GDP overall. The CCC's Advisory Group on the Costs and Benefits of Net Zero declared that the benefits (including decreased climate risk) of net zero outweigh the costs. In

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<sup>54</sup> <http://europeanmemoranda.cabinetoffice.gov.uk/memorandum/communication-from-the-commission-to-the-european-parliament-the-council-the-european-economic-social-committee-1600418191>

addition to economic impacts, the CCC identified likely significant positive impacts for health and biodiversity in their Balanced Pathway.

### *Environment Act factors*

SoNaRR highlights the substantial effect of climate change on biodiversity and ecosystems. It also identifies decarbonisation as a key opportunity to improve the sustainable management of natural resources and reduce several key pressures on all ecosystems.

The Future Trends Report considers several trends relevant to achieving climate change targets, notably an increasing, ageing population and more people living alone. Older people tend to have a higher carbon footprint than younger people and an increase in households suggests higher demand for heating and electricity. The Report also notes behaviour change as a key influencing factor on how the trends unfold; behaviour change is fundamental to achieving the CCC's Balanced Pathway. The Future Generations Report draws attention to the significant shift in public concern about climate change and increasing support for greater action, particularly among children and young people.

There is a very strong scientific basis for increased efforts to tackle climate change. IPCC-SR1.5 shows that keeping average global temperature increase to 1.5°C would reduce climate-related risks to health, livelihoods, food security, water supply, human security, and economic growth, when compared to a 2°C rise. Option 2 is more aligned to achieving 1.5°C than Option 1, which relates more closely 2°C.

Technology to support the net zero transition is well-advanced and commercially deployed in many important areas, while further innovation is required in others. “The clarity of a net-zero goal could help stimulate innovation. Under a net zero target all sectors need to decarbonise or offset their emissions. This removes uncertainty and the temptation of sectors to lobby for a larger share of the remaining 20% of emissions [under the existing 80% target]. This clarity could cut the cost of capital as well as stimulating innovation, thereby bringing down the overall cost of mitigation.”<sup>55</sup>

There are many ways of determining Wales's fair contribution to the Paris Agreement and the UK's NDC. However, the CCC's Balanced Pathway is the only 'bottom-up' scenario available that describes *how* the targets can be met. The CCC states that its December 2020 recommendations “reflect the goals and requirements of the Paris Agreement” for the following reasons:<sup>56</sup>

1. The Balanced Pathway has been explicitly designed to reflect Wales's 'highest possible ambition' within Wales' particular capabilities
2. It would reduce Wales's annual per-capita emissions to under 3tCO<sub>2</sub>e per person before 2040, in line with global pathways consistent with meeting the 1.5°C goal

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<sup>55</sup> [Report to the CCC](#) (Advisory Group on Costs and Benefits of Net Zero, 2019, p.23)

<sup>56</sup> [The path to a Net Zero Wales](#) (CCC, December 2020, p.57)

In the last year there has been a notable shift in global ambition on climate change; many more countries have now adopted a net zero target or ambition, or are considering one. Joining the 'net zero club' would demonstrate Wales's support for new industries and provide the best opportunity for attracting green investment and jobs. It would also align with Wales's well-being goal to be a globally responsible nation.

**Having considered both the CCC advice and the Environment Act factors, Option 2 is the preferred option.**

## **Consultation**

In preparing their advice the CCC ran a public Call for Evidence to capture input from organisations and individuals on matters relevant to the regulations, as well as UK Carbon Budget 6. The Call for Evidence ran from 5 December 2019 to 5 February 2020. The Welsh Government and CCC ran two stakeholder events during the period: one in Llandudno on 20 January 2020 and one in Cardiff on 21 January 2020, with around 60 delegates attending in total.

There were four questions in the Call for Evidence with a Wales focus. These each received between 11 and 37 responses.<sup>57</sup> A high-level overview of the responses and a list of respondents is available in the CCC's Summary of responses document.<sup>58</sup>

We have published our Engagement Approach for Low Carbon Delivery Plan 2 that describes how we intend to involve and collaborate with people and stakeholders throughout 2021.<sup>59</sup> We also continue to consult on the policies required to meet the carbon budgets and targets, for example the Electric Vehicle Charging Strategy, Building Regulations Part L and F Review, and the Agriculture (Wales) Bill.<sup>60</sup>

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<sup>57</sup> <https://www.theccc.org.uk/publication/sixth-carbon-budget-and-welsh-emissions-targets-call-for-evidence-summary>

<sup>58</sup> [Welsh emissions targets: Summary of responses to Call for Evidence](#) (CCC, 2020)

<sup>59</sup> See <https://gov.wales/low-carbon-delivery-plan-2-engagement-plan>

<sup>60</sup> See <https://gov.wales/consultations>

## Competition Assessment

This impact assessment does not include a Competition Assessment because the regulations do not provide for specific policies. It is not possible, therefore, to consider the specific impacts on competition within individual markets.

The competition filter test	
Question	Answer
<b>Q1:</b> In the market(s) affected by the new regulation, does any firm have more than 10% market share?	
<b>Q2:</b> In the market(s) affected by the new regulation, does any firm have more than 20% market share?	
<b>Q3:</b> In the market(s) affected by the new regulation, do the largest three firms together have at least 50% market share?	
<b>Q4:</b> Would the costs of the regulation affect some firms substantially more than others?	
<b>Q5:</b> Is the regulation likely to affect the market structure, changing the number or size of businesses/organisation?	
<b>Q6:</b> Would the regulation lead to higher set-up costs for new or potential suppliers that existing suppliers do not have to meet?	
<b>Q7:</b> Would the regulation lead to higher ongoing costs for new or potential suppliers that existing suppliers do not have to meet?	
<b>Q8:</b> Is the sector characterised by rapid technological change?	
<b>Q9:</b> Would the regulation restrict the ability of suppliers to choose the price, quality, range or location of their products?	

## ***Post implementation review***

### **Government progress review**

The Environment (Wales) Act 2016 requires Welsh Ministers to prepare and lay a statement after each budgetary period setting out whether Wales has met the budget, whether they have debited or credited any carbon units and giving details on the type and number of units. The statement must explain what the Welsh Ministers consider to be the reasons why the carbon budget for the period has, or has not, been met. In particular, it must include the Welsh Ministers' assessment of the extent to which their proposals and policies for meeting the carbon budget for the period have been carried out and have contributed to the carbon budget for the period being met or not. This statement must be laid before the end of the second year after the budgetary period, allowing time for the emissions data to be compiled, which requires 18 months from the close of year.

With regards to each interim target and the 2050 target, Welsh Ministers must also prepare and lay a statement before the Senedd. This statement must be made before the end of the second year after the relevant interim target year. This statement will provide the Welsh Government's assessment of the total amount of emissions in that year, whether the interim emissions target has been met, and the total amount of carbon credits or debits for that year. The statement must also explain what the Welsh Ministers consider to be the reasons why the target has, or has not, been met.

### **Independent progress review**

The Act provides for the CCC to monitor and report on progress. No later than six months after the Welsh Ministers lay the final progress statement for a budgetary period, the CCC must provide a report setting out their views on:

- the way in which the carbon budget for the period was or was not met; and
- the action taken by the Welsh Ministers to reduce net Welsh emissions of greenhouse gases during the period.

Following the Welsh Government's progress reports on the 2030 and 2040 interim targets, the CCC is required to advise whether the forthcoming interim target(s) and 2050 target represent the highest achievable targets for Wales. If not, they must state what the highest achievable target is.

# Annex A: Heat-related mortality in Wales at 2°C and 1.5°C of global warming

## *Introduction*

Officials worked with academic experts on climate impacts to explore one example of how Wales might benefit from adopting and achieving a more ambitious emissions reduction pathway, if matched by other countries.<sup>61</sup> Heat-related mortality was chosen because it is the most direct way in which climate change is expected to affect public health and there is a strong, direct correlation between summer temperatures and increased mortality.

Temperature thresholds of 2°C and 1.5°C were selected because Wales's existing legislated emissions reduction pathway is broadly aligned to a 2°C rise in global average temperature, assuming similar effort from other countries, while the CCC's new recommended pathway is more closely aligned to a rise of 1.5°C. They are also the temperature goals in the Paris Agreement.

## *How is Wales's exposure to extreme summer temperatures projected to change?*

Overall, Wales's summer mean temperature is projected to change around 20% faster than the global mean and by 30-45% faster than the global mean during the hottest 5% of summer days.<sup>62</sup> This means Wales's hottest summer days are getting hotter and more extreme relative to mean temperatures.

## *How is this change expected to affect heat-related mortality?*

Mortality increases as temperature increases above a regionally-specific threshold.<sup>63</sup> Mortality occurs throughout the summer months, even on days that are not extreme heatwaves. As well as increasing temperature extremes, climate change means Wales will experience more warmer days and, as a result, increased heat-related mortality.

Based on current baseline mortality rates, modelling of the recent past (1990-2019) suggests, on average, 25 heat-related deaths occur per year in Wales, increasing to 48, 67, and 137 heat-related deaths under 1.5°C, 2°C and 3°C warming scenarios respectively (see Figure 1 for error bars). **Limiting**

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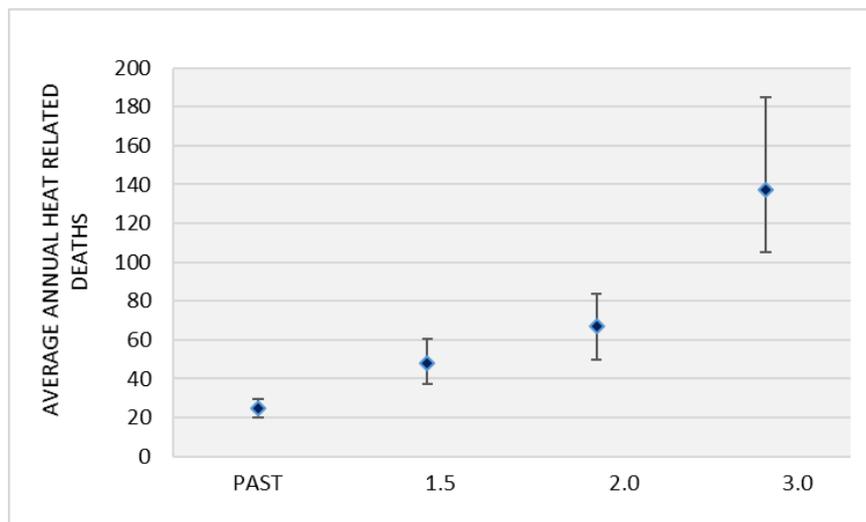
<sup>61</sup> Setting and achieving tighter emissions targets in Wales alone will have a negligible impact on global temperature and on Wales's climate. We are therefore reliant on the collective effort of all countries to reduce the frequency and severity of negative climate change impacts in Wales, such as heatwaves.

<sup>62</sup> UK Climate Projections 2018 data:

<https://www.metoffice.gov.uk/research/approach/collaboration/ukcp/index>

<sup>63</sup> By around 1.5% for every 1°C above ~17.2°C for Wales. [Climate change effects on human health: projections of temperature-related mortality for the UK during the 2020s, 2050s and 2080s](#), Hajat et al, Journal of Epidemiology & Community Health (2014, Volume 68, Issue 7).

warming to 1.5°C would therefore avoid 29% of the additional heat-related mortality at 2°C.<sup>64</sup>



*Fig. 1: Modelled average heat-related mortality per year in Wales for the past and 3 warming scenarios. Error bars signify 10-90% uncertainty in the projected climate.*

### **Who is likely to be most affected?**

Not everyone is equally vulnerable to heat-related illness. There are certain factors that increase an individual's risk during a heatwave, including:<sup>65</sup>

- Older age: especially women over 75 years old, those living on their own, or in a care home;
- Chronic and severe illness: including heart conditions, diabetes, respiratory or renal insufficiency, Parkinson's disease or severe mental illness;
- Inability to adapt behaviour to keep cool: having Alzheimer's, a disability, being bed bound, too much alcohol, babies and the very young; and
- Environmental factors and overexposure: living in a top floor flat, being homeless, activities or jobs that are in hot places or outdoors and include high levels of physical exertion.

### **Which locations are likely to be most affected?**

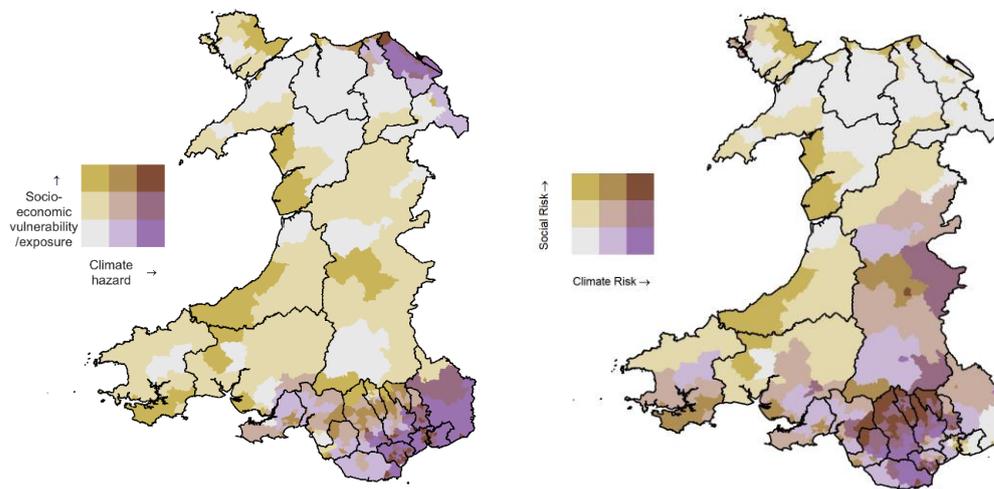
New research overlays heat-related climate hazard metrics with socio-economic factors.<sup>66</sup> The left-hand plot in Figure 2 shows that the locations with greatest absolute risk over the past 30 years (i.e. exposed to extreme heat hazards and at higher socio-economic levels of vulnerability and exposure) are

<sup>64</sup> Unpublished research (funded by the [UK Climate Resilience Program](#)) was carried out in support of this paper.

<sup>65</sup> [Caring for Patients Before and During a Heatwave: Advice for health and social care professionals](#), WG 2012

<sup>66</sup> Climate hazard metrics: Daily maximum and minimum temperature, vapour pressure (a measure of humidity), and degree days (variability of temperature extremes over a certain threshold). Socio-economic factors: population density, deprivation and proportion of population aged over 65.

in southeast and northeast Wales. The right-hand plot shows that when socio-economic factors are taken into account in combination with the projected change in climate hazards, locations at the greatest increase in risk are in Powys and across South Wales. Although these regions show the greatest increase in climate hazards, in absolute terms the southeast and northeast of Wales will still remain at the highest risk.



*Fig.2: Left-hand plot shows current risk based on the past 30 years; right-hand plot shows the change in climate hazards between 1.5°C and 2°C of global warming – those places facing the greatest change in risk if we do not achieve 1.5°C (socio-economic factors remain stationary in time)*

### **Can Wales expect fewer cold-related deaths?**

This question has not been explored in the context of the higher targets and a comparison of 2°C and 1.5°C of global warming. However, research undertaken in 2014 suggests that by the 2080s the number of heat-related deaths may increase by around 340% and the number of cold-related deaths may reduce by around 40%. The number of heat-related deaths is not expected to surpass the numbers of cold-related deaths by the 2080s but the ratio of heat- to cold-related deaths is projected to increase from 1:35 to 1:5.<sup>67</sup>

<sup>67</sup> [Climate change effects on human health: projections of temperature-related mortality for the UK during the 2020s, 2050s and 2080s](#), Hajat et al, Journal of Epidemiology & Community Health (2014, Volume 68, Issue 7). Figures quoted draw on the mean estimates.

## SL(5)749 – The Environment (Wales) Act 2016 (Amendment of 2050 Emissions Target) Regulations 2021

### Background and Purpose

Part 2 of the Environment (Wales) Act 2016 (“the 2016 Act”) requires the Welsh Ministers to put in place statutory emissions reduction targets for reducing emissions of greenhouse gases in Wales.

Section 29 of the 2016 Act requires that the Welsh Ministers ensure that the net Welsh emissions account for the year 2050 is at a specified percentage lower than the baseline.

These Regulations amend section 29 of the 2016 Act by altering the percentage amount in subsection (1). The effect of the amendment is that the minimum percentage by which the net Welsh emissions account for the year 2050 must be lower than the baseline is increased from 80% to 100%.

These Regulations form part of a suite of four instruments that are referred to collectively as the Climate Change (Wales) Regulations 2021.

### 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(vi) – that its drafting appears to be defective or it fails to fulfil statutory requirements.**

The preamble refers to a draft of the regulations being “laid before and approved by a resolution of *the* Senedd Cymru” [*emphasis added*]. It appears that the inclusion of the definite article is erroneous, as the Government of Wales Act 2006 refers to “Senedd Cymru” throughout, without “the” preceding it.

### 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.

### **Legal Advisers**

**Legislation, Justice and Constitution Committee**

**22 February 2021**



Senedd Cymru

**Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad**

—

Welsh Parliament

**Pack Page 346**

**Legislation, Justice and Constitution Committee**

*Draft Regulations laid before Senedd Cymru under section 48(3) of the Environment (Wales) Act 2016, for approval by resolution of Senedd Cymru.*

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DRAFT WELSH STATUTORY  
INSTRUMENTS

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**2021 No. (W.)**

**CLIMATE CHANGE, WALES**

**The Environment (Wales) Act 2016  
(Amendment of 2050 Emissions  
Target) Regulations 2021**

**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

The purpose of Part 2 of the Environment (Wales) Act 2016 (“the Act”) is to require the Welsh Ministers to meet targets for reducing emissions of greenhouse gases from Wales. Section 29 requires that the Welsh Ministers ensure that the net Welsh emissions account for the year 2050 is at a specified percentage lower than the baseline.

These Regulations amend section 29 of the Act by altering the percentage amount in subsection (1). Section 29(1) imposes a duty on the Welsh Ministers as to the level of the “net Welsh emissions account” (the amount of Welsh emissions of greenhouse gases for a period adjusted by the amount of Welsh removals of those gases for that period) for the year 2050. The duty is to ensure that the net Welsh emissions account is lower than the “the baseline” (the baseline of net Welsh emissions of greenhouse gases against which the percentage amount in section 29(1) is applied) by a minimum percentage amount.

The amendment in these Regulations has the effect that the minimum percentage by which the net Welsh emissions account for the year 2050 must be lower than the baseline is increased from 80% to 100%.

In accordance with section 32 of the Act, the Welsh Ministers in drafting these Regulations have had regard to the factors listed in section 32(3).

In accordance with section 49 of the Act, the Welsh Ministers have obtained and taken into account the

advice of the advisory body before laying draft regulations.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained from the Welsh Government, Cathays Park, Cardiff, CF10 3NQ.

*Draft Regulations laid before Senedd Cymru under section 48(3) of the Environment (Wales) Act 2016, for approval by resolution of Senedd Cymru.*

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DRAFT WELSH STATUTORY  
INSTRUMENTS

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**2021 No. (W.)**

**CLIMATE CHANGE, WALES**

**The Environment (Wales) Act 2016  
(Amendment of 2050 Emissions  
Target) Regulations 2021**

*Made*

\*\*\*

*Coming into force*

*12 March 2021*

In accordance with section 48(3) of the Environment (Wales) Act 2016<sup>(1)</sup> (“the Act”), a draft of this instrument was laid before and approved by a resolution of the Senedd Cymru<sup>(2)</sup>.

Before the draft was laid the Welsh Ministers—

- (a) had regard to the matters listed in section 32(3) of the Act, and
- (b) obtained and took into account the advice of the Committee on Climate Change<sup>(3)</sup>, in accordance with section 49(1) of the Act.

The Committee on Climate Change has recommended that the 2050 emissions target be changed.

Accordingly, the Welsh Ministers, in exercise of the powers conferred by section 29(3) of the Act, and in accordance with section 32(2)(b) of the Act, make the following Regulations.

- 
- (1) 2016 anaw 3.
  - (2) The reference in the Environment (Wales) Act 2016 to the National Assembly for Wales now has effect as a reference to Senedd Cymru, by virtue of section 150A(2) of the Government of Wales Act 2006 (c. 32).
  - (3) The Committee on Climate Change is the relevant advisory body to the Welsh Ministers by virtue of section 44(3) of the Environment (Wales) Act 2016.

### **Title and commencement**

1.—(1) The title of these Regulations is the Environment (Wales) Act 2016 (Amendment of 2050 Emissions Target) Regulations 2021.

(2) These Regulations come into force on 12 March 2021.

### **Amendment of 2050 emissions target**

2. In section 29(1) of the Environment (Wales) Act 2016, for “80%” substitute “100%”.

*Name*

Minister for Environment, Energy and Rural Affairs,  
one of the Welsh Ministers

Date

# **Explanatory Memorandum to the Climate Change (Wales) Regulations 2021**

Explanatory Memorandum to:

- **The Environment (Wales) Act 2016 (Amendment of 2050 Emissions Target) Regulations 2021**
- **The Climate Change (Interim Emissions Targets) (Wales) (Amendment) Regulations 2021**
- **The Climate Change (Carbon Budgets) (Wales) (Amendment) Regulations 2021**
- **The Climate Change (Net Welsh Emissions Account Credit Limit) (Wales) Regulations 2021**

This Explanatory Memorandum has been prepared by the Economy, Skills and Natural Resources Group and is laid before Senedd Cymru in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

## ***Minister's Declaration***

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Climate Change (Wales) Regulations 2021:

- The Environment (Wales) Act 2016 (Amendment of 2050 Emissions Target) Regulations 2021
- The Climate Change (Interim Emissions Targets) (Wales) (Amendment) Regulations 2021
- The Climate Change (Carbon Budgets) (Wales) (Amendment) Regulations 2021
- The Climate Change (Net Welsh Emissions Account Credit Limit) (Wales) Regulations 2021

I am satisfied that the benefits justify the likely costs.

**Lesley Griffiths MS**  
**Minister for Environment, Energy and Rural Affairs**

9 February 2021

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# PART 1

## **1. Description**

A suite of four regulations are covered within this Explanatory Memorandum and are referred to collectively as the Climate Change (Wales) Regulations 2021. Under Part 2 of the Environment (Wales) Act 2016 (“the Act”) Wales committed to reducing emissions of greenhouse gases from Wales by at least 80% in 2050. The Climate Change (Wales) Regulations 2018 established a system of interim emissions targets and carbon budgeting to create an emissions reduction trajectory towards the 2050 target. They also set out how the Welsh Ministers can utilise international carbon credits and set the credit (“offset”) limit for Carbon Budget 1 (CB1, 2016-20). Finally, they provided for how we will deal with emissions from international shipping and internal aviation in calculating our emissions.

The Climate Change (Wales) Regulations 2018, which supported the delivery of the Act, were namely:

- The Climate Change (Interim Emissions Targets) (Wales) Regulations 2018
- The Climate Change (Carbon Budgets) (Wales) Regulations 2018
- The Climate Change (International Aviation and International Shipping) (Wales) Regulations 2018
- The Climate Change (Net Welsh Emissions Account Credit Limit) (Wales) Regulations 2018
- The Carbon Accounting (Wales) Regulations 2018

The Climate Change (Wales) Regulations 2021 amend the 2050 target, the interim targets for 2040 and 2030, and CB2 (2021-25). They also set CB3 (2026-30) and the offset limit for CB2.

## **2. Matters of special interest to the Legislation, Justice and Constitution Committee**

Section 31(4)(b) of the Environment (Wales) Act 2016 requires the Welsh Ministers to set CB3 in 2020, five years before the start of the budgetary period. In accordance with Section 49, before laying draft regulations the Welsh Ministers are required to request and take into account the advice of the advisory body. Under section 49(6) of the Act, if thereafter the Welsh Ministers propose making different provision from that recommended by the advisory body, they must also lay before the Senedd a statement setting out the reasons why. By virtue of no declaration being made by Welsh Ministers appointing an advisory body, Section 44 by default appoints the Climate Change Committee (CCC) to be our statutory advisory body.

In December 2019 the Minister for Environment, Energy and Rural Affairs requested advice from the CCC, including its recommendation for the level of CB3. The Minister requested the advice be published in September 2020 to allow for CB3 to be set by the end of that year. The CCC committed to this

timeline but subsequently, in June 2020, informed the Minister this would no longer be possible due to the challenges posed by the Covid-19 pandemic. The CCC moved publication of the advice to December 2020. The Minister decided it would not be manifestly unreasonable to choose to accommodate a small delay in setting CB3 in order to ensure legislation is brought forward on the basis of proper, thorough advice. The Welsh Ministers have obtained and taken into account the advice of the advisory body in relation to the Climate Change (Wales) Regulations 2021 now laid before the Senedd.

The Act does not establish a deadline for setting the offset limit for each carbon budget. The Welsh Ministers intend to set the CB3 offset limit no later than 2025.

The Carbon Accounting (Wales) Regulations 2018 utilise the UK Registry to host the Welsh credit account. Until the UK left the European Union, the UK Registry was governed by Commission Regulation (EU) 389/2013 establishing a union registry pursuant to Directive 2003/87/EC establishing a system for greenhouse gas emissions trading within the EU. Having left the EU, the UK no longer has access to the EU registries system. Officials are liaising with UK Government counterparts about a new, standalone UK Registry. Once this is established, the Welsh Ministers will need to amend the Carbon Accounting (Wales) Regulations 2018 to ensure provision for registering and keeping track of carbon units held by the Welsh Ministers. It is not expected Welsh Ministers will need to buy offsets in CB1 and it is expected the new UK Registry will be operational well in advance of the end of CB2.

### ***3. Legislative background***

The purpose of Part 2 of the Environment (Wales) Act 2016 is to require the Welsh Ministers to meet targets for reducing emissions of greenhouse gases in Wales. Part 2 puts in place a statutory emissions reduction target that requires the Welsh Ministers to ensure that net emissions of greenhouse gases in Wales, for the year 2050, are at least 80% lower than the baseline.

Part 2 also requires that the Welsh Ministers, by regulations approved by the Senedd, set interim emissions reduction targets for the years 2020, 2030 and 2040, and establish a system of 5-yearly carbon budgeting that together create an emissions reduction pathway to the 2050 target. The Climate Change (Wales) Regulations 2018 fulfilled this requirement.

#### The Environment (Wales) Act 2016 (Amendment of 2050 Emissions Target) Regulations 2021

- Section 29(3) allows the Welsh Ministers to amend the 2050 emissions target.
- Section 32 sets out the principles for amending the 2050 target.

#### The Climate Change (Interim Emissions Targets) (Wales) (Amendment) Regulations 2021

- Section 30(1) allows the Welsh Ministers to amend the interim emissions targets.

- Section 32 sets out the principles for amending the interim emissions targets.

#### The Climate Change (Carbon Budgets) (Wales) (Amendment) Regulations 2021

- Section 31 allows the Welsh Ministers to amend and set carbon budgets.
- Section 32 sets out the principles for amending and setting a carbon budget.

#### The Climate Change (Net Welsh Emissions Account Credit Limit) (Wales) Regulations 2021

- Section 33 provides that the Welsh Ministers must limit how many traded carbon units can be credited to the net Welsh emissions account in a given period. These regulations set the offset limit for Carbon Budget 2.

Section 32(2) of the Act prevents the Welsh Ministers from making regulations changing the 2050 emissions target, an interim emissions target or a carbon budget unless at least one of the following conditions is met:

- they are satisfied that it is appropriate to make the change as a result of significant developments in
  - scientific knowledge about climate change, or
  - EU or international law or policy relating to climate change;
- the change has been recommended by the advisory body;
- the change is in connection with provision made under section 35(1) or 37(2).<sup>1</sup>

As required by the Act, the Welsh Ministers asked the CCC to provide advice to inform the development of the regulations. On 17 December 2020, following a Call for Evidence, the CCC provided their advice to the Welsh Ministers. The report, '[The path to a net zero Wales](#)', includes the CCC's recommendations on:

- The level of the 2050 target;
- The level of the 2030 and 2040 targets;
- The level of CB2 and CB3; and
- The limit for the use of offset credits in CB2.

In giving their advice on the level of the targets and budgets the CCC developed four different emissions scenarios across all sectors of the economy.<sup>2</sup> Drawing on these scenarios, the CCC then produced a fifth – the Balanced Net Zero Pathway that forms the basis of their recommendations.

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<sup>1</sup> Section 35(1) relates to emissions from international aviation and international shipping. Section 37(2) relates to the definition of 'greenhouse gas'.

<sup>2</sup> Electricity supply, residential buildings, non-residential buildings, fuel supply, manufacturing and construction, surface transport, aviation, shipping, agriculture, land use, land use change and forestry, waste and F-gases.

The Climate Change (Wales) Regulations 2021 are brought forward in accordance with Section 32(2)(b) and follow the recommendations of the advisory body.

Section 32(3) of the Act requires the Welsh Ministers when making regulations changing the 2050 emissions target, or setting or changing an interim emissions target or a carbon budget, to have regard to the following:

- The most recent report under section 8 on the state of natural resources in relation to Wales
- The most recent future trends report under section 11 of the Well-being of Future Generations (Wales) Act 2015
- The most recent report (if any) under section 23 of that Act (Future Generations report)
- Scientific knowledge about climate change
- Technology relevant to climate change
- EU and international law and policy relating to climate change (including international agreements on measures designed to limit increases in global average temperatures)

The Climate Change (Wales) Regulations 2021 are brought forward in accordance with Section 32(3) of the Act.

### **Procedures for laying regulations**

The regulations are subject to the approval of the Senedd via the draft affirmative procedure.

In accordance with Section 49, before laying draft regulations the Welsh Ministers are required to request and take into account the advice of the advisory body. By virtue of no declaration being made by Welsh Ministers appointing an advisory body, Section 44 by default appoints the Climate Change Committee (CCC) to be the statutory advisory body. Where regulations make different provision to the advice provided by the CCC, the Welsh Ministers must lay a statement before the Senedd setting out the reasons why.

The Climate Change (Wales) Regulations 2021 follow the advice of the advisory body.

## ***4. Purpose and intended effect of the legislation***

### **Environment (Wales) Act 2016 (Amendment of 2050 Emissions Target) (Wales) Regulations 2021**

#### *Current situation*

Section 29 of the Act establishes a statutory emissions reduction target that requires the Welsh Ministers to ensure that net emissions of greenhouse gases in Wales, for the year 2050, are at least 80% lower than the baseline.

### *Purpose*

The purpose of this regulation is to increase the 2050 target to at least 100% lower than the baseline ('net zero').

### *Intended effect*

The intended effect of this regulation is to bring Wales's 2050 target in line with the CCC's recommendation, reflecting developments in scientific knowledge, public opinion and global ambition since the original target was set in 2016.

## **Climate Change (Interim Emissions Targets) (Wales) (Amendment) Regulations 2021**

### *Current situation*

The Climate Change (Interim Emissions Targets) (Wales) Regulations 2018 set the interim targets that represented a pathway to the 2050 target established in the Act as follows:

- a 2020 target for an emissions reduction of 27% against the baseline
- a 2030 target for an emissions reduction of 45% against the baseline
- a 2040 target for an emissions reduction of 67% against the baseline

### *Purpose*

The purpose of this legislation is to set targets for 2030 and 2040 that represent a pathway to the new net zero target for 2050:

- a 2030 target for an emissions reduction of 63% against the baseline
- a 2040 target for an emissions reduction of 89% against the baseline

### *Intended effect*

The intended effect of this regulation is to establish targets for 2030 and 2040 in line with the CCC's recommendations, frontloading action in the 2020s. Reducing emissions early matters as it is global cumulative emissions that drive climate outcomes. The Welsh Ministers must set each interim emissions target at a level they are satisfied is consistent with meeting the 2050 emissions target.<sup>3</sup>

## **Climate Change (Carbon Budgets) (Wales) (Amendment) Regulations 2021**

### *Current situation*

A carbon budget sets a maximum limit on the total amount of Welsh emissions permitted over a 5-year budget period. The Climate Change (Carbon Budgets) (Wales) Regulations 2018 set Carbon Budgets 1 and 2 as follows:

- CB1 (2016-2020): an average of 23% below the baseline

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<sup>3</sup> Section 32(1)(a) of the Act.

- CB2 (2021-2025): an average of 33% below the baseline

### *Purpose*

The purpose of this legislation is to set CB2 and CB3 at levels that represent a pathway to the new targets for 2030, 2040 and 2050:

- CB2 (2021-2025): an average of 37% below the baseline
- CB3 (2026-2030): an average of 58% below the baseline

### *Intended effect*

The intended effect of this regulation is to establish carbon budgets for the 2020s in line with the CCC's recommendations. The Welsh Ministers must set each carbon budget at a level they are satisfied is consistent with meeting:

- the 2050 emissions target; and
- the interim target for any interim target year that falls within or after that budgetary period.<sup>4</sup>

## **Climate Change (Net Welsh Emissions Account Credit Limit) (Wales) Regulations 2021**

### *Current situation*

The Climate Change (Net Welsh Emissions Account Credit Limit) (Wales) Regulations 2018 set the limit on the use of carbon units for CB1.

### *Purpose*

The Act requires Welsh Ministers to set a limit on the total amount that the Net Welsh Emissions Account can be reduced through the use of carbon units. The Carbon Accounting (Wales) Regulations 2018 defines carbon units as the international offset credits generated through Certified Emission Reduction (CER). Offset credits provide a means by which Wales can invest in emission reduction activities overseas and use the emission reductions achieved to offset domestic emissions within the Welsh targets.

The purpose of this regulation is to set the limit on the use of carbon units for CB2 (2021-2025).

### *Intended effect*

The intended effect of this regulation is to set the offset limit for CB2 in line with the CCC's recommendation and ensure that CB2 is met solely by reducing domestic emissions. As the CCC's recommendation is to outperform CB2 on the way to more ambitious CB3 and the 2030 targets, the CCC concludes that it is not appropriate to meet CB2 with any use of carbon units i.e. the offset limit for CB2 should be set at 0%.

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<sup>4</sup> Section 32(1)(b) of the Act.

# PART 2 – REGULATORY IMPACT ASSESSMENT

## *Introduction*

The four regulations that make up The Climate Change (Wales) Regulations 2021 all relate to Wales's emissions reduction pathway to 2050 and are highly interdependent. This RIA therefore considers options for the pathway as a whole, rather than each regulation in turn. The pathway set in regulations represents the strategic decarbonisation framework but many individual policy measures are required to achieve the pathway. There are multiple ways to deliver the pathway and so the actual costs and benefits can only be determined once the measures to meet the carbon budgets have been agreed; policy-level impact assessments are required to conduct this analysis.

Since the Senedd passed the Climate Change (Wales) Regulations in 2018, science, technology, markets and cost assumptions have changed, showing the inherent uncertainties in modelling emission pathways and estimating costs. The Welsh Government is focussed on developing and taking the actions needed to meet the carbon budgets and targets and so is reliant on the Climate Change Committee (CCC) advice. This means there are only two options presented in this RIA, both drawing on CCC expertise.

## *Options*

### **Option 1: Retain current emissions pathway ('do minimum')<sup>5</sup>**

Option 1 fulfils the statutory duty to set CB3 and does so at a level consistent with the existing 80% pathway and the CCC's 2017 advice. It also increases the average reduction required in CB2 from the existing 33% to 37% to take account of the early closure of Aberthaw Power Station. The Welsh Government endorsed this principle when accepting the CCC's 2017 advice. Finally, this option sets the CB2 offset limit at 0%, in line with the CCC's recommendation in their 2020 advice. It leaves all the decadal targets unchanged.

- Carbon Budget 2 (2021-25): 37% average reduction with a 0% offset limit
- Carbon Budget 3 (2026-30): 43% average reduction<sup>6</sup>
- 2030: 45% reduction
- 2040: 67% reduction
- 2050: at least 80% reduction against the baseline

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<sup>5</sup> These targets are all set against the 2017 CCC advice, which was in turn based upon scientific understanding of GHG emissions at that time (1990-2015 GHG emission data are used as the basis). However, understanding of emissions has progressed since then and the latest CCC analysis is considerably revised to take account of these changes. The Option 1 pathway does not take any of these adjustments into account.

<sup>6</sup> There is no statutory deadline for setting each offset limit. We will set the CB3 offset limit no later than 2025.

## Option 2: Accept the CCC’s recommendations in the December 2020 advice

- Carbon Budget 2 (2021-25): 37% average reduction with a 0% offset limit<sup>7</sup>
- Carbon Budget 3 (2026-30): 58% average reduction<sup>8</sup>
- 2030: 63% reduction
- 2040: 89% reduction
- 2050: at least 100% reduction against the baseline

### Costs and benefits

#### Costs

We estimate the Present Value of resource costs of Option 2 will lead to additional resource costs of between £6bn and £10bn over the period to 2050.<sup>9</sup> The best estimate, based on the Balanced Pathway that the CCC’s recommendations are drawn from, is that the cost is likely to be in the upper third of this range. Upper and lower bounds are drawn from analysis of all of the CCC’s scenarios in their December advice.<sup>10</sup>

**Note:** The resource costs of the net zero transition are not attributed as part of this analysis. Costs are likely to be shared between the Welsh and UK Governments, the private sector, investors and citizens.

	Best estimate	Lower bound	Upper bound
Option 1	£4.7bn	£3.3bn	£5.5bn
Option 2	£14.1bn	£10.1bn	£15.9bn
Additional cost of Option 2	<b>£9.4bn</b>	£5.9bn	£10.4bn

**Table 1:** Present Value of resource costs of Options 1 and 2<sup>11</sup>

<sup>7</sup> The CCC’s recommendation for CB2 was a 37% average reduction in law with a commitment to outperform it. This is the minimum required to meet the Balanced Pathway. Our costs analysis incorporates the CCC’s recommendation for CB2 with a view to meeting the 2030 recommendation and later targets.

<sup>8</sup> There is no statutory deadline for setting each offset limit. We will set the CB3 offset limit no later than 2025.

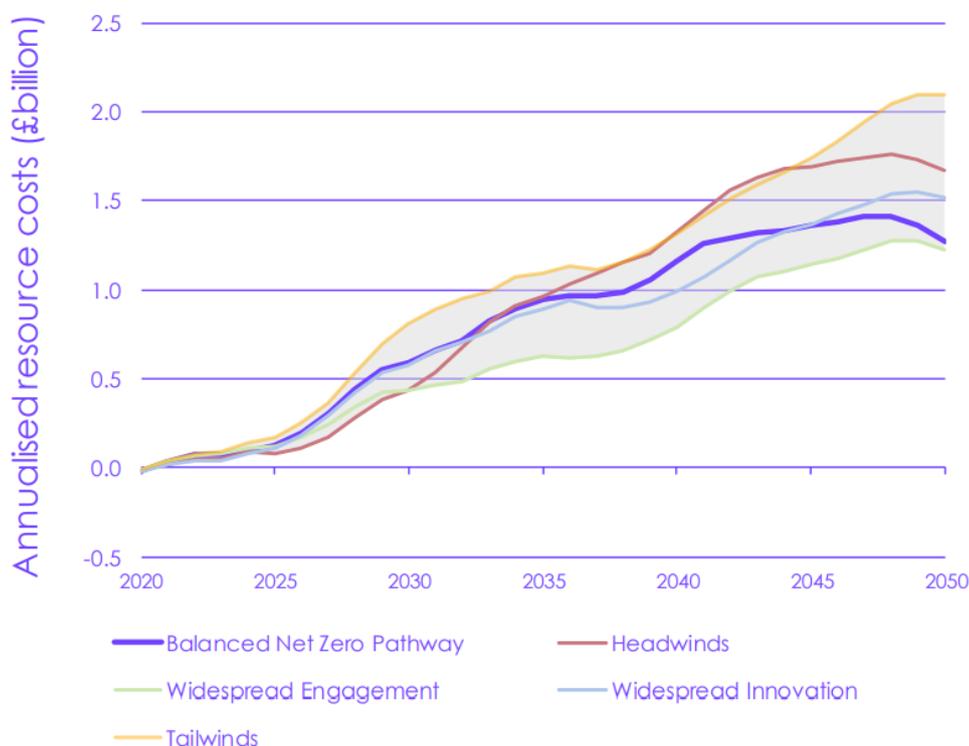
<sup>9</sup> Resource costs are discounted using the Social Time Preference Rate’ (STPR) (3.5%) to provide the Present Value of resource costs. Additional resource costs indicate the extra spend required to provide the same goods and services but in a low-carbon way. They are calculated by annualising the capital investment costs over their lifetimes using a suitable cost of capital and subtracting in-year operating cost savings.

<sup>10</sup> Headwinds, Widespread Engagement, Widespread Innovation, and Tailwinds – in addition to the Balanced Pathway.

<sup>11</sup> Figures may not sum due to rounding and comparisons across multiple CCC scenarios.

## Comparison with the CCC estimate

Figure 1 shows that the CCC forecast the resource cost of their Balanced Pathway to be approximately £25bn.<sup>12</sup>



**Figure 1:** Annualised resource costs of the CCC’s scenarios; CCC analysis

The reasons for the difference between our estimate and the CCC’s estimate are twofold:

1. The CCC does not apply discounting to their estimates. The effect of discounting is the sole reason for the difference between their £25bn figure and the £14.1bn figure in Table 1.
2. The CCC compares the costs of achieving a net zero target with a hypothetical counterfactual<sup>13</sup> of no-further climate-action from today. The counterfactual against which the costs in this RIA are compared is the existing statutory 80% target (Option 1).

## Methodological approach

**Note:** Our cost estimates have been derived entirely from the CCC analysis and we have not undertaken our own modelling.

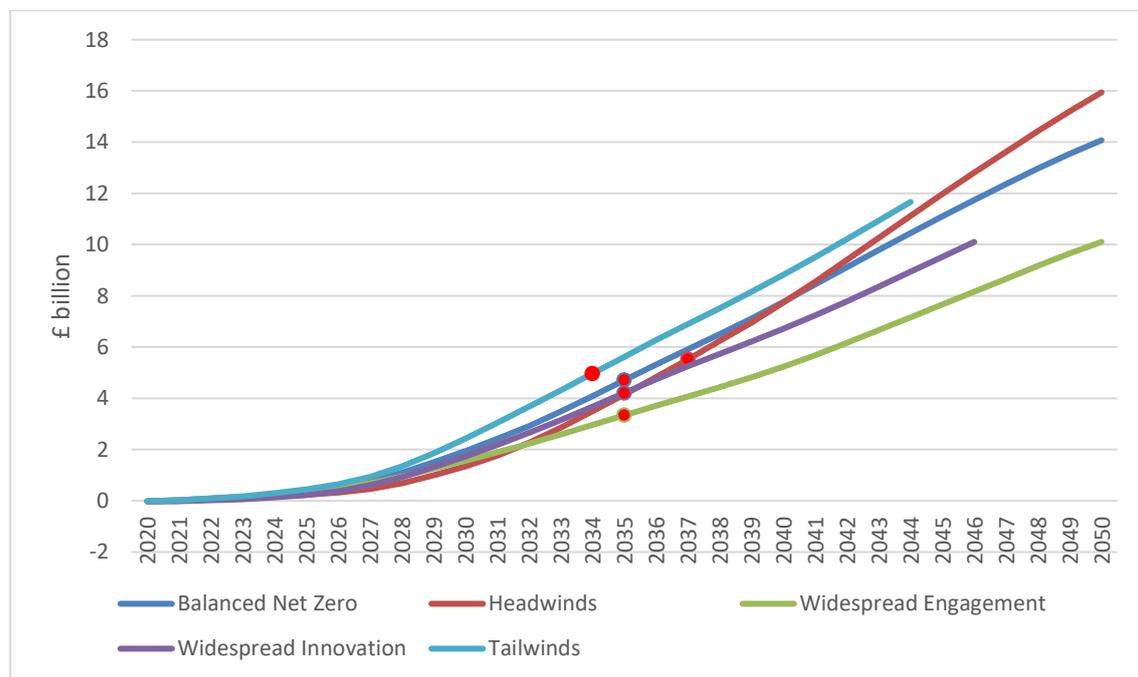
<sup>12</sup> The CCC report resource costs on an annual rather than cumulative basis. The £25 billion figure is the summation of the annual resource cost in each of the 30 years it takes to reach the net zero target. For detail on the CCC’s methodology, including assumptions, uncertainties and sensitivities, see Chapter 5 of [The Sixth Carbon Budget – The UK’s path to Net Zero](#).

<sup>13</sup> The CCC’s counterfactual in the 2020 advice differs from all previous CCC publications. For more information see p.20 of [The Sixth Carbon Budget Methodology Report](#) (CCC, 2020).

The costs of both options are based on the scenarios produced by the CCC in their December advice. The costs of Option 1 are calculated by taking the annualised resource costs up to the point at which the particular scenario reaches the 80% target, whereas the costs of Option 2 take into account the whole pathway to net zero.

Figure 2 shows the cumulative annual resource costs for each scenario from 2020 onwards, up to the year where net zero emissions is reached. The point at which 80% is reached varies in the different scenarios (Table 2) and is indicated by the red dot in Figure 2. The additional costs of Option 2 are derived from the difference between the red dot and the end of the line.

The CCC’s scenarios rely to varying degrees on engineered greenhouse gas removals, such as Bioenergy with Carbon Capture and Storage (BECCS). The Balanced Pathway recommended by the CCC in their 2020 advice leads to a 96% reduction in Welsh emissions in 2050.<sup>14</sup> The CCC advises that Wales can credibly meet net zero in the Balanced Pathway either with a 4% share (approximately 2MtCO<sub>2</sub>e) of total UK engineered removals or through increased action in other areas, including land use and behavioural changes. However, the CCC’s analysis does not allocate a specific level of engineered removals to each UK nation. The analysis behind the figures in Table 1 includes Wales’s share of the UK costs of engineered removals in each CCC scenario up to 2050, in order to estimate the full cost of achieving net zero. Alternative ways of bridging the emissions gap would incur different costs.



**Figure 2:** Cumulative Present Value of resource costs for each scenario; WG, using CCC analysis

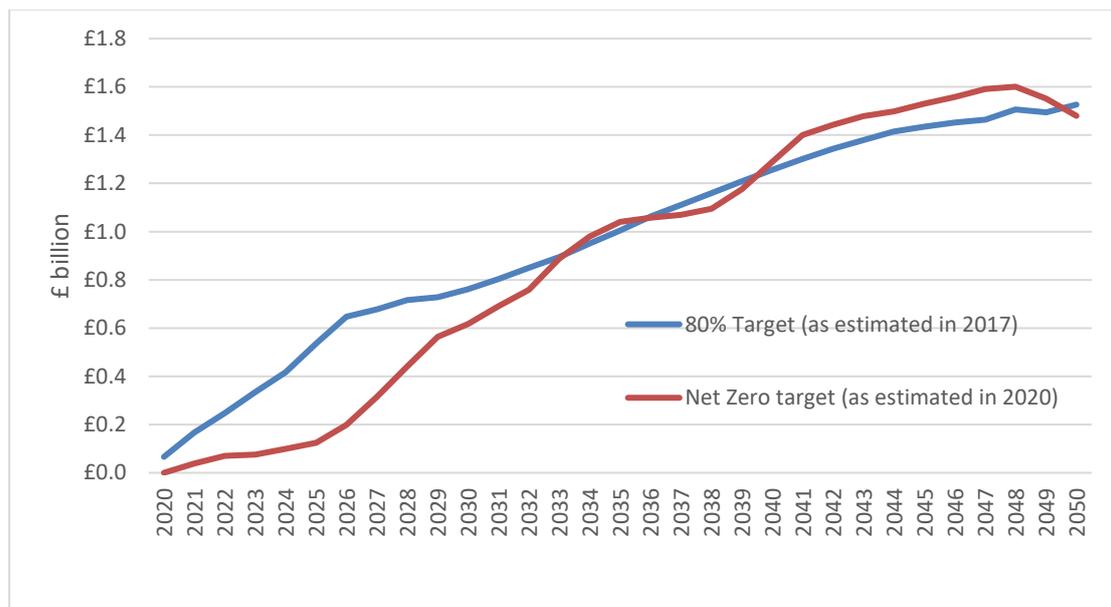
	<b>80%</b>	<b>Net zero</b>
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<sup>14</sup> The other CCC scenarios that do not reach net zero by 2050 are Headwinds (93%) and Widespread Engagement (99%).

Balanced Pathway	2035	2050
Headwinds	2037	2050
Widespread Engagement	2035	2050
Widespread Innovation	2035	2046
Tailwinds	2034	2044

**Table 2:** Years in which emission reduction targets are met under the CCC’s scenarios; WG, using CCC analysis<sup>15</sup>

We adopted this approach to estimate the costs of Option 1 because the CCC’s 2017 cost estimate of an 80% target can no longer be considered robust, due to significant falls in the costs of technology and methodological changes undertaken by the CCC.<sup>16</sup> To illustrate the impact of these changes, Figure 3 shows the estimated resource cost of achieving an 80% target (produced in 2017) compared to the cost of achieving a net zero target (produced in 2020). This shows the uncertainty of estimating future resource costs, as they are highly sensitive to differences in behaviour change and the level of innovation in low carbon technologies.



**Figure 3:** Annualised resource cost of Option 1 (2017) and Option 2 (2020) (£billion); WG, using CCC analysis<sup>17</sup>

<sup>15</sup> Our analysis assumes a small amount of engineered greenhouse gas removals in the Balanced Pathway and Headwinds scenario before 2035 and 2037 respectively. This has been accounted for in the costs in Table 1. For the purposes of our analysis, the Balanced Pathway, Headwinds and Widespread Engagement Scenarios reach net zero in 2050 with varying amounts of engineered removals.

<sup>16</sup> The changes and their implications are summarised in Box 1.2 on p.27 of [The Sixth Carbon Budget Methodology Report](#) (CCC, 2020).

<sup>17</sup> Option 2 (Net Zero target) is based on our undiscounted cost analysis of the CCC’s Balanced Pathway and includes the costs of engineered removals required to reach net zero.

### *Where the costs are likely to fall*

The CCC is clear that the costs should not be interpreted as being solely delivered through Welsh Government expenditure, nor as costs that only Welsh businesses and households have to bear. The extent to which costs and savings are shared across the UK – including the amount of expenditure through Welsh Government budgets – will be determined by policy at both UK and Welsh Government level. Many of the actions to reduce emissions will likely be paid for at UK level and/or socialised across the whole of the UK. The CCC provides the following examples:

- The costs associated with building new low-carbon generation will be shared across all consumers of electricity on the GB grid. The CCC has reflected this by allocating resource and investment costs for electricity supply to Wales in proportion to consumption, rather than make assumptions on where new zero-carbon generating capacity is located.<sup>18</sup>
- The costs of decarbonising industrial clusters could be met through a combination of direct financing from the UK Exchequer and/or be passed through to the end-users of low-carbon products.
- A market mechanism for greenhouse gas removals could see the UK aviation industry offsetting emissions by paying for removals, including planting trees, in all areas of the UK.

An expert advisory group convened by the CCC suggested that the private sector could deliver the majority of the investments in a transition to Net Zero.<sup>19</sup> For this to happen, the Welsh and UK Governments will need to ensure appropriate regulatory and taxation regimes are in place. Given the CCC anticipates a small overall economic impact and assumes the private sector to finance most of the transition, the CCC expects the overall impact on public finances to 2050 to be limited.

Table 1 shows a larger total Present Value of resource costs for Option 2 than Option 1. This means that Option 2 may result in increased costs for households, at least in the short-term. However, in Option 2 households are likely to benefit from reduced operating costs over time. There is evidence to suggest that the benefits of Option 2 may outweigh the costs; the benefits are explored in further detail below.

In December 2020 HM Treasury published an interim report for its Net Zero Review.<sup>20</sup> The report recognises the implications for households arising from the structural changes required by the transition to a net zero economy but does not seek to calculate the impact of the transition on any particular group.

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<sup>18</sup> This assumption typically causes the estimate of Wales' share of UK costs to be lower than its share of UK abatement, because Wales is currently a significant net exporter of gas-fired power to the UK, but the costs of actions to decarbonise power will be shared by all electricity users in the UK.

<sup>19</sup> For detail, see Chapter 5 of [The Sixth Carbon Budget – The UK's path to Net Zero](#).

<sup>20</sup> [Net Zero Review: Interim Report](#) (HM Treasury, December 2020)

The report acknowledges the inherent uncertainties in forecasting how the net zero transition will affect households by concluding that:

“The transition is a dynamic process that will take place over several decades, and its impact on individual households will ultimately depend on a range of factors including: the development of new low-carbon sectors in the UK; the pace of transition and policy levers chosen; the price of low-carbon alternatives to households and businesses’ current activities; and the dynamism of the labour and capital market.”

Households are exposed to the net zero transition through:

1. The goods and services they buy (household consumption). Different types of household will have different levels of exposure to the transition. For example, higher-income households consume more carbon in absolute terms, but lower-income households tend to consume more carbon relative to their income. HMT analysis suggests that the highest-income households emit around three times as much carbon as the lowest-income households, while on average their income is approximately eight times greater. Furthermore, regional analysis suggests that the average household greenhouse gas footprint in Wales is around the average, when compared to other parts of the UK.<sup>21</sup>
2. Labour market effects. There are likely to be large transitional labour market effects between sectors, with people in certain occupations (skilled trade, and process plant and machine workers) more likely to work in more carbon-intensive industries. People in these occupations are also disproportionately likely to have a lower level of education and to be lower income workers. HMT analysis suggests that people with lower and middle levels of education are employed in jobs with over 20% higher carbon intensity than highly educated employees, on average.
3. Changes to the value of assets. The interim report does not include analysis of this aspect. The net zero transition could affect household business profits, subsequently affecting households that own them (negatively or positively, depending on the household assets owned).

### *Benefits*

The CCC’s December advice considers the benefits of net zero in the areas of prosperity, health and natural capital. The benefits discussed here follow the CCC’s approach of comparing a net zero pathway (Option 2) with a future of no further climate action, rather than comparing the benefits of Options 1 and 2 directly.

While it is not possible to quantitatively compare the macroeconomic, health and natural capital benefits under the options considered, it is reasonable to assume greater net benefits will accrue under Option 2 in relation to health and natural capital. This is because a net zero target will likely demand a greater policy response relevant to these areas, for example more tree planting, and this should increase the benefits flowing from these actions. Option 2 also

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<sup>21</sup> [Net Zero Review: Interim Report](#) (HM Treasury, December 2020, p.75)

frontloads climate action in the next 15 years, which would achieve the benefits earlier than Option 1 and result in greater cumulative benefit overall.

### **Prosperity and resilience**

In the near term, the CCC report that GDP is likely to increase, especially as the economy rebuilds after the COVID-19 crisis. The negative economic impacts from COVID-19 mean the economy is not at full capacity and so present an opportunity for projects which are both ready to implement and which have a high fiscal multiplier effect. According to Hepburn et al (2020), green projects considered to have high multiplier values and strong climate benefits include building efficiency spending for renovations and retrofits, and natural capital investment for eco-system resilience and regeneration (such as restoration of carbon-rich habitats and climate friendly agriculture).<sup>22</sup>

The CCC endorses this position, arguing that now is an ideal time to encourage investment, based on historically low interest rates and a potential demand shortage for cheap capital. Economic recovery from the COVID-19 pandemic necessitates stimulus, and many of the measures detailed in their advice have been shown to have high economic multipliers. However, it should be noted that other fiscal spending not linked to environmental policy may also have a high fiscal multiplier effect during periods of spare capacity. Furthermore, we cannot know for how long the economy will be at limited capacity as a result of COVID-19.

The CCC stresses that the estimates of annualised resource costs are not the same as macroeconomic impacts because resource costs are a microeconomic measure which do not account for wider dynamic interactions in the economy. For example, resource costs incorporate investment costs but do not account for the increase in GDP if that investment is made domestically. Furthermore, the shift away from fossil fuel imports is likely to have major benefits to the country's trade balance, which the resource costs also do not account for.

Macroeconomic analysis conducted in support of the CCC's advice demonstrates that despite the added resource costs involved, the net zero transition is expected to boost UK GDP by around 2% by 2030, levelling off at around a 3% increase by 2050.<sup>23</sup> The analysis estimates that UK net employment will be between 0.5-1% higher than the baseline of no further climate action between 2025-2050, with this employment growth largely resulting from the net zero investment programme.

The CCC reports that actions needed for the transition to net zero in Wales can stimulate economic growth, create jobs, and aid a recovery from the pandemic, as well as increasing resilience to future climate risks. Legislating the CCC's recommended targets would send a clear signal that Wales is open for low-carbon investment and take forward the commitment to "respond energetically to the climate emergency by pursuing a strong decarbonisation agenda", set

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<sup>22</sup> [Will COVID-19 fiscal recovery packages accelerate or retard progress on climate change?](#) (Hepburn et al, May 2020)

<sup>23</sup> [Economic impact of the Sixth Carbon Budget](#) (Cambridge Econometrics, 2020)

out in the 'COVID-19 Reconstruction: Challenges and Priorities' paper, published in October 2020.<sup>24</sup> This will also help to encourage private investment at a time when it is needed to support Wales' economic recovery from the COVID-19 crisis. It could also help Wales secure competitive positions in growing global markets for low-carbon goods and services.

## **Health**

There is clear evidence for the health benefits of the net zero transition. Some of these come directly from changes required to achieve net zero (e.g. more active travel and dietary changes) and some indirectly from the implications of those changes (e.g. better air quality from reduced burning of fossil fuels and more liveable buildings as insulation is improved). These benefits are difficult to quantify, but the CCC states that they "unquestionably offset some, if not all, of the overall resource costs of achieving emissions targets".

The CCC's Expert Advisory Group on Health concurred strongly with the CCC's previous assessment that climate action could bring significant benefits to health. The Group identified five key areas in which action would bring benefits to public health and reduction of health inequalities while contributing to the mitigation of – and adaptation to – climate change:

1. Improved air quality delivered by a move to a cleaner energy system and moving away from fossil fuel combustion in most sectors of the UK.
2. Healthier modes of transport, particularly due to the health benefits of walking and cycling and reducing air pollution from road vehicles.
3. More comfortable and efficient homes that are low-carbon, energy efficient and designed for a changing climate.
4. Better diets with a focus on healthy and sustainable alternatives to the highest carbon foods.
5. Sustainable economic and employment models that better support health and wellbeing.

While noting the potential benefits to public health, the Group noted that the biggest driver of health outcomes in the UK remains economic inequality. A just transition is therefore an essential part of a successful climate policy and health policy.

There are also some potential health risks associated with achieving net zero. One such risk is a greater risk of airborne infection where increased energy efficiency in buildings is not accompanied by adequate ventilation.<sup>25</sup>

## **Natural capital and well-being**

Each of the CCC's scenarios for Wales include measures to improve Wales' natural capital:

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<sup>24</sup> [COVID-19 Reconstruction: Challenges and Priorities](#) (WG, 2020)

<sup>25</sup> University of Leeds study quoted in 'Could Energy Efficiency Actually Increase Hospital Infection Rates?' (2013): <http://www.buildings.com/articles/30879/could-energy-efficiency-actually-increase-hospital-infection-rates>

- Provisioning services. The scenarios include an increase in renewable energy generation – particularly wind – consistent with the Welsh Government's target to generate renewable electricity equivalent to 70% of Welsh consumption by 2030.
- Regulation services. The Balanced Pathway includes the planting of between 4,500 and 7,500 hectares of trees per year, from 2025 to 2050, which will also contribute to improved air quality. Trees filter rainwater before it reaches receiving waters, thus improving water quality. Strategic planting of trees on flood plains can also regulate flooding. Trees can also reduce storm water runoff and slow storm flow. Significant areas of peatland will also be restored which – in addition to carbon sequestration – provide other vital services, such as water regulation, flood protection and habitats for wildlife.
- Cultural services. The natural environment provides a range of cultural services, such as increased amenity benefits, improved mental health, educational benefits and spiritual well-being.
- Supporting Services. In agriculture, the scenarios include soil and crop measures that aim to increase the efficiency of fertiliser use. These have benefits to water and soil quality, and biodiversity.

### *A just transition to Net Zero<sup>26</sup>*

The CCC expects the transition to bring many benefits for UK households. By 2035, in the CCC's scenarios, people's homes will be better insulated, their cars will be cheaper to drive, they will have cleaner air, quieter streets, more access to green spaces and more opportunities to improve their health. Policy should aim to share these benefits broadly across the population.

The CCC also highlights the risk of uneven costs. In the long term, energy costs and energy bills are expected to fall significantly but electricity costs are likely to rise first. Although improvements to energy efficiency could largely offset these costs, the CCC says that the additional costs should not be automatically added to energy bills, which is a regressive approach. It notes that continuing to add climate policy costs primarily to electricity prices, but not gas prices, adversely affects particular groups (those with electric heating).

### **New job opportunities**

The opportunities for jobs growth have, to date, largely been focused on deploying renewable electricity. Research conducted by the International Labour Organisation suggests that growth in renewable energy sources leads to greater job creation than growth in non-renewable energy sources.<sup>27</sup> The CCC anticipates that the next phase of decarbonisation will go beyond renewable electricity towards electric vehicles, low-carbon hydrogen, carbon capture usage and storage (CCUS) and buildings decarbonisation. Low-carbon industrial products will be in increasing demand across the world.

<sup>26</sup> For more detail, see Chapter 6 of [The Sixth Carbon Budget – The UK's path to Net Zero](#).

<sup>27</sup> ['The transition in play: Worldwide employment trends in the electricity sector'](#), (International Labour Organization, Research Department Working Paper No. 28, G. Montt, N. Maitre, S. Amo-Agyei, 2018)

The macroeconomic analysis published alongside the CCC's advice also provides some insights into potential employment effects.<sup>28</sup> It identifies boosts in employment in the utilities sector and in manufacturing and construction, while there will likely be job losses in oil and gas production and aviation. At a UK level, the analysis estimates net employment growth of between 0.5-1% compared with the baseline of no further climate action between 2025-2050, resulting from the economic stimulus effect of the major investment programme implied by the CCC's Balanced Pathway.

### **Pressure on existing jobs**

A transition to Net Zero will also reduce demand for certain high-carbon services and technologies, such as fossil fuel extraction, processing and distribution, aviation, fossil fuel machinery and some livestock and dairy. This could see jobs in some key sectors significantly affected, though in each area there will also be new employment opportunities.

### **Regional considerations**

The opportunities and challenges of the low-carbon transition will vary regionally. For example areas with older, energy inefficient housing could face higher energy bills. Rural areas off the gas grid, who typically pay more for heating fuel, could have more to gain from a switch to low-carbon heating. Current and future transport infrastructure can limit the ability of the local population to walk, cycle or use public transport, and may affect the opportunity for, and costs of, running an electric vehicle. However, a transition to electric vehicles alongside an increase in active travel will lead to a decrease in local air pollution, benefitting health. A shift to healthier diets, and improved quality of housing is expected to lead to lower costs for the health service. An increase in tree-planting and urban green spaces will provide more green recreational space. Relative wealth will be important, including the ability to fund changes locally.

### *CCC Expert Advisory Group on the costs and benefits of a UK net-zero emissions target*

In 2019, the CCC set up the Advisory Group on the Costs and Benefits of Net Zero. The Advisory Group produced a Chair's Report based on the Group's deliberations and written submissions.<sup>29</sup>

The thrust of the report was that the costs and benefits of deep decarbonisation are unknowable with any precision, as they are both very uncertain in themselves and depend both on the decarbonisation policies and the timescale over which they are pursued. However, that said, the Group drew the following conclusions:

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<sup>28</sup> [Economic impact of the Sixth Carbon Budget](#) (Cambridge Econometrics, 2020)

<sup>29</sup> [Report to the CCC](#) (Advisory Group on the Costs and Benefits of Net Zero, May 2019)

- The climate science suggests that there are very large potential benefits of limiting the average global temperature rise to 1.5°C rather than 2°C, which provides a justification for a Net Zero as opposed to an 80% emission reduction target;
- The costs of reducing greenhouse gas (GHG) emissions have been grossly over-estimated in the past; recent modelling suggests that costs might be around 1% of GDP, but ongoing reductions in the costs of zero-carbon technologies suggest that in the future the costs might turn negative (i.e. zero-carbon electricity may turn out to be cheaper than fossil fuel generation, even if the climate benefits are not considered);
- The costs of reaching Net Zero by a certain date (e.g. 2050) will be lower the sooner the requisite policies are put in place to achieve it, to give investors certainty about the direction of travel and to fit in with investment cycles to minimise the stranding of long-lived high carbon infrastructure;
- The health co-benefits of reducing fossil fuel use and greenhouse gas emissions could be very substantial in terms of improved air quality, active travel and healthier lower-meat diets;
- However low (or negative) the costs of Net Zero turned out to be, the transition to Net Zero would involve deep structural changes that would affect people, communities and economic sectors in very different ways. There would be winners and losers. The political acceptability of the transition would depend on it being seen to be fair, as well as this being desirable on ethical grounds;
- Achieving Net Zero by 2050 will require wide-ranging policies that are credible, consistent across government, long-term and of a stringency to transform major techno-socioeconomic systems of society (including energy, food, transport, waste and resource use). The required policy approach “includes a stable long-term direction with clear governance, regular reviews for flexibility, use of markets to find the best solutions, support for large-scale deployment of new technologies as well as research and development, and approaches that are tailored to the needs of each sector, while maintaining consistency across the system.”

Their report emphasised that the benefits (including decreased climate risk) of net zero outweigh the costs, that good policy design is vital to keep costs low and maximise benefits and that clarity around the decarbonisation pathway is a key enabler of innovation.

In April 2020 the CCC asked the Advisory Group to reflect on whether the economic circumstances consequent on and subsequent to COVID-19 are likely to have affected the Group’s conclusions in its 2019 Report, as set out above. The Group concluded that, if anything, their recommendations from 2019 have been reinforced by events since.<sup>30</sup>

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<sup>30</sup> [Supplementary report to the CCC](#) (Advisory Group on the Costs and Benefits of Net Zero, December 2020)

“The climate science has not changed, justifying the pursuit of a 1.5°C target [and net zero]... There is now a much greater economic rationale for substantial public investment, and the right measures to crowd in private investment, than there was [in 2019].”

### *Administrative costs*

The administrative cost burden on the Welsh Government arises from establishing and maintaining the legislative framework for emissions reduction, developing policy, and then monitoring and reporting progress against the targets and carbon budgets. These costs are expected to be broadly similar under each of the options presented above.

### **Environment Act factors**

Section 32(3) of the Environment (Wales) Act 2016 lists a number of reports and factors that Welsh Ministers must have regard to when changing the 2050 emissions target, or setting or changing an interim emissions target or carbon budget. The reports and factors are:

- the most recent State of Natural Resources Report;
- the most recent Future Trends Report;
- the most recent Future Generations Report;
- scientific knowledge about climate change;
- technology relevant to climate change; and
- EU and international law and policy relating to climate change (including international agreements on measures designed to limit increases in global average temperatures).

### **State of Natural Resources Report**

In December 2020 Natural Resources Wales (NRW) published the first documents as part of the second State of Natural Resources Report (SoNaRR 2020). Among these documents are NRW’s assessments of the four aims of the Sustainable Management of Natural Resources (SMNR). In its assessment of the achievement of SMNR Aim one (Stocks of natural resources are safeguarded and enhanced), NRW finds that climate change is having a “substantial effect on biodiversity and ecosystems” through:<sup>31</sup>

- shifting species ranges;
- localised extinctions;
- changes to life-cycle events;
- sea level rise;
- exacerbating the increase in invasive species including disease vectors; and
- altering the abundance and distribution of biodiversity.

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<sup>31</sup> [SoNaRR 2020: Assessment of the Achievement of SMNR Aim 1: Stocks of Natural Resources are Safeguarded and Enhanced](#) (NRW, 2020)

The projected increase in frequency and intensity of droughts, fluvial and coastal floods and heatwaves are all likely to further reduce overall ecosystem resilience.

NRW concludes that “Overall Wales’s natural resources are not safeguarded or enhanced to the degree that we can say we are achieving sustainable management.”<sup>32</sup> It identifies decarbonisation as one of four opportunities for action to improve performance against Aim one. NRW has also published natural resource registers showing how climate change is causing pressures and impacts on the eight ecosystems within SoNaRR.<sup>33</sup>

Ecosystem	Key pressures			
	Changing weather patterns	Sea level rise	Increased water temperature	Ocean acidification
Coastal margins				
Enclosed farmland				
Freshwater				
Marine				
Mountains, moorlands and heaths				
Semi-natural grasslands				
Urban				
Woodlands				

**Table 3:** Key pressures on ecosystems caused by climate change (NRW, SoNaRR 2020)

The full chapter on how climate change is threatening ecosystem resilience and ecosystem services will be published in March 2021.

## Future Trends Report

The most recent Future Trends Report dates from 2017, with the next report due in summer 2021.<sup>34</sup> The report identifies key future social, economic, environmental and cultural trends for Wales, under six themes that impact all aspects of government and public administration. Climate change is one of the themes, along with population, health, economy and infrastructure, land use and natural resources, and society and culture. The report essentially asks two questions:

1. Where might Wales be going? (Trends)
2. What could this mean? (Influencing factors)

<sup>32</sup> [SoNaRR 2020: Assessment of the Achievement of SMNR Aim 1: Stocks of Natural Resources are Safeguarded and Enhanced](#) (NRW, 2020, p.22)

<sup>33</sup> [SoNaRR2020: Natural resource registers](#) (NRW, 2020)

<sup>34</sup> [Future Trends Report](#) (Welsh Government, 2017)

## *Trends*

### **Population**

Wales' population is projected to increase over the next 20 years, possibly by around 5%. Around half of this growth could be due to natural change (births and deaths) and half due to in-migration from the rest of the UK or internationally. The UK's exit from the European Union could lead to more controlled migration in the future and a subsequently lower population growth rate.

Over the next 20 years, the percentage of over 65s in Wales is set to increase from around 20% to around 25% of the entire population. The population aged over 75 in Wales is also projected to increase from 9% of the population in 2014 to around 13% in 2030. The number of young people (aged under 16) is projected to increase up to 2023 and then fall slightly up to 2030.

The number of households in Wales is projected to grow faster than the overall population. This would lead to smaller household sizes.

### **Economy and infrastructure**

The global shift of economic growth away from more mature economies has meant that the UK has, over the last 50 years, slipped down global GDP leagues in terms of the overall economy size as less mature economies catch up with those that developed earlier. However, this does not mean that growth will stop in developed countries. Importantly, the overall size of a country's economy is less important for wellbeing than the income per head, and by this measure the UK displays better resilience. However, since the recession in 2008, a productivity slowdown has sharply reduced growth rates. The UK and Wales have been particularly affected.

Wales has great untapped growth potential to generate energy, including from renewable sources. There is currently significant growth in the community level low carbon energy sector in Wales.<sup>35</sup>

The provision of broadband infrastructure is developing rapidly after a slower start relative to the rest of the UK. This was in part due to Wales' demographics and the high level of rural households that are harder to connect to conventional wired broadband. The rapid increase in mobile internet infrastructure looks set to continue, which should help to reach those households that cannot currently access higher speed internet.

Current trends suggest that, despite growth in rail use, private vehicles are set to remain the dominant mode of transport in Wales in the short to medium term at least. The expected advent of autonomous or driverless vehicles in the next 10 to 15 years could in turn have implications for our transport systems.

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<sup>35</sup> When the Future Trends Report was published in 2017, the total number of locally-owned projects was 63,071 with a capacity of 529MWe. The latest figures, from 2019, are 68,560 projects and a capacity of 549MWe. See <https://gov.wales/energy-generation> for more detail.

## **Climate change**

Even in the best case scenario, there are likely to be significant national as well as global impacts beyond those already observed. Global temperature increases are likely to exceed the two degree threshold, unless significant and rapid action is taken globally.

There are potentially significant impacts to Wales from exceeding the global two degrees threshold. The latest UK Climate Change Risk Assessment identified the following areas for priority action:

- Flooding and coastal change risks to communities, businesses and infrastructure.
- Risks to health, wellbeing and productivity from high temperatures.
- Risk of shortages in the public water supply, and for agriculture, energy generation and industry, with impacts on freshwater ecology.
- Risks to natural capital including terrestrial, coastal, marine and freshwater ecosystems, soils and biodiversity.

Infrastructure across Wales is already exposed to a range of climate hazards, which are projected to increase both in frequency and severity. Such infrastructure includes transport networks, underground infrastructure, energy and digital infrastructure and public water supplies. Impacts on some assets have the potential to cascade on to others as part of interdependent networks. Flooding poses the greatest long-term risk to infrastructure performance from climate change, but the growing risks from heat, water scarcity and slope instability caused by severe weather could also be significant.

## **Land use and natural resources**

By 2050, average river flows in winter may rise by 10-15%. However, in the summer and early autumn they could reduce by over 50% and as much as 80% in some places. Droughts and flood events may become more common. Climate change may also affect the rates of groundwater recharge.

Soil carbon has been stable in improved land for 30 years. Recent increases in soil carbon in woodland until 2007 have now stabilised with no further increase detected. However, a significant decline in soil carbon in habitat land over the last 10 years has been detected and further work is needed to identify possible reasons for this.

Housing need in Wales is growing due to the number of households increasing faster than the number of available properties. In contrast, there is likely to be less suitable land available for development as flood plains and other lower lying land becomes increasingly prone to flooding.

## *Influencing factors*

### **Political**

The exit of the UK from the European Union may be the most immediate and potentially most disrupting factor to these identified trends. It is probable that this process will have a significant and wide ranging impact on Wales,

potentially impacting on economic growth and migration to Wales from both Europe and beyond.

There are also risks to the economic growth rate given the increasing potential for politically led 'de-globalisation'. Decreasing global trade patterns and the potential for increased protectionism could have a significant effect on both the mix and extent of various industries in Wales.

### **Economic**

Economic growth rates could affect the amount of investment made in the research and development of new technologies, both globally and in Wales and the UK.

### **Social**

Behavioural change among the Welsh population will be an unknown and potentially significant influence on how these trends unfold.

### **Technological**

There is the potential for technological advances to dramatically improve the effectiveness and availability of low carbon energy. Mass production of current technologies such as solar power and energy storage may also help to dramatically increase the deployment of low carbon energy.

If the more pessimistic prediction for climate change occurs, there is a possibility that 'climate fixing' technology such as bioengineering may be employed to lower CO<sub>2</sub> levels in the atmosphere and levels of warming. The deployment of such technologies could have potentially significant effects and may not help to combat such effects as the acidification of the oceans.

Advances in household, transport and energy technologies could have a transformative effect on population behaviours, even over fairly short timescales.

### **Legislative**

Ratification of the United Nations Paris Agreement has set the global legal context for climate change. The international context around climate change has now changed with a roadmap in place for global decarbonisation, setting a new long-term target for net zero global emissions in the second half of this century and key legislative requirements at all levels.

### **Environmental**

There are a wide range of climate change scenarios and models. The next 20 years may be crucial in determining which of the various longer term warming scenarios will occur.

As the impacts from climate change become more prevalent, there may be an increasing risk of climate related disruption to global and regional economic networks. These could take the form of disruptions in crop production, or an increasing risk of flooding. The sensitivity of the climate to the rising levels of CO<sub>2</sub> in the atmosphere will be key to the extent to which infrastructure might be

disrupted. The more pessimistic scenarios also have the potential to impact significantly on population growth and migration levels, given the possibility of increased risk in terms of failures elsewhere in food production/ transportation and access to other resources, along with associated global conflicts.

There are some potential climate related risks that could impact negatively on health trends, not just in Wales but globally. One example is the greater risk of extreme hot weather events, the incidences of which are unpredictable. Climate change could also bring increasing risks of newly emerging infectious disease. Likewise, future air quality levels could be a major associated influencing factor. In contrast, there are also likely to be some opportunities presented by a warming trend. For example, the amount of energy required to maintain warm homes would reduce.

The level of sensitivity of Wales' biodiversity and habitats to climate change will be the key to how natural resources trends may evolve. There are risks from climate change in the frequency and the magnitude of extreme weather and wildfire events. Climate change is influencing the expansion or contraction of some species' ranges and populations, and the increasing frequency of extreme climatic events, predicted in many climate change scenarios, may have serious implications.

## **Future Generations Report**

The most recent Future Generations Report was published in May 2020.<sup>36</sup> Chapter 5 specifically focuses on decarbonisation.

### *People's perception of decarbonisation*

Concerns about climate change reached a record high in 2019 (85% in the UK). The Commissioner says that one of the things people have emphasised in conversations with her is the importance of having a more proactive government with stronger targets and regulation.

### *What future generations need*

The report says we need to reduce our emissions in Wales by at least 95% by 2050, preferably sooner, to avoid catastrophic climate change. This means that in Wales we need to make an urgent transition to a low carbon economy and society.

Young people have had a significant impact on securing action on climate change in Wales. Public awareness, especially amongst the younger generation, has increased considerably in the last 12 months. Following the Fridays for Future protests, the Commissioner believes that 2019 was the year when children and young people showed politicians and decision makers across Wales and the world that they must do more to act on climate change. Young people are now demanding greater action and climate justice, calling on global leaders to take urgent action.

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<sup>36</sup> [The Future Generations Report 2020](#) (Future Generations Commissioner for Wales)

The report argues that we need to address climate change because it is an equality and social justice issue and it will disproportionately affect the most vulnerable communities in Wales and across the world. Vulnerable communities are more likely to be exposed to the risks and impacts of climate change, without the ability to cope with or recover from those impacts.

### **Scientific knowledge about climate change**

Two reports by the Intergovernmental Panel on Climate Change (IPCC) summarise the core of scientific knowledge about climate change: the Fifth Assessment Report (IPCC-AR5) and the Special Report on Global Warming of 1.5°C (IPCC-SR1.5).<sup>37</sup>

#### *Key conclusions from IPCC-AR5<sup>38</sup>*

- The climate is changing as a result of global greenhouse gas emissions; the IPCC concluded that it was unequivocal that humans were influencing the climate
- Many climate impacts are being detected across the world
- Further emissions will lead to further warming and change
- There is no simple threshold beyond which climate change moves from safe to dangerous
- The increase in global temperature is determined mainly by total carbon dioxide emissions over time, which must fall to near zero in order to limit warming

#### *Summary of IPCC-SR1.5*

At COP21 in Paris, the Intergovernmental Panel on Climate Change (IPCC) was invited to provide a Special Report in 2018 on the impacts of global warming of 1.5°C above pre-industrial levels and related global greenhouse gas emission pathways. The report found that:<sup>39</sup>

- Human activities are estimated to have caused approximately 1.0°C of global warming above pre-industrial levels, with a likely range of 0.8°C to 1.2°C.
- Global warming is likely to reach 1.5°C between 2030 and 2052 if it continues to increase at the current rate (high confidence).
- Climate-related risks for natural and human systems are higher for global warming of 1.5°C than at present, but lower than at 2°C (high confidence). These risks depend on the magnitude and rate of warming, geographic location, levels of development and vulnerability, and on the choices and implementation of adaptation and mitigation options (high confidence).
- Climate models project robust differences in regional climate characteristics between present-day and global warming of 1.5°C, and

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<sup>37</sup> [Fifth Assessment Report](#) (IPCC, 2013) and [Special Report on Global Warming of 1.5°C](#) (IPCC, 2018)

<sup>38</sup> As quoted in [The Sixth Carbon Budget – The UK's path to Net Zero](#) (CCC, December 2020, p.355)

<sup>39</sup> [https://www.ipcc.ch/site/assets/uploads/sites/2/2019/06/SR15\\_Headline-statements.pdf](https://www.ipcc.ch/site/assets/uploads/sites/2/2019/06/SR15_Headline-statements.pdf)

between 1.5°C and 2°C. These differences include increases in: mean temperature in most land and ocean regions (high confidence), hot extremes in most inhabited regions (high confidence), heavy precipitation in several regions (medium confidence), and the probability of drought and precipitation deficits in some regions (medium confidence).

The IPCC's projected differences between global warming of 1.5°C and 2°C include:

- Increased climate-related risks to health, livelihoods, food security, water supply, human security, and economic growth.
- Global mean sea level rise of around 0.1 metre lower by 2100 (medium confidence). A slower rate of sea level rise enables greater opportunities for adaptation in the human and ecological systems of small islands, low-lying coastal areas and deltas (medium confidence).
- Lower impacts on biodiversity and ecosystems, including species loss and extinction, and lower impacts on terrestrial, freshwater and coastal ecosystems – enabling them to retain more of their services to humans (high confidence).
- Reduced increases in ocean temperature as well as associated increases in ocean acidity and decreases in ocean oxygen levels (high confidence).
- Consequently, reduced risks to marine biodiversity, fisheries, and ecosystems, and their functions and services to humans, as illustrated by recent changes to Arctic sea ice and warm-water coral reef ecosystems (high confidence).
- Most adaptation needs will be lower (high confidence).

### *New observations of climate*

In its December advice to the UK Government, the CCC also listed new observations of climate since its last UK Carbon Budget 5 advice in 2015:<sup>40</sup>

- The five years since 2015 have seen the five warmest years (globally) on record.
- The global average level of human-induced warming is now in excess of 1.1°C when defined consistent with practices used by the World Metrological Organisation and IPCC-SR1.5. Best estimates indicate that human activities are responsible for 100% of the warming observed since 1850-1900. The observed rate of increase in global temperature (~0.2°C per decade) has proceeded consistent with the near-term warming projection made by the IPCC-AR5 report (a 0.12-0.42°C per decade increase).
- Global sea levels have continued to rise, with the rate of increase over the last five years being the fastest observed to date. Global average sea levels are now estimated to be around 20 cm above levels in 1900.

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<sup>40</sup> [The Sixth Carbon Budget – The UK's path to Net Zero](#) (CCC, December 2020, p.359)

- In the UK, the 2010–2019 decade was the second warmest cardinal decade on record after 2000–2009. In 2019, the highest ever temperature reached in the UK was recorded as well as the warmest ever recorded winter temperature. Considerably more high temperature records were set in the UK over than 2010s than low temperature records.
- Human-induced climate change has been clearly shown to increase the frequency and intensity of many (but not all) extreme weather events, with particularly clear signals in extreme heat and many heavy rainfall events.

### *Tipping points*

While many impacts of climate change broadly reflect relatively gradual changes caused by steady increases in global average temperature, parts of Earth’s system have the potential to change abruptly. Once passed, these ‘tipping points’ cause a dramatic shift that can be irreversible. Examples of tipping points include loss of the Amazon rainforest or the West Antarctic ice sheet.

The IPCC introduced the idea of tipping points two decades ago. At that time, these ‘large-scale discontinuities’ in the climate system were considered likely only if global warming exceeded 5°C above pre-industrial levels. IPCC Special Reports in 2018 and 2019 now suggest that tipping points could be exceeded even between 1 and 2 °C of warming.<sup>41</sup>

In an article in *Nature* in November 2019, Professor Tim Lenton and others report that evidence is mounting that tipping points could be “more likely than was thought, have high impacts and are interconnected across different biophysical systems, potentially committing the world to long-term irreversible changes.”<sup>42</sup> In their view, if tipping points are indeed looking more likely, then the costs associated with the resulting impacts mean warming must be limited to 1.5°C. They consider several cryosphere tipping points are dangerously close, but mitigating greenhouse gas emissions could still slow down the inevitable accumulation of impacts and help us to adapt. We might already have committed future generations to living with sea-level rises of around 10 m over thousands of years but that timescale is still under our control. The rate of melting depends on the magnitude of warming above the tipping point. At 1.5°C, it could take 10,000 years to unfold; above 2°C it could take less than 1,000 years. They conclude that “both the risk and urgency of the situation are acute...we might already have lost control of whether tipping happens”. We may still have some control over the level of damage arising from tipping and therefore “the consideration of tipping points helps to define that we are in a climate emergency and strengthens [2019’s] chorus of calls for urgent climate action.”

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<sup>41</sup> SR1.5°C (IPCC, 2018) and [Special Report on the Ocean and Cryosphere in a Changing Climate](#) (IPCC, 2019)

<sup>42</sup> Climate tipping points – too risky to bet against, Professor Tim Lenton et al, *Nature* (November 2019), <https://www.nature.com/articles/d41586-019-03595-0>

## **Technology relevant to climate change**

In discussing the role of technology and innovation in reaching net zero, the CCC advice considered both established and emerging technologies. It also explored the role of digitalisation.<sup>43</sup>

### *Established technologies*

In some sectors, such as power generation, technologies already exist to achieve “near-full decarbonisation”, and global trends are pushing efficiencies up and costs down. In other sectors, such as heating for buildings, technologies exist but the estimated costs are relatively high. The CCC advises that “where there is uncertainty around the costs or scale of competing low-carbon options a portfolio of options should be pursued.”

### *Emerging technologies*

The CCC’s analysis includes several areas where solutions have been proposed but “innovation will be required to go beyond the reach of established technologies or methods”. These areas include hydrogen, heavy goods vehicles and carbon capture and storage.

### *Digitalisation*

The CCC identifies digitalisation as “an important enabler” of the transition to net zero. It is seen as critical to the efficient production and use of energy across increasingly interconnected sectors, such as transport and buildings. The CCC anticipates that it will reduce the need for large amounts of back-up on the electricity grid by increasing the flexibility and dynamism of energy services e.g. vehicle-to-grid. It will also help reduce demands for energy, materials, food and water through predictive analysis, waste avoidance and video-conferencing.

### *Costs of technologies to achieve net-zero emissions*

Ambitious mitigation targets in developed countries can help establish the new industries required and drive down the cost of currently more expensive technologies needed to reach net zero CO<sub>2</sub> emissions, including carbon capture and storage, hydrogen, low-carbon heating and technologies to remove CO<sub>2</sub> from the atmosphere.

## **EU and international law and policy relating to climate change**

### *Paris Agreement*

The Paris Agreement committed countries to keeping the increase in global average temperature to well below 2°C above pre-industrial levels and pursuing efforts to limit the increase to 1.5°C. In order to achieve this, countries agreed on the need for global emissions to peak as soon as possible and to achieve a balance between global emissions and removals (net zero) in the second half of the 21<sup>st</sup> Century, “on the basis of equity, and in the context of sustainable development and efforts to eradicate poverty”.<sup>44</sup> Global average temperature is

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<sup>43</sup> [The Sixth Carbon Budget – The UK’s path to Net Zero](#) (CCC, December 2020, p.402-405)

<sup>44</sup> [Paris Agreement](#) (United Nations, 2015)

already around 1.1°C above pre-industrial levels.<sup>45</sup> The UK ratified the Paris Agreement in November 2016.

The Paris Agreement requires countries to produce Nationally Determined Contributions (NDCs) every five years. NDCs must reflect each country's highest possible ambition towards the global temperature goal. The UK was part of the EU's NDC agreed in 2015, which requires an average reduction across Member States of at least 40% by 2030. On 12 December 2020, ahead of the end of the Brexit transition period, the UK published its own NDC. This included a 2030 emissions reduction target of at least 68%. This figure is based on a recommendation from the CCC, which uses the same scenario as that for the CCC's recommendations for Wales (the Balanced Pathway).

### *Wales's contribution to the Paris Agreement and UK NDC*

Countries agreed to implement the Paris Agreement in a way that would “reflect equity and the principle of common but differentiated responsibilities and respective capabilities, in the light of different national circumstances.”<sup>46</sup> Relative to many other countries, Wales is rich and has high historical emissions, going back centuries. Wales is now responsible for around 0.1% of global emissions each year, although since 1750 the UK has the 5<sup>th</sup> highest cumulative emissions in the world.<sup>47</sup>

The global budget for limiting average global temperature rise to 1.5°C or 2°C can be informed by the latest climate science but the distribution of that budget between countries is a political and moral decision. There is no single agreed methodology or formula that can be used to define a country's fair contribution to mitigating climate change: it is a value judgment that must consider equality, capability and responsibility.

While there is no agreed methodology, the IPCC has summarised what the academic literature on ‘effort share’ approaches suggests regional targets should be, based on a review of 40 studies.<sup>48</sup> The approaches fall into three broad categories:

1. **Economically efficient:** These achieve the required abatement at least global cost (equal marginal abatement cost)
2. **Historical responsibility:** These assign emissions commitments on the basis of historic contribution to the climate emergency since 1990
3. **Forward-looking:** These assign emissions on the basis of a country's projected capability (income) or on the basis of convergence in global emissions per capita

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<sup>45</sup> [WMO confirms 2019 as second hottest year on record](#), World Meteorological Organisation (15 January 2020)

<sup>46</sup> [Paris Agreement](#), Article 2.2

<sup>47</sup> Carbon Brief analysis: <https://twitter.com/CarbonBrief/status/1120715988532629506>

<sup>48</sup> [Regional GHG reduction targets based on effort sharing: a comparison of studies](#), Niklas Höhne, Michel Den Elzen & Donovan Escalante (Climate Policy, 2013)

### *International comparisons*

Wales is a founding member of the Under2 Coalition, a global community of state and regional governments committed to ambitious climate action in line with the Paris Agreement.<sup>49</sup> The coalition includes more than 220 governments who represent over 1.3 billion people and 43% of the global economy.

121 states and regions disclosed their climate and environmental data as part of the Global States and Regions Annual Disclosure 2020.<sup>50</sup> Of these, 18 have set net zero targets, ranging from 2030 (Jämtland, Sweden) to 2045 (Scotland, California and Australian Capital Territory) to 2050 (including Catalonia and New York State). Hawaii aims to be net-negative by 2045.

Outside the Under2 Coalition, 7 countries have set net zero targets in law (for 2050, apart from Sweden for 2045). A further 7 countries have declared net zero targets in policy documents and 12 more have submitted net zero targets to the UN. Japan has recently declared its intent to achieve net zero by 2050, while China has done so for 2060. Joe Biden was elected president of the USA on a climate platform to aim for net zero emissions by 2050.<sup>51</sup>

Each government decides how to define the target, considering its formality (whether it is set in legislation or simply a policy target), scope (whether it covers all greenhouse gases or just CO<sub>2</sub> and whether it includes emissions from international aviation and shipping or not) and the approach to international offsetting (whether it is permitted or not).

### *European law and policy*

In December 2019, the European Council agreed the objective of achieving a climate-neutral EU by 2050. This had previously been endorsed by the European Parliament in March 2019. The European Commission's (EC) proposed new European Climate Law would impose a legally binding target of net zero greenhouse gas emissions by 2050.<sup>52</sup>

In December 2020, EU leaders agreed on a binding EU target for a net domestic reduction of at least 55% in greenhouse gas emissions by 2030, compared to 1990.<sup>53</sup> The previous target, set in 2014, was for at least a 40% reduction by 2030. The new target has been submitted to the UN as the EU's NDC.

EU climate legislation already in place includes the EU Emissions Trading System (ETS), the Effort Sharing Regulation (ESR), and the Land Use, and the Land Use Change and Forestry Regulation (LULUCF). The Renewable Energy Directive (RED II), the Energy Efficiency Directive and the Regulation on the Governance of the Energy and Climate Action also contribute in driving commitments to renewable energy. The EU acknowledges that without

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<sup>49</sup> <https://www.under2coalition.org/>

<sup>50</sup> [Annual Disclosure Report](#) (Under2 Coalition, 2020)

<sup>51</sup> [Which countries have a net zero carbon goal?](#) (Climate Change News)

<sup>52</sup> [https://ec.europa.eu/clima/policies/eu-climate-action/law\\_en](https://ec.europa.eu/clima/policies/eu-climate-action/law_en)

<sup>53</sup> <https://www.consilium.europa.eu/en/policies/climate-change>

enhancement these policies will fall short of the 55% target. It is therefore discussing potential policy changes, including strengthening carbon pricing in the EU through an extension of the ETS to new sectors, a carbon border adjustment mechanism to mitigate the risk of carbon leakage, and is reconsidering international aviation and shipping emissions with the ambition to include these within the EU ETS. The EC intends to make detailed legislative proposals by June 2021.<sup>54</sup>

## **Integrated Impact Assessment**

Having considered the regulations against our mandatory and non-mandatory impact assessments, we do not believe it is possible to quantify their impact as they simply provide the statutory framework for emissions reduction. The impact of taking action to meet the targets and carbon budgets depends on the measures and policies chosen. These policies will be set out in a report for each carbon budget period, the next being published in November 2021. Policies to deliver our carbon budgets are subject to an engagement process and impact assessments, including RIA where appropriate.

Additionally, the global nature of the climate emergency means it is not possible to determine the effect of more ambitious Welsh targets on climate-related risks in Wales, such as flooding, and the subsequent impact on the matters covered by the impact assessments, for example equality.

However, *if* Wales achieves the more ambitious targets *and* other countries make comparable effort, we increase the likelihood of limiting average global temperature rise to 1.5°C. If this temperature goal is met, we will limit Wales's exposure to climate change impacts. One such impact is heat-related mortality. We have worked with researchers at Bristol and East Anglia Universities to develop a short case study on heat-related mortality in Wales at 2°C and 1.5°C of global warming (see Annex A).

## **Summary**

### *CCC advice*

The CCC has concluded that a net zero target is now credible and the right target for Wales. Its December 2020 advice is a blueprint for achieving net zero and provides a detailed vision for realising this more ambitious goal.

The expected cost of achieving net zero has fallen since the CCC's 2019 advice. The estimated annualised resource cost has fallen from £3-5billion per year to significantly less than £2billion per year through to 2050. The CCC has also demonstrated that operational savings are expected to largely offset the investment costs for achieving net zero towards the middle of this century, and supporting research suggests a potential positive impact on GDP overall. The CCC's Advisory Group on the Costs and Benefits of Net Zero declared that the benefits (including decreased climate risk) of net zero outweigh the costs. In

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<sup>54</sup> <http://europeanmemoranda.cabinetoffice.gov.uk/memorandum/communication-from-the-commission-to-the-european-parliament-the-council-the-european-economic-social-committee-1600418191>

addition to economic impacts, the CCC identified likely significant positive impacts for health and biodiversity in their Balanced Pathway.

### *Environment Act factors*

SoNaRR highlights the substantial effect of climate change on biodiversity and ecosystems. It also identifies decarbonisation as a key opportunity to improve the sustainable management of natural resources and reduce several key pressures on all ecosystems.

The Future Trends Report considers several trends relevant to achieving climate change targets, notably an increasing, ageing population and more people living alone. Older people tend to have a higher carbon footprint than younger people and an increase in households suggests higher demand for heating and electricity. The Report also notes behaviour change as a key influencing factor on how the trends unfold; behaviour change is fundamental to achieving the CCC's Balanced Pathway. The Future Generations Report draws attention to the significant shift in public concern about climate change and increasing support for greater action, particularly among children and young people.

There is a very strong scientific basis for increased efforts to tackle climate change. IPCC-SR1.5 shows that keeping average global temperature increase to 1.5°C would reduce climate-related risks to health, livelihoods, food security, water supply, human security, and economic growth, when compared to a 2°C rise. Option 2 is more aligned to achieving 1.5°C than Option 1, which relates more closely 2°C.

Technology to support the net zero transition is well-advanced and commercially deployed in many important areas, while further innovation is required in others. “The clarity of a net-zero goal could help stimulate innovation. Under a net zero target all sectors need to decarbonise or offset their emissions. This removes uncertainty and the temptation of sectors to lobby for a larger share of the remaining 20% of emissions [under the existing 80% target]. This clarity could cut the cost of capital as well as stimulating innovation, thereby bringing down the overall cost of mitigation.”<sup>55</sup>

There are many ways of determining Wales's fair contribution to the Paris Agreement and the UK's NDC. However, the CCC's Balanced Pathway is the only 'bottom-up' scenario available that describes *how* the targets can be met. The CCC states that its December 2020 recommendations “reflect the goals and requirements of the Paris Agreement” for the following reasons:<sup>56</sup>

1. The Balanced Pathway has been explicitly designed to reflect Wales's 'highest possible ambition' within Wales' particular capabilities
2. It would reduce Wales's annual per-capita emissions to under 3tCO<sub>2</sub>e per person before 2040, in line with global pathways consistent with meeting the 1.5°C goal

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<sup>55</sup> [Report to the CCC](#) (Advisory Group on Costs and Benefits of Net Zero, 2019, p.23)

<sup>56</sup> [The path to a Net Zero Wales](#) (CCC, December 2020, p.57)

In the last year there has been a notable shift in global ambition on climate change; many more countries have now adopted a net zero target or ambition, or are considering one. Joining the 'net zero club' would demonstrate Wales's support for new industries and provide the best opportunity for attracting green investment and jobs. It would also align with Wales's well-being goal to be a globally responsible nation.

**Having considered both the CCC advice and the Environment Act factors, Option 2 is the preferred option.**

## **Consultation**

In preparing their advice the CCC ran a public Call for Evidence to capture input from organisations and individuals on matters relevant to the regulations, as well as UK Carbon Budget 6. The Call for Evidence ran from 5 December 2019 to 5 February 2020. The Welsh Government and CCC ran two stakeholder events during the period: one in Llandudno on 20 January 2020 and one in Cardiff on 21 January 2020, with around 60 delegates attending in total.

There were four questions in the Call for Evidence with a Wales focus. These each received between 11 and 37 responses.<sup>57</sup> A high-level overview of the responses and a list of respondents is available in the CCC's Summary of responses document.<sup>58</sup>

We have published our Engagement Approach for Low Carbon Delivery Plan 2 that describes how we intend to involve and collaborate with people and stakeholders throughout 2021.<sup>59</sup> We also continue to consult on the policies required to meet the carbon budgets and targets, for example the Electric Vehicle Charging Strategy, Building Regulations Part L and F Review, and the Agriculture (Wales) Bill.<sup>60</sup>

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<sup>57</sup> <https://www.theccc.org.uk/publication/sixth-carbon-budget-and-welsh-emissions-targets-call-for-evidence-summary>

<sup>58</sup> [Welsh emissions targets: Summary of responses to Call for Evidence](#) (CCC, 2020)

<sup>59</sup> See <https://gov.wales/low-carbon-delivery-plan-2-engagement-plan>

<sup>60</sup> See <https://gov.wales/consultations>

## Competition Assessment

This impact assessment does not include a Competition Assessment because the regulations do not provide for specific policies. It is not possible, therefore, to consider the specific impacts on competition within individual markets.

The competition filter test	
Question	Answer
<b>Q1:</b> In the market(s) affected by the new regulation, does any firm have more than 10% market share?	
<b>Q2:</b> In the market(s) affected by the new regulation, does any firm have more than 20% market share?	
<b>Q3:</b> In the market(s) affected by the new regulation, do the largest three firms together have at least 50% market share?	
<b>Q4:</b> Would the costs of the regulation affect some firms substantially more than others?	
<b>Q5:</b> Is the regulation likely to affect the market structure, changing the number or size of businesses/organisation?	
<b>Q6:</b> Would the regulation lead to higher set-up costs for new or potential suppliers that existing suppliers do not have to meet?	
<b>Q7:</b> Would the regulation lead to higher ongoing costs for new or potential suppliers that existing suppliers do not have to meet?	
<b>Q8:</b> Is the sector characterised by rapid technological change?	
<b>Q9:</b> Would the regulation restrict the ability of suppliers to choose the price, quality, range or location of their products?	

## ***Post implementation review***

### **Government progress review**

The Environment (Wales) Act 2016 requires Welsh Ministers to prepare and lay a statement after each budgetary period setting out whether Wales has met the budget, whether they have debited or credited any carbon units and giving details on the type and number of units. The statement must explain what the Welsh Ministers consider to be the reasons why the carbon budget for the period has, or has not, been met. In particular, it must include the Welsh Ministers' assessment of the extent to which their proposals and policies for meeting the carbon budget for the period have been carried out and have contributed to the carbon budget for the period being met or not. This statement must be laid before the end of the second year after the budgetary period, allowing time for the emissions data to be compiled, which requires 18 months from the close of year.

With regards to each interim target and the 2050 target, Welsh Ministers must also prepare and lay a statement before the Senedd. This statement must be made before the end of the second year after the relevant interim target year. This statement will provide the Welsh Government's assessment of the total amount of emissions in that year, whether the interim emissions target has been met, and the total amount of carbon credits or debits for that year. The statement must also explain what the Welsh Ministers consider to be the reasons why the target has, or has not, been met.

### **Independent progress review**

The Act provides for the CCC to monitor and report on progress. No later than six months after the Welsh Ministers lay the final progress statement for a budgetary period, the CCC must provide a report setting out their views on:

- the way in which the carbon budget for the period was or was not met; and
- the action taken by the Welsh Ministers to reduce net Welsh emissions of greenhouse gases during the period.

Following the Welsh Government's progress reports on the 2030 and 2040 interim targets, the CCC is required to advise whether the forthcoming interim target(s) and 2050 target represent the highest achievable targets for Wales. If not, they must state what the highest achievable target is.

# Annex A: Heat-related mortality in Wales at 2°C and 1.5°C of global warming

## *Introduction*

Officials worked with academic experts on climate impacts to explore one example of how Wales might benefit from adopting and achieving a more ambitious emissions reduction pathway, if matched by other countries.<sup>61</sup> Heat-related mortality was chosen because it is the most direct way in which climate change is expected to affect public health and there is a strong, direct correlation between summer temperatures and increased mortality.

Temperature thresholds of 2°C and 1.5°C were selected because Wales's existing legislated emissions reduction pathway is broadly aligned to a 2°C rise in global average temperature, assuming similar effort from other countries, while the CCC's new recommended pathway is more closely aligned to a rise of 1.5°C. They are also the temperature goals in the Paris Agreement.

## *How is Wales's exposure to extreme summer temperatures projected to change?*

Overall, Wales's summer mean temperature is projected to change around 20% faster than the global mean and by 30-45% faster than the global mean during the hottest 5% of summer days.<sup>62</sup> This means Wales's hottest summer days are getting hotter and more extreme relative to mean temperatures.

## *How is this change expected to affect heat-related mortality?*

Mortality increases as temperature increases above a regionally-specific threshold.<sup>63</sup> Mortality occurs throughout the summer months, even on days that are not extreme heatwaves. As well as increasing temperature extremes, climate change means Wales will experience more warmer days and, as a result, increased heat-related mortality.

Based on current baseline mortality rates, modelling of the recent past (1990-2019) suggests, on average, 25 heat-related deaths occur per year in Wales, increasing to 48, 67, and 137 heat-related deaths under 1.5°C, 2°C and 3°C warming scenarios respectively (see Figure 1 for error bars). **Limiting**

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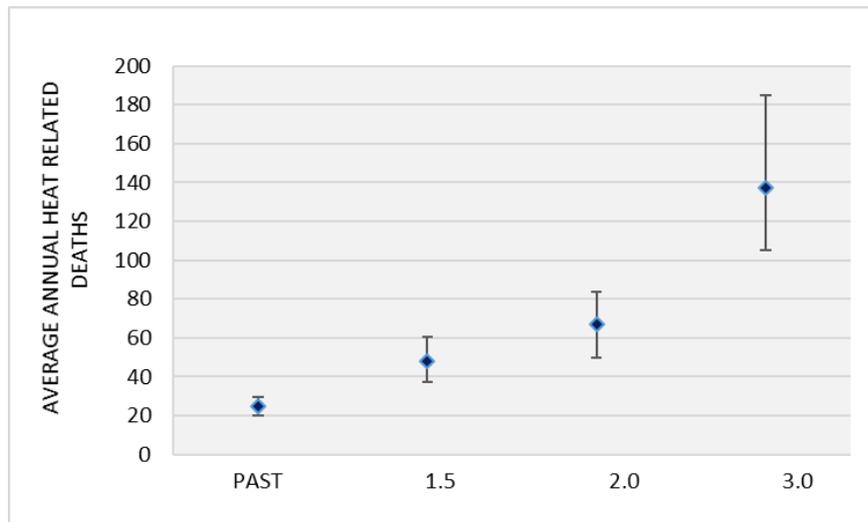
<sup>61</sup> Setting and achieving tighter emissions targets in Wales alone will have a negligible impact on global temperature and on Wales's climate. We are therefore reliant on the collective effort of all countries to reduce the frequency and severity of negative climate change impacts in Wales, such as heatwaves.

<sup>62</sup> UK Climate Projections 2018 data:

<https://www.metoffice.gov.uk/research/approach/collaboration/ukcp/index>

<sup>63</sup> By around 1.5% for every 1°C above ~17.2°C for Wales. [Climate change effects on human health: projections of temperature-related mortality for the UK during the 2020s, 2050s and 2080s](#), Hajat et al, Journal of Epidemiology & Community Health (2014, Volume 68, Issue 7).

warming to 1.5°C would therefore avoid 29% of the additional heat-related mortality at 2°C.<sup>64</sup>



*Fig. 1: Modelled average heat-related mortality per year in Wales for the past and 3 warming scenarios. Error bars signify 10-90% uncertainty in the projected climate.*

### **Who is likely to be most affected?**

Not everyone is equally vulnerable to heat-related illness. There are certain factors that increase an individual's risk during a heatwave, including:<sup>65</sup>

- Older age: especially women over 75 years old, those living on their own, or in a care home;
- Chronic and severe illness: including heart conditions, diabetes, respiratory or renal insufficiency, Parkinson's disease or severe mental illness;
- Inability to adapt behaviour to keep cool: having Alzheimer's, a disability, being bed bound, too much alcohol, babies and the very young; and
- Environmental factors and overexposure: living in a top floor flat, being homeless, activities or jobs that are in hot places or outdoors and include high levels of physical exertion.

### **Which locations are likely to be most affected?**

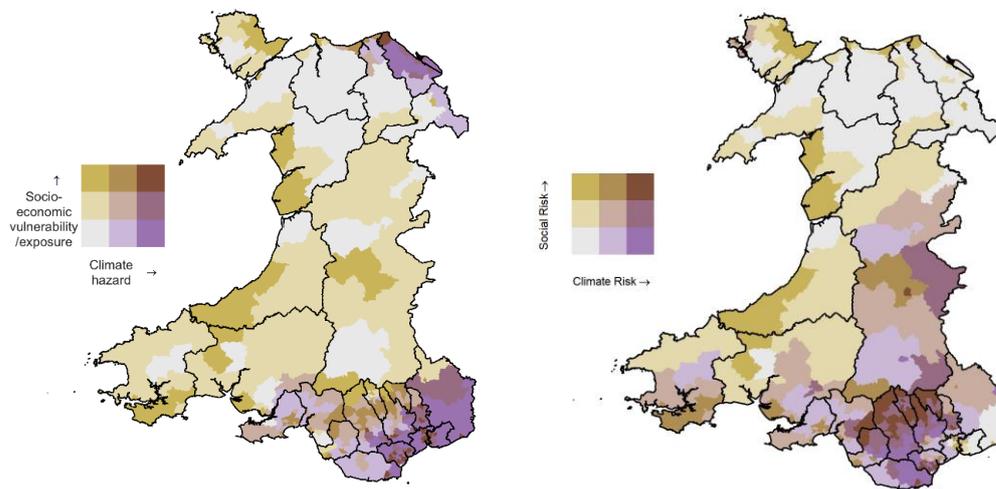
New research overlays heat-related climate hazard metrics with socio-economic factors.<sup>66</sup> The left-hand plot in Figure 2 shows that the locations with greatest absolute risk over the past 30 years (i.e. exposed to extreme heat hazards and at higher socio-economic levels of vulnerability and exposure) are

<sup>64</sup> Unpublished research (funded by the [UK Climate Resilience Program](#)) was carried out in support of this paper.

<sup>65</sup> [Caring for Patients Before and During a Heatwave: Advice for health and social care professionals](#), WG 2012

<sup>66</sup> Climate hazard metrics: Daily maximum and minimum temperature, vapour pressure (a measure of humidity), and degree days (variability of temperature extremes over a certain threshold). Socio-economic factors: population density, deprivation and proportion of population aged over 65.

in southeast and northeast Wales. The right-hand plot shows that when socio-economic factors are taken into account in combination with the projected change in climate hazards, locations at the greatest increase in risk are in Powys and across South Wales. Although these regions show the greatest increase in climate hazards, in absolute terms the southeast and northeast of Wales will still remain at the highest risk.



*Fig.2: Left-hand plot shows current risk based on the past 30 years; right-hand plot shows the change in climate hazards between 1.5°C and 2°C of global warming – those places facing the greatest change in risk if we do not achieve 1.5°C (socio-economic factors remain stationary in time)*

### **Can Wales expect fewer cold-related deaths?**

This question has not been explored in the context of the higher targets and a comparison of 2°C and 1.5°C of global warming. However, research undertaken in 2014 suggests that by the 2080s the number of heat-related deaths may increase by around 340% and the number of cold-related deaths may reduce by around 40%. The number of heat-related deaths is not expected to surpass the numbers of cold-related deaths by the 2080s but the ratio of heat- to cold-related deaths is projected to increase from 1:35 to 1:5.<sup>67</sup>

<sup>67</sup> [Climate change effects on human health: projections of temperature-related mortality for the UK during the 2020s, 2050s and 2080s](#), Hajat et al, Journal of Epidemiology & Community Health (2014, Volume 68, Issue 7). Figures quoted draw on the mean estimates.

# Agenda Item 3.10

## **SL(5)754 – The Health Protection (Coronavirus Restrictions) (No. 5) (Wales) (Amendment) (No. 3) Regulations 2021**

### **Background and Purpose**

These Regulations amend the Health Protection (Coronavirus Restrictions) (No. 5) (Wales) Regulations 2020 (“the principal Regulations”) as follows-

- (i) Proprietors of schools are permitted to allow pupils in Year 2 and below to return to school;
- (ii) Proprietors of further education institutions are permitted to allow students to return to the institution if they are studying agriculture, construction, catering, engineering or hospitality and need to attend in order to complete their course; and
- (iii) During the period from 20 February 2021 to 12 March 2021 (but not otherwise) up to 4 people from 2 different households may exercise together outdoors.

### **Procedure**

Made Affirmative.

The Regulations were made by the Welsh Ministers before they were laid before the Senedd. The Senedd must approve the Regulations within 28 days (excluding any days when the Senedd is dissolved or in recess for more than four days) of the date they were made for them to continue to have effect.

### **Technical Scrutiny**

No points are identified for reporting under Standing Order 21.2 in respect of this instrument.

### **Merits Scrutiny**

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

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

The Explanatory Note states that a particular effect is achieved by amending Regulation 4(8) of the principal Regulations. The effect is correctly described but the reference to Regulation 4(8) is incorrect. The described effect is, in fact, achieved by adding a new Regulation 4(6A) to the principal Regulations.



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

We note the Welsh Government's justification for any potential interference with human rights. In particular, we note the following paragraphs in the Explanatory Memorandum:

*"Whilst the principal Regulations, as amended by these Regulations, engage individual rights under the Human Rights Act 1998 and the European Convention on Human Rights, the Government considers that they are justified for the purpose of preventing the spreading of infectious diseases and/or the interference is permitted on the basis that it is in pursuit of a legitimate aim, namely of protecting public health and are proportionate.*

*Article 5 (right to liberty), Article 8 (right to respect for private and family life), Article 9 (freedom of thought, conscience and religion), Article 11 (freedom of assembly and association) and Article 1 of the First Protocol (protection of property) are engaged by the principal Regulations.*

*Each of these are qualified rights, which permit the Welsh Ministers to interfere with the exercise of the rights if necessary in a democratic society in the interests of public safety or for the protection of health. All such restrictions and requirements must be justified on the basis that they are in pursuit of a legitimate aim, namely of protecting public health and are proportionate. Any interference with these rights also needs to be balanced with the State's positive obligations under Article 2 (right to life). The adjustment of the restrictions and requirements under the principal Regulations by these Regulations is a proportionate response to the spread of the coronavirus. It balances the need to maintain an appropriate response to the threat posed by the coronavirus against the rights of individuals and businesses, in a manner which remains proportionate to the need to reduce the rate of transmission of the coronavirus, taking into account the scientific evidence."*

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

We note that there has been no formal consultation on these Regulations. In particular, we note the following paragraphs in the Explanatory Memorandum:

*"Given the serious and imminent threat arising from coronavirus and the need for an urgent public health response, there has been no public consultation in relation to these Regulations."*

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

The Explanatory Memorandum provides that a regulatory impact assessment has not been carried out in relation to these Regulations due to the need to put them in place urgently to deal with a serious and imminent threat to public health.



## Welsh Government response

A Welsh Government response is required in relation to point 1.

### **Legal Advisers**

**Legislation, Justice and Constitution Committee**

**23 February 2021**



Senedd Cymru

**Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad**

—

Welsh Parliament

**Pack Page 394**

**Legislation, Justice and Constitution Committee**

*Regulations made by the Welsh Ministers, laid before Senedd Cymru under section 45R of the Public Health (Control of Disease) Act 1984 (c. 22), for approval by resolution of Senedd Cymru within twenty-eight days beginning with the day on which the instrument is made, subject to extension for periods of dissolution or recess for more than four days.*

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W E L S H   S T A T U T O R Y  
I N S T R U M E N T S

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**2021 No. 172 (W. 40)**

**PUBLIC HEALTH, WALES**

**The Health Protection (Coronavirus  
Restrictions) (No. 5) (Wales)  
(Amendment) (No. 3) Regulations  
2021**

**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

Part 2A of the Public Health (Control of Disease) Act 1984 enables the Welsh Ministers, by regulations, to make provision for the purpose of preventing, protecting against, controlling or providing a public health response to the incidence or spread of infection or contamination in Wales.

These Regulations are made in response to the serious and imminent threat to public health which is posed by the incidence and spread of severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) in Wales.

These Regulations amend the Health Protection (Coronavirus Restrictions) (No. 5) (Wales) Regulations 2020 (S.I. 2020/1609 (W. 335)) (“the principal Regulations”).

The principal Regulations are amended to make temporary modifications to the restrictions and requirements applying to an Alert Level 4 area under Schedule 4 to the principal Regulations. The temporary provisions allow groups of up to 4 people from 2 different households to exercise together outdoors (though the exercise continues to have to start and finish from the place where the people are living).

To provide for temporary modifications of this nature, a corresponding amendment is made to regulation 4(8). This means the restrictions and requirements for each alert level (set out in Schedules 1 to 4) apply to an area subject to any temporary modifications specified in relation to that area in Schedule 5. So in addition to looking at Schedule 5 to determine which of Schedules 1 to 4 applies to an area, you must also consider how the relevant Schedule may have been modified by Schedule 5.

Part 3A of Schedule 4 to the principal Regulations prohibits proprietors of schools in Wales in an Alert Level 4 area from allowing pupils to attend school premises. It also prohibits proprietors of further education institutions from allowing students to attend those institutions. This is subject to certain exceptions in both cases.

These Regulations amend Part 3A of Schedule 4 to the principal Regulations so that the prohibition on school proprietors applies only in relation to pupils in year 3 or above. It also amends that Part so that the prohibition on proprietors of further education institutions does not apply if the student is undertaking a course in engineering, construction, hospitality, catering, or agriculture and needs to attend the institution to complete their course.

These Regulations also make further minor amendments to Schedule 4 to the principal Regulations.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, a regulatory impact assessment has not been prepared as to the likely cost and benefit of complying with these Regulations.

*Regulations made by the Welsh Ministers, laid before Senedd Cymru under section 45R of the Public Health (Control of Disease) Act 1984 (c. 22), for approval by resolution of Senedd Cymru within twenty-eight days beginning with the day on which the instrument is made, subject to extension for periods of dissolution or recess for more than four days.*

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W E L S H   S T A T U T O R Y  
I N S T R U M E N T S

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**2021 No. 172 (W. 40)**

**PUBLIC HEALTH, WALES**

**The Health Protection (Coronavirus  
Restrictions) (No. 5) (Wales)  
(Amendment) (No. 3) Regulations  
2021**

*Made at 3.06 p.m. on 19 February 2021*

*Laid before Senedd  
Cymru at 5.45 p.m. on 19 February 2021*

*Coming into force 20 February 2021*

The Welsh Ministers make the following Regulations in exercise of the powers conferred by sections 45C(1) and (3)(c), 45F(2) and 45P(2) of the Public Health (Control of Disease) Act 1984(1).

These Regulations are made in response to the serious and imminent threat to public health which is posed by the incidence and spread of severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) in Wales.

The Welsh Ministers consider that restrictions and requirements imposed by these Regulations are proportionate to what they seek to achieve, which is a public health response to that threat.

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(1) 1984 c. 22. Sections 45C, 45F and 45P were inserted by section 129 of the Health and Social Care Act 2008 (c. 14). The functions under these sections are conferred on “the appropriate Minister”. Under section 45T(6) of the 1984 Act the appropriate Minister, as respects Wales, is the Welsh Ministers.

In accordance with section 45R of that Act the Welsh Ministers are of the opinion that, by reason of urgency, it is necessary to make this instrument without a draft having been laid before, and approved by a resolution of, Senedd Cymru.

#### **Title and coming into force**

**1.**—(1) The title of these Regulations is the Health Protection (Coronavirus Restrictions) (No. 5) (Wales) (Amendment) (No. 3) Regulations 2021.

(2) These Regulations come into force on 20 February 2021.

#### **Amendment of the Health Protection (Coronavirus Restrictions) (No. 5) (Wales) Regulations 2020**

**2.**—(1) The Health Protection (Coronavirus Restrictions) (No. 5) (Wales) Regulations 2020<sup>(1)</sup> are amended as follows.

(2) After regulation 4(6) insert—

“(6A) The restrictions and requirements set out in one of Schedules 1 to 4 apply to an area subject to the temporary modifications specified in relation to that area in Schedule 5.”

(3) In regulation 57(1), for sub-paragraph (h) substitute—

“(h) “elite athlete” means an individual who—

- (i) derives a living from competing in a sport,
- (ii) is designated as an elite athlete by the Sports Council for Wales for the purposes of—
  - (aa) these Regulations,
  - (bb) the Health Protection (Coronavirus Restrictions) (Wales) Regulations 2020,
  - (cc) the Health Protection (Coronavirus Restrictions) (No. 2) (Wales) Regulations 2020,
  - (dd) the Health Protection (Coronavirus Restrictions) (No. 3) (Wales) Regulations 2020, or

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<sup>(1)</sup> S.I. 2020/1609 (W. 335) as amended by S.I. 2020/1610 (W. 336), S.I. 2020/1623 (W. 340), S.I. 2020/1645 (W. 345), S.I. 2021/20 (W. 7), S.I. 2021/46 (W. 10), S.I. 2021/57 (W. 13), S.I. 2021/66 (W. 15), S.I. 2021/95 (W. 26) and S.I. 2021/103 (W. 28).

(ee) the Health Protection (Coronavirus Restrictions) (No. 4) (Wales) Regulations 2020,

(iii) is an “elite sportsperson” within the meaning given by regulation 2(1) of the Health Protection (Coronavirus, Restrictions) (All Tiers) (England) Regulations 2020(1),

(iv) is a “professional sportsperson” within the meaning given by regulation 2(1) of the Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Regulations 2020(2), or

(v) is an “elite athlete” within the meaning given by paragraph 39(2) of Schedule 2 to the Health Protection (Coronavirus, International Travel) Regulations (Northern Ireland) 2020(3);”;

(4) In paragraph 1 of Schedule 4, in sub-paragraph (4)(f)—

- (a) after sub-paragraph (ii), insert “or”;
- (b) omit sub-paragraph (iv) and the “or” immediately preceding it.

(5) In paragraph 2 of Schedule 4, in sub-paragraph (4)(i), omit sub-paragraph (ii) and the “or” immediately preceding it.

(6) In paragraph 6A of Schedule 4—

- (a) in sub-paragraph (1), before “pupil” insert “designated”;
- (b) after sub-paragraph (1) insert—  
“(1A) In this paragraph, “designated pupil” means a pupil in year 3 or above.”;
- (c) in sub-paragraph (2)—
  - (i) in paragraph (a), before “pupil”, where it first occurs, insert “designated”;

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(1) S.I. 2020/1374, as amended by S.I. 2020/1518, S.I. 2020/1533, S.I. 2020/1572, S.I. 2020/1611, S.I. 2020/1646, S.I. 2020/1654, S.I. 2021/8, S.I. 2021/53 and S.I. 2021/97.

(2) S.S.I. 2020/344, as amended by S.S.I. 2020/347, S.S.I. 2020/374, S.S.I. 2020/389, S.S.I. 2020/392, S.S.I. 2020/400, S.S.I. 2020/415, S.S.I. 2020/427, S.S.I. 2020/439, S.S.I. 2020/452, S.S.I. 2020/471, S.S.I. 2021/1, S.S.I. 2021/3, S.S.I. 2021/17, S.S.I. 2021/25, S.S.I. 2021/35, S.S.I. 2021/49, S.S.I. 2021/54 and S.S.I. 2021/86.

(3) S.R. 2020 No. 90, as amended by S.R. 2020 Nos. 138, 140, 154, 155, 163, 168, 179, 185, 189, 193, 194, 200, 203, 212, 216, 223, 228, 234, 241, 243, 244, 254, 275, 278, 289, 326, 344, and 355 and S.R. 2021 Nos. 4, 5, 6, 9, 10, 13, 17 and 32.

- (ii) in paragraph (b), before “pupil” insert “designated”;
- (iii) in paragraph (c), before “pupil” insert “designated”;
- (iv) in paragraph (d), before “pupil”, where it first occurs, insert “designated”;
- (v) in paragraph (e), before “pupil” insert “designated”.

(7) In paragraph 6B of Schedule 4, for sub-paragraph (2)(a) substitute—

“(a) a further education institution to undertake—

- (i) an examination or other assessment, or
- (ii) a course in engineering, construction, hospitality, catering, or agriculture, where attendance at the institution is necessary to enable the student to complete a required element of the course;”.

(8) In paragraph 6D of Schedule 4, at the end insert—

- “(m) “school year” has the same meaning as in section 579(1) of the 1996 Act;
- (n) “year 3” means a year group in which the majority of children will, in the school year, attain the age of 8;
- (o) “year group” means a group of children at a school the majority of whom will, in a particular school year, attain the same age.”

(9) In Schedule 5, after the table insert—

*“Temporary modifications*

**2.** In relation to an Alert Level 4 area, for the period from the start of the day on 20 February 2021 to the end of the day on 12 March 2021—

- (a) paragraph 1(4)(f) of Schedule 4 is to be read as if—
  - (i) the “or” after sub-paragraph (ii) were omitted, and
  - (ii) after sub-paragraph (iii) there were inserted “or
  - (iv) in a group of no more than 4 persons from no more than 2 households, but the group may also include any carer of a person in the group and any children from either household under the age of 11.”;

(b) paragraph 2(4)(i) of Schedule 4 is to be read as if after sub-paragraph (i) there were inserted “or

(ii) in a group of no more than 4 persons from no more than 2 households, but the group may also include any children from either household under the age of 11,.”

*Mark Drakeford*

First Minister, one of the Welsh Ministers

At 3.06 p.m. on 19 February 2021

## **Explanatory Memorandum to the Health Protection (Coronavirus Restrictions) (No. 5) (Wales) (Amendment) (No. 3) Regulations 2021**

This Explanatory Memorandum has been prepared by the Welsh Government and is laid before Senedd Cymru in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

### **Minister's Declaration**

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Health Protection (Coronavirus Restrictions) (No. 5) (Wales) (Amendment) (No. 3) Regulations 2021.

**Mark Drakeford**  
**First Minister**

19 February 2021

## 1. Description

The Regulations amend the Health Protection (Coronavirus Restrictions) (No. 5) (Wales) Regulations 2020 (“the principal Regulations”).

## 2. Matters of special interest to the Legislation, Justice and Constitution Committee

These Regulations are made under the emergency procedure set out in section 45R of the Public Health (Control of Disease) Act 1984 (c. 22) (“the 1984 Act”). The Regulations are made without a draft having been laid and approved by the Senedd. It is the opinion of the Welsh Ministers that, by reason of urgency, it is necessary to make the Regulations without a draft being so laid and approved so that public health measures can be taken in order to quickly respond to the threat to human health from coronavirus. The Welsh Ministers are of the opinion that the restrictions and requirements as set out in the principal Regulations, as amended by these Regulations, are necessary and proportionate as a public health response to the current threat posed by coronavirus.

### *European Convention on Human Rights*

Whilst the principal Regulations, as amended by these Regulations, engage individual rights under the Human Rights Act 1998 and the European Convention on Human Rights, the Government considers that they are justified for the purpose of preventing the spreading of infectious diseases and/or the interference is permitted on the basis that it is in pursuit of a legitimate aim, namely of protecting public health and are proportionate.

Article 5 (right to liberty), Article 8 (right to respect for private and family life), Article 9 (freedom of thought, conscience and religion), Article 11 (freedom of assembly and association) and Article 1 of the First Protocol (protection of property) are engaged by the principal Regulations.

Each of these are qualified rights, which permit the Welsh Ministers to interfere with the exercise of the rights if necessary in a democratic society in the interests of public safety or for the protection of health. All such restrictions and requirements must be justified on the basis that they are in pursuit of a legitimate aim, namely of protecting public health and are proportionate. Any interference with these rights also needs to be balanced with the State’s positive obligations under Article 2 (right to life). The adjustment of the restrictions and requirements under the principal Regulations by these Regulations is a proportionate response to the spread of the coronavirus. It balances the need to maintain an appropriate response to the threat posed by the coronavirus against the rights of individuals and businesses, in a manner which remains proportionate to the need to reduce the rate of transmission of the coronavirus, taking into account the scientific evidence.

These amending Regulations reduce the extent in which the restrictions and requirements under the principal Regulations interfere with those individual rights. Insofar as the Regulations provide for the phased return to face to face learning they are compatible with Article 2 of the First Protocol (right to education).

### 3. Legislative background

The 1984 Act, and regulations made under it, provide a legislative framework for health protection in England and Wales. These Regulations are made under sections 45C(1) and (3), 45F(2) and 45P(2) of the 1984 Act. Further information on these powers is set out in the Explanatory Memorandum to the principal Regulations.

### 4. Purpose and intended effect of the legislation

These Regulations are made in response to the serious and imminent threat to public health which is posed by the incidence and spread of severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) which causes the disease known as COVID-19.

The principal Regulations made on 18 December 2020 set out restrictions and requirements which will apply to four different Alert Levels with the determination of applicable Alert Levels as set out in the updated [Coronavirus Control Plan](#). Wales has been in Alert Level Four since the beginning of the day on 20 December 2020.

The principal Regulations were reviewed on 19 February 2021, in accordance with regulation 2(b) of those Regulations, and the Welsh Ministers agreed that the current level of restrictions (Alert Level 4) should continue. However the following changes are now being made to the principal Regulations:

- a. To permit school and Further Education Institution premises to re-open for the return of children in the foundation phase and some vocational learners.

In Alert Level 4, all school and college premises are closed to the majority of children and young people, apart from children of critical workers or vulnerable children. The Regulations will now permit a phased and flexible return to face to face learning for foundation phase children (those aged three to seven) along with some older learners on vocational courses where they need to take an examination or other assessment, or where attendance is necessary to enable students to complete a required element of their course (if that is in engineering, construction, hospitality, catering, or agriculture).

- b. To temporarily permit four people from two households to leave the place they are living to exercise.

A person living in an Alert Level 4 area (which is currently the whole of Wales), may currently leave the place where they are living for the purposes of exercise, if they conduct that exercise (a) alone; (b) with another member of their household; (c) with their carer; or (d) with one other person and any children under the age of 11 who are members of either person's household.

The principal Regulations are now amended to make temporary modifications to the restrictions and requirements applying to an Alert Level 4 area so as to allow groups of up to 4 people from 2 different households to exercise together outdoors (though the exercise must continue to start and finish from the place

where the people are living). Such a group may include any children under the age of 11 from those households.

This temporary modification (in place to the next 21 day review point) will assist in easing loneliness and isolation and support well-being more widely through increased exercise.

- c. To ensure athletes who have elite status under coronavirus related Regulations applying elsewhere in the United Kingdom, may compete in Wales (without further designation by Sport Wales).

Additionally, these Regulations also make minor consequential amendments to the principal Regulations.

## **5. Consultation**

Given the serious and imminent threat arising from coronavirus and the need for an urgent public health response, there has been no public consultation in relation to these Regulations.

## **6. Regulatory and other impact assessments**

A regulatory impact assessment has not been prepared in relation to these Regulations due to the need to put them in place urgently to deal with a serious and imminent threat to public health.



Elin Jones MS  
Llywydd  
Senedd Cymru  
Cardiff Bay  
CF99 1SN

19 February 2021

Dear Llywydd

**The Health Protection (Coronavirus Restrictions) (No. 5) (Wales) (Amendment) (No. 3) Regulations 2021**

I have today made these Regulations under sections 45C(1) and (3)(c), 45F(2) and 45P(2) of the Public Health (Control of Disease) Act 1984. These Regulations come into force on 20 February 2021. I attach a copy of the statutory instrument and I intend to lay this and an accompanying Explanatory Memorandum once the statutory instrument has been registered.

In accordance with the emergency procedure set out in section 45R of the Public Health (Control of Disease) Act 1984, this instrument must be approved by the Senedd by 21 March 2021 in order for it to remain in effect. In these circumstances I understand Standing Order 21.4A is relevant and the Business Committee may establish and publish a timetable for the responsible committee or committees to report. I intend to schedule these Regulations for debate in Plenary on 2 March 2021.

I am copying this letter to the Minister for Finance and Trefnydd, Mick Antoniw MS as Chair of the Legislation, Justice and Constitution Committee, Siwan Davies, Director of Senedd Business, Sian Wilkins, Head of Chamber and Committee Services and Julian Luke, Head of Policy and Legislation Committee Service.

Yours sincerely

**MARK DRAKEFORD**



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## WRITTEN STATEMENT BY THE WELSH GOVERNMENT

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<b>TITLE</b>	<b>Review of the Health Protection (Coronavirus Restriction) (No.5) (Wales) Regulations 2020</b>
<b>DATE</b>	<b>19 February 2021</b>
<b>BY</b>	<b>Mark Drakeford MS, First Minister of Wales</b>

The Health Protection (Coronavirus Restrictions) (No. 5) (Wales) Regulations 2020 provide for a system of alert levels in Wales, as set out in the Welsh Government's updated *Coronavirus Control Plan: alert levels for Wales*. They require a review of restrictions is undertaken every three weeks.

The most recent review was completed on 18 February and concluded the whole of Wales should remain at Alert Level 4. This means everyone must stay at home and work from home wherever possible. All non-essential retail, hospitality venues, licensed premises and leisure facilities must remain closed.

Since the last review, cases of coronavirus continue to fall across Wales and the pressure on our NHS is easing. The number of people testing positive still remains high and there are still too many people seriously ill and in hospital. We can all be proud of excellent progress of the vaccination programme in Wales, but there is still a considerable way to go. We must not let the virus re-establish itself by relaxing restrictions too soon.

Since we published *Coronavirus Control Plan: alert levels for Wales* we have seen the emergence of new variants, which may have increased risk of severe disease, the rate of infection or potentially limit the effectiveness of current vaccines. This means we need to be cautious in how we come out of lockdown and today I am also publishing a further update to the *Coronavirus Control Plan*<sup>1</sup> to set out how we are responding to these new challenges.

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<sup>1</sup> The update to the Coronavirus Control Plan is available at: <https://gov.wales/coronavirus-control-plan-alert-levels-wales-coming-out-lockdown>

At the last review of the restrictions, I emphasised that education remained our top priority. I indicated that if there were continued improvements we wanted to see foundation phase pupils and those sitting priority vocational qualifications to return in a phased and flexible way from 22 February. We will bring forward changes to the regulations to put this into effect.

If we continue to see improvements my intention will be for the remainder of primary learners, as well as learners in Years 11 and 13 in secondary schools and those sitting equivalent qualifications in colleges, to return from 15 March in a flexible way enable some flexibility around other learners. My intention will be to also enable flexibility around other learners such as Year 12 and those in Year 10 who may also have been entered for qualifications this summer.

We will also bring forward amendments to the regulations to allow a maximum of four people from two different households to exercise together, although they should make every effort to maintain social distancing. People must still start and finish exercise from their home unless a person needs to travel for reasons of disability or health reasons. This means that, for now, if people are meeting they will need to live nearby each other as travel for exercise is generally not allowed.

Finally, the elite sport designation in the regulations will be amended to recognise people who make a living from sport and designations made by sporting bodies in other parts of the UK.

Mick Antoniw MS  
Chair  
Legislation, Justice and Constitution Committee

22 February 2021

Dear Mick,

### **The Approved Country Lists (Animals and Animal Products) (Amendment) Regulations 2021**

The above named Statutory Instrument (SI) amends several pieces of retained EU law, using powers in the Trade in Animals and Animal Products (Legislative Functions) and Veterinary Surgeons (Amendment) (EU Exit) Regulations 2019 (SI 2019/1225). It corrects deficiencies that are present in European Union law and which were retained through the European Union (Withdrawal) Act 2018.

The amendments make provision for Iceland to export animal products to Great Britain to ensure that trade from Iceland can continue with minimal disruption from 1 April 2021 when Export Health Certificates (EHCs) are required for Products of Animal Origin (POAO). If Iceland is not listed as approved to export POAO by 1 April, trade in fishery and aquaculture products from Iceland is likely to be disrupted. Northern Ireland will remain aligned with European Union import legislation under the Northern Ireland Protocol.

I am writing to let you know I give my consent to the Secretary of State to make this SI in relation to Wales. I understand the SI will be laid before the Houses of Parliament on 3 March to come into force on 28 March. The SI will be subject to the negative procedure.

In these exceptional circumstances when we are required to consider and correct an unprecedented volume of legislation within a tight timeframe and with finite resources, the Welsh Government's general principal is that it appropriate that we ask the UK Government to legislate on our behalf in a large number of statutory instruments. Should consent be withheld, these corrections will need to be made through legislation made by the Welsh Government. There is insufficient time and resources to be able to draft and lay such regulations to come into force before the end of 2021.

Bae Caerdydd • Cardiff Bay  
Caerdydd • Cardiff  
CF99 1SN

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:  
0300 0604400

[Gohebiaeth.Lesley.Griffiths@llyw.cymru](mailto:Gohebiaeth.Lesley.Griffiths@llyw.cymru)  
[Correspondence.Lesley.Griffiths@gov.wales](mailto:Correspondence.Lesley.Griffiths@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.

I am copying this letter to the Counsel General and Minister for European Transition,  
Minister for Finance and Trefnydd and Chair of the Climate Change, Environment and Rural  
Affairs Committee.

Regards,

A handwritten signature in black ink that reads "Lesley Griffiths". The signature is written in a cursive style with a large, sweeping flourish at the end of the name.

**Lesley Griffiths AS/MS**

Gweinidog yr Amgylchedd, Ynni a Materion Gwledig  
Minister for Environment, Energy and Rural Affairs

Llyr Gruffydd MS  
Chair of the Finance Committee  
Senedd Cymru  
Ty Hywel  
Cardiff Bay  
CF99 1SN

23 February 2021

Dear Llyr,

Today I laid an updated version of the Explanatory Memorandum for the Curriculum and Assessment (Wales) Bill. In response to the recommendations made by the Finance Committee in the end of stage 1 report the revisions to the RIA are set out below.

**Accept or Accept in Part Finance Committee Recommendations:**

**The Welsh Government identifies how it will define and evaluate the success of the new Curriculum and outlines this in a revised Regulatory Impact Assessment**

Chapter 11 of the RIA has been updated to explain how success definitions and indicators will be developed as part of the evaluation scoping study in 2021. Some examples, taken from the Curriculum Implementation Plan, and an indicative timeline have also been included.

**The Welsh Government undertakes further work to assess the costs to schools and engages with schools other than Innovation Schools regarding the costs included in the RIA. Information gathered should be represented in a revised Regulatory Impact Assessment.**

Further work to estimate costs has not been possible because of the disruption caused by the COVID-19 pandemic. The RIA has been updated with details of research and engagement with a wide range of schools that is planned for 2021, including a readiness assessment and co-construction work with schools via a National Network. This information

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will be used to update the cost estimates, which will be shared with the Senedd later in 2021.

**The Welsh Government undertakes further work to define and estimate the costs for 'Education Other Than At School' and assessment arrangements costs in consultation with stakeholders. This information should be provided in a revised Regulatory Impact Assessment**

As stated above, further work to estimate costs has not been possible because of the disruption caused by the COVID-19 pandemic. In the meantime, the RIA has been updated with details of research and engagement with a wide range of schools and settings that is planned for 2021, including a readiness assessment and co-construction work with schools and settings via a National Network. This information will be used to update the cost estimates, which will be shared with the Senedd later in 2021.

**The Welsh Government details all sunk costs relating to the Bill in the same part of a revised Regulatory Impact Assessment.**

All sunk costs are located in the same part of the updated RIA.

**The Welsh Government should provide the detail on its discussions with stakeholders around the potential costs to the post-16 education system and publish any details of the financial implications.**

The RIA has been updated with this information, which reflects the information set out in my letter to you of 20 November 2020 (attached at **Annex A** for reference).

**The Welsh Government provides details of how it will review the costs provided by stakeholders (and advise the Senedd of those costs) and the timescales of implementation.**

Following my letter to you of 20 November 2020, the RIA has been updated to reflect the feedback from stakeholders in the cost section.

Also, to be aware, the original RIA set out the administrative cost to Welsh Government over the ten-year appraisal period (2021-22 to 2030-31) of approximately £175m. Between 2021-22 and 2025-26, the cost per annum will be £25m - £26m before falling to approximately £10m per annum from 2026-27 onwards.

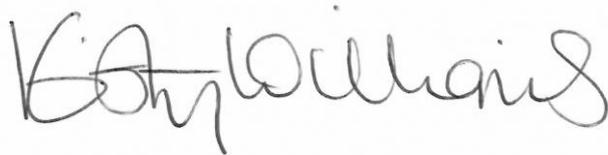
The revised RIA includes a revised profiling of the Qualifications Wales cost estimated as advised by Qualification Wales due to spend/activity in the current financial year being lower than anticipated when the original RIA was written. The result of this is that more of the Qualification Wales costs have been pushed into the 2021-22 to 2030-21 appraisal period. The £1.350m for 2021-22 is in line with the funding allocated to Qualifications Wales for curriculum reform.

There is a reduction in the estimated additional cost for providing Welsh language/bilingual resources – an estimate of £3.17m per annum was included in the original RIA but this has been revised down to £1m in 2021-22 and £2m in each of the remaining years in the appraisal period.

In terms of the headline cost figures in the RIA, the net effect of these changes has been to reduce the estimated cost of the Bill. The revised RIA now sets out the administrative cost to Welsh Government over the ten-year appraisal period (2021-22 to 2030-31) to be approximately £163m. In 2021-22 the estimated cost is revised to £23.4m (was £25.6m), increasing to £24m between 2022-23 to 2025-26 (was £25-26m), before falling to approximately £9m per annum was £10m) from 2026-27 onwards.

This letter has been copied to the Chair of the Children, Young People and Education Committee and the Chair of the Legislation, Justice and Constitution Committee.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Kirsty Williams', written in a cursive style.

**Kirsty Williams AS/MS**  
**Y Gweinidog Addysg**  
**Minister for Education**



Eich cyf/Your ref  
Ein cyf/Our ref

Llyr Gruffydd MS  
Chair of Finance Committee

20 November 2020

Dear Llyr

Below is an update on the Regulatory Impact Assessment (RIA) for the Curriculum and Assessment (Wales) Bill, further to my evidence session at the Finance Committee on 21 September and my letter of 5 November to Lynne Neagle MS, Chair of CYPE Committee.

In July a number of key stakeholders were invited to submit additional evidence to the Welsh Government to inform the costs identified in the RIA. These included WLGA, ADEW, Regional Consortia, ITE providers, Estyn, Catholic Education Service, WASACRE, Church in Wales, and Colegau Cymru.

WASACRE advised there will be no additional costs relating to their organisation. Estyn have advised they will meet any costs relating to the new curriculum from their core funding allocation.

Officials met with representatives from the further education (FE) sector in August 2020 who shared thoughts on the potential impact on the post-16 education system. These can be grouped as follows:

- financial implications for professional learning and development in the post-16 sector;
- the potential need for additional teaching hours in some subjects should certain areas of knowledge not be gained from the new compulsory curriculum; and
- the need to invest in Welsh language skills development in FE. For example, there may be further need for transition activities to be completed in order to ensure effective preparation onto post-16 courses for specific subjects.

Colegau Cymru recognises these issues do not necessarily form part of the financial scope of the Bill which focuses on the compulsory curriculum but consider these are costs that will need to be factored to make the new curriculum succeed in its aims.

The Welsh Government will continue to liaise with Colegau Cymru to ensure they are sufficiently prepared for the first tranche of learners in 2027, feeding into the Post-16

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Professional Learning action plan and the Professional Learning Framework for staff within the post-16 sector as appropriate. Financial implications will be met from budgets committed to the realisation of the new curriculum, building on the £124,000 allocated between 2018-19 and 2020-21 to FE to support the new curriculum. This expenditure is included in the 'Curriculum Reform Project' lines of tables 2 and 3 (pages 78 and 79) of the RIA.

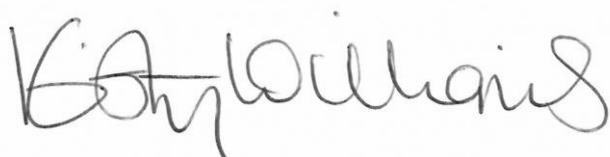
As advised in my letter of 5 November, work is ongoing to identify potential costs to awarding bodies, resulting from the change in qualifications and how these may impact on exam centres. The current situation with exams caused by the pandemic continues to make this exercise extremely challenging. Qualifications Wales are due to carry out a further consultation on qualifications for the new curriculum in the New Year 2021. As their work on qualifications progresses proposals will be subject to a separate RIA and any costs of the new qualifications to awarding bodies, schools and other parts of the sector will be looked at in detail and published at the appropriate time.

We have agreed funding for the Church in Wales and the Catholic Education Service to develop guidance to support the delivery of the new curriculum, from within existing budgets. This guidance is also intended to support schools to develop a curriculum that meets the wider framework requirements while also meeting their requirements as schools with a religious character. The Church in Wales and the Catholic Education Service maintain that the requirements for them to deliver both agreed syllabus RVE and denominational RVE would mean additional costs and resources for their schools. Work on this continues to ensure the requirements on schools of a religious character to apply each of the two required syllabi are appropriate. Financial implications will be met from budgets committed to the realisation of the new curriculum.

I hope this response sufficiently details our progress with regards to the financial implications of the Curriculum and Assessment (Wales) Bill for key stakeholders. The RIA will be updated ahead of Stage 3 with the necessary additional information.

If you have any queries, please contact my office to arrange further dialogue.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Kirsty Williams'.

**Kirsty Williams AS/MS**  
Y Gweinidog Addysg  
Minister for Education



Lynne Neagle MS  
Chair of Children, Young People and Education Committee  
Senedd Cymru  
Ty Hywel  
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23 February 2021

Dear Lynne,

Today I have laid an updated version of the Explanatory Memorandum for the Curriculum and Assessment (Wales) Bill.

The changes to the Explanatory Memorandum mostly relate to the amendment, removal or insertion of provisions by the Stage 2 amendments. However, we have made minor refinements to the wording in some areas in order to provide additional clarification where appropriate.

#### Chapter 1

Whilst the description of the intended purpose of the Bill has been updated to reflect the amendments officials have also taken the opportunity to re-order the list of purposes to reflect the order of the provisions in the Bill.

#### Chapter 3

This chapter has been updated to reflect that English will be mandatory from seven (rather than three) years old, and removing the now superfluous provisions, which would have enabled schools and settings to disapply English for children at 3 to 7 years old.

It also reflects the amendments made to the requirements around the design and implementation of RVE in voluntary aided schools. Additional lines have been included to help explain the purpose and intention behind the structure of provision for RVE in the Bill. This should help to further reassure key partners, including the Church in Wales and the Catholic Education Service.

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Revisions have been made to chapter 3 to make reference to the duty on Welsh Ministers to promote access to and the availability of courses of study through the medium of Welsh; and to take account of amendments to the requirements relating to the constitution of Standing Advisory Councils and Agreed Syllabus Conferences, which are responsible for developing and adopting agreed syllabi for RVE.

A section has been added to chapter 3 setting out the provisions included in the Bill to support mental health. This includes details of the duty (added in Stage 2) on persons listed to have regard to the mental health and emotional well-being of learners when exercising their functions under the Bill.

#### Chapter 4

Chapter 4 has been updated to reflect the additional survey undertaken during Stage 1 of stakeholder views into the proposal to amend the mandatory age of English.

#### Chapter 5

This chapter has been amended to reflect the updated powers and duties to make subordinate legislation under the Bill.

#### Regulatory Impact Assessment (RIA)

The Stage 2 Government amendments, though significant in policy terms, do not place an additional burden on practitioners or stakeholders, as work on these areas was already progressing in terms of the new curriculum, but are now more explicit on the face of the Bill. Therefore, they are already included in the overall cost estimate for the new curriculum.

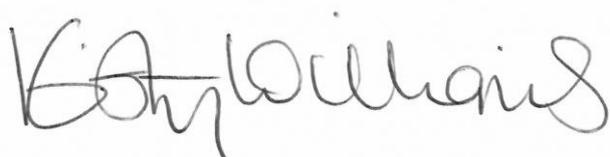
The RIA has been updated with the information provided by key stakeholders who were delayed from completing their work due to the COVID-19 pandemic. Qualifications Wales has also provided updated information on their cost profile which has been impacted upon as a result of the pandemic. Slippage in 2020-21 has been re-profiled across future years, and is reflected in the RIA.

The RIA also been updated in response to the recommendations made by the Finance Committee in Stage 1. These are outlined in the letter to the Chair of the Finance Committee, which I have copied to you.

Also, I would like to take this opportunity to reassure you and the Committee that the financial resources required to implement Curriculum and Assessment (Wales) Bill will be provided to enable schools and settings to undertake these reforms. Costs, including professional learning costs, will continue to be informed through ongoing partnership working, a robust evaluation programme and the national network.

This letter has been copied to the Chair of the Finance Committee and the Chair of the Legislation, Justice and Constitution Committee.

Yours sincerely



**Kirsty Williams AS/MS**  
Y Gweinidog Addysg  
Minister for Education

# Agenda Item 3

Julie James MS  
Y Gweinidog Tai a Llywodraeth Leol  
Minister for Housing and Local Government



Llywodraeth Cymru  
Welsh Government

Our ref: DC-JJ-00371-21

Mick Antoniw MS - Chair  
Legislation, Justice and Constitution Committee  
Welsh Parliament

SeneddLJC@senedd.wales

24 February 2021

Dear Mick,

I am writing in accordance with the inter-institutional relations agreement to let you know that the British-Irish Council (BIC) Joint Housing and Spatial Planning Work Sectors Ministerial Meeting will be held tomorrow Thursday 25 February. Member Administrations have agreed to hold a virtual meeting which will be hosted by the Northern Ireland Executive. As the Minister with responsibility for housing and planning, I will be representing the Welsh Government.

The meeting is an opportunity for Member Administrations of the BIC to discuss the implications of the changing demography of administrations and the potential impact this will have for the spatial planning and housing sectors. It will also allow discussion on how we can work to resolve these issues as a collective.

The meeting will provide an opportunity for Ministers to reflect on the joint work of the Housing and Collaborative Spatial Planning work sectors, while also agreeing Forward Work Plans for both work sectors.

A communiqué will be agreed by the council at the meeting and I will update the Committee about its publication and the outcome of the meeting, in due course.

I have written in similar terms to the chairs of the Equality, Local Government and Communities Committee, John Griffiths MS and the Climate Change, Environment and Rural Affairs Committee, Mike Hedges MS.

Yours sincerely,

**Julie James AS/MS**  
Y Gweinidog Tai a Llywodraeth Leol  
Minister for Housing and Local Government

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