

Agenda – Legislation, Justice and Constitution Committee

Meeting Venue:

Video Conference via Zoom

Meeting date: 11 July 2022

Meeting time: 13.00

For further information contact:

P Gareth Williams

Committee Clerk

0300 200 6565

SeneddLJC@senedd.wales

1 Introductions, apologies, substitutions and declarations of interest

(13.00)

2 Historic Environment (Wales) Bill: Ministerial evidence session

(13.00 – 14.30)

(Pages 1 – 4)

Mick Antoniw MS, Counsel General and Minister for the Constitution

Dylan Hughes, First Legislative Counsel

[Historic Environment \(Wales\) Bill, as introduced](#)

[Explanatory Memorandum](#)

[Explanatory Memorandum: Annex A – Explanatory Notes](#)

[Explanatory Memorandum: Annex B1 – Table of Origins](#)

[Explanatory Memorandum: Annex B2 – Table of Destinations](#)

[Explanatory Memorandum: Annex C – Explanation of changes made to existing provisions \(Drafters' Notes\)](#)

[Explanatory Memorandum: Annex D – Correspondence from the Law Commission](#)

Attached Documents:

LJC(6)-21-22 – Paper 1 – Research briefing

LJC(6)-21-22 – Paper 2 – Briefing



Senedd Cymru
Welsh Parliament

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

(14.30 – 14.50)

Made Negative Resolution Instruments

3.1 SL(6)230 – The National Health Service (Charges to Overseas Visitors) (Amendment) (No.3) (Wales) Regulations 2022

(Pages 5 – 9)

[Regulations](#)

[Explanatory Memorandum](#)

Attached Documents:

LJC(6)–21–22 – Paper 3 – Draft report

LJC(6)–21–22 – Paper 4 – Letter from the Minister for Health and Social Services to the Llywydd, 29 June 2022

3.2 SL(6)231 – The Council Tax (Amendments Relating to Discount Disregards and Exempt Dwellings) (Wales) Regulations 2022

(Pages 10 – 13)

[Regulations](#)

[Explanatory Memorandum](#)

Attached Documents:

LJC(6)–21–22 – Paper 5 – Draft report

LJC(6)–21–22 – Paper 6 – Welsh Government response

Affirmative Resolution Instruments

3.3 SL(6)222 – The Plant Health etc. (Fees) (Amendment) (Wales) (EU Exit) (No.2) Regulations 2022

(Pages 14 – 15)

[Regulations](#)

[Explanatory Memorandum](#)

Attached Documents:

LJC(6)–21–22 – Paper 7 – Draft report

3.4 SL(6)225 – The Renting Homes (Wales) Act 2016 (Housing Association Tenancies: Fundamental Provisions) Regulations 2022

(Pages 16 – 20)

[Regulations](#)

[Explanatory Memorandum](#)

Attached Documents:

LJC(6)-21-22 – Paper 8 – Draft report

LJC(6)-21-22 – Paper 9 – Written Statement by the Minister for Climate Change, 21 June 2022

3.5 SL(6)226 – The Renting Homes (Wales) Act 2016 (Amendment of Schedule 12) Regulations 2022

(Pages 21 – 26)

[Regulations](#)

[Explanatory Memorandum](#)

Attached Documents:

LJC(6)-21-22 – Paper 10 – Draft report

LJC(6)-21-22 – Paper 11 – Written Statement by the Minister for Climate Change, 21 June 2022

3.6 SL(6)227 – The Renting Homes (Wales) Act 2016 (Amendment) Regulations 2022

(Pages 27 – 32)

[Regulations](#)

[Explanatory Memorandum](#)

Attached Documents:

LJC(6)-21-22 – Paper 12 – Draft report

LJC(6)-21-22 – Paper 13 – Written Statement by the Minister for Climate Change, 21 June 2022

3.7 SL(6)229 – The Renting Homes (Wales) Act 2016 (Consequential Amendments) Regulations 2022

(Pages 33 – 45)

[Regulations](#)

[Explanatory Memorandum](#)

Attached Documents:

LJC(6)-21-22 – Paper 14 – Draft report

LJC(6)-21-22 – Paper 15 – Written Statement by the Minister for Climate Change, 21 June 2022

3.8 SL(6)232 – The Welsh Language Standards (No.8) Regulations 2022

(Pages 46 – 48)

[Regulations](#)

[Explanatory Memorandum](#)

Attached Documents:

LJC(6)-21-22 – Paper 16 – Draft report

LJC(6)-21-22 – Paper 17 – Letter from the Minister for Education and Welsh Language, 29 June 2022

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

(14.50 – 14.55)

4.1 SL(6)218 – The Provision of Information by Head Teachers to Parents and Adult Pupils (Wales) Regulations 2022

(Pages 49 – 52)

Attached Documents:

LJC(6)-21-22 – Paper 18 – Report

LJC(6)-21-22 – Paper 19 – Welsh Government response

5 Written Statements under Standing Order 30C

(14.55 – 15.00)

5.1 WS-30C(6)010 – European Parliamentary Elections (Amendment and Revocation) (United Kingdom and Gibraltar) (EU Exit) Regulations 2022

(Pages 53 – 55)

Attached Documents:

LJC(6)–21–22 – Paper 20 – Written Statement by the Counsel General and Minister for the Constitution, 5 July 2022

LJC(6)–21–22 – Paper 21 – Commentary

6 Inter-Institutional Relations Agreement

(15.00 – 15.05)

6.1 Correspondence from the Minister for Economy: Meeting of the Ministerial Forum for Trade

(Page 56)

Attached Documents:

LJC(6)–21–22 – Paper 22 – Letter from the Minister for Economy, 4 July 2022

6.2 Written Statement and correspondence from the Minister for Climate Change: The Official Controls (Plant Health) (Frequency of Checks) Regulations 2022

(Pages 57 – 60)

Attached Documents:

LJC(6)–21–22 – Paper 23 – Written Statement by the Minister for Climate Change, 5 July 2022

LJC(6)–21–22 – Paper 24 – Letter from the Minister for Climate Change, 5 July 2022

6.3 Correspondence from the First Minister: British–Irish Council Summit in Guernsey

(Page 61)

Attached Documents:

LJC(6)–21–22 – Paper 25 – Letter from the First Minister, 6 July 2022

7 Papers to note

(15.05 – 15.10)

7.1 Correspondence from the Minister for Social Justice: Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence

(Pages 62 – 65)

Attached Documents:

LJC(6)–21–22 – Paper 26 – Letter from the Minister for Social Justice, 5 July 2022

LJC(6)–21–22 – Paper 27 – Letter to the First Minister, 22 June 2022

7.2 Correspondence from the Finance Committee: Welsh Government Draft Budget 2023–24

(Pages 66 – 68)

Attached Documents:

LJC(6)–21–22 – Paper 28 – Letter from the Finance Committee, 6 July 2022

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

(15.10)

9 Historic Environment (Wales) Bill: Consideration of evidence

(15.10 – 15.20)

10 Consideration of international agreements

(15.20 – 15.30)

(Pages 69 – 72)

Attached Documents:

LJC(6)–21–22 – Paper 29 – Briefing

11 Monitoring Report

(15.30 – 15.40)

(To Follow)

Attached Documents:

LJC(6)–21–22 – Paper 30 – Draft Monitoring report

12 Annual Report

(15.40 – 16.05)

(To Follow)

Attached Documents:

LJC(6)–21–22 – Paper 31 – Draft report

13 Legislative Consent Memorandum on the Trade (Australia and New Zealand) Bill

(16.05 – 16.15)

(Pages 73 – 83)

[Legislative Consent Memorandum: Trade \(Australia and New Zealand\) Bill](#)

Attached Documents:

LJC(6)–21–22 – Paper 32 – Legal advice note

LJC(6)–21–22 – Paper 33 – Briefing

14 Legislative Consent Memorandum on the Procurement Bill

(16.15 – 16.25)

(To Follow)

[Legislative Consent Memorandum: Procurement Bill](#)

Attached Documents:

LJC(6)–21–22 – Paper 34 – Legal advice note

LJC(6)–21–22 – Paper 35 – Briefing

15 Forward Work Programme

(16.25 – 16.35)

(Pages 84 – 88)

Attached Documents:

LJC(6)–21–22 – Paper 36 – Forward work programme

LJC(6)–21–22 – Paper 37 – Statement by the First Minister: The Legislative Programme, 5 July 2022

Document is Restricted

SL(6)230 – The National Health Service (Charges to Overseas Visitors) (Amendment) (No. 3) (Wales) Regulations 2022

Background and Purpose

These Regulations amend the National Health Service (Charges to Overseas Visitors) Regulations 1989 ("the principal Regulations"), which provide for the making and recovery of charges for relevant services provided under the National Health Service (Wales) Act 2006 to overseas visitors.

Regulation 2 amends the principal Regulations to insert "Monkeypox" into Schedule 1 (diseases for the treatment of which no charge is to be made). Regulation 2(2)(b) provides that charges incurred in respect of services provided to an overseas visitor for the treatment of monkeypox on or after 23 May 2022 but before these Regulations came into force -

- if not yet made, must not be made,
- if made, must not be recovered, or
- if paid, must be repaid.

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 21.2(iv) – that it appears to have retrospective effect where the authorising enactment does not give express authority for this.

We note Regulation 2(2)(b) states that "*Services provided to an overseas visitor for the treatment of monkeypox on or after 23 May 2022 but before this paragraph came into force are to be treated for the purposes of these Regulations as if, at the time that the services were provided, they were relevant services in respect of which no charge may be made or recovered.*"



This provision appears to have retrospective effect where the authorising enactment (National Health Service (Wales) Act 2006) does not give express authority for this. Could the Welsh Government provide an explanation?

Merits Scrutiny

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

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

We note the breach of the 21-day convention (i.e. the convention 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 Eluned Morgan MS, Minister for Health and Social Services in a letter to the Llywydd dated 29 June 2022.

In particular, we note the following part of the letter:

“The 2022 Regulations were made and laid as soon as practicable to enable monkeypox to be included in the list of diseases in Schedule 1 which are exempt from NHS charge (where treatment is necessary to protect the wider public health).

If the 21 day convention is adhered to, there is a risk (as has been identified by DHSC in respect of its legislation in England) that overseas visitors will be deterred from presenting for treatment due to charging concerns and thereby become a public health risk to the wider community.

Not adhering to the 21 day convention allows the 2022 Regulations to come into force as early as practicable, thereby minimising the risk to wider public health.”

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:

“It is considered that the proposed amendments do not require consultation as they are an urgent amendment to the Principal Regulations to protect the wider public health by including monkeypox as a disease, services for the treatment of which is exempt from NHS charges for overseas visitors and thereby ensuring that the risk to public health from infected visitors is minimised.”

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 that a regulatory impact assessment has not been prepared on these Regulations. In particular, we note the following paragraph in the Explanatory Memorandum:



"A regulatory impact assessment has not been prepared in relation to these Regulations due to the need to put them in place urgently to respond to the current outbreak of monkeypox in the UK."

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.

Standing Order 15.4 requires all laid documents to be bilingual *"so far as is appropriate in the circumstances and reasonably practicable."* We note that the Explanatory Memorandum is not available in Welsh. Could the Welsh Government provide an explanation?

Welsh Government response

A Welsh Government response is required in relation to point one and five.

Legal Advisers

Legislation, Justice and Constitution Committee

6 July 2022





Ein cyf/Our ref: MA-EM-2157-22

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

29 June 2022

Dear Llywydd

The National Health Service (Charges to Overseas Visitors) (Amendment) (No. 3) (Wales) Regulations 2022 ("the 2022 Regulations")

In accordance with section 11A(4) of the Statutory Instruments Act 1946 I am notifying you that this statutory instrument will come into force on 1 July 2022, less than 21 days after it has been laid. A copy of the instrument and the Explanatory Memorandum that accompanies it are attached for your information.

The 2022 Regulations amend the National Health Service (Charges to Overseas Visitors) Regulations 1989 ("the Principal Regulations"). The Principal Regulations set the framework for charging persons who are not ordinarily resident in the UK for hospital treatment which is provided in Wales.

The 2022 Regulations amend Schedule 1 of the Principal Regulations to include monkeypox as a disease, services for the treatment of which is exempt from NHS charges for overseas visitors.

The 2022 Regulations also provide that where an overseas visitor who, on or after 23 May 2022 but before 1 July 2022 (the latter being the date that the amendments are to come into force), was provided with services for the treatment of monkeypox, a Local Health Board or NHS Trust must not charge for those services and if charges have already been made then they must not be recovered and if they have already been recovered then they must be repaid. This is because as a result of the latest outbreak there are already monkeypox cases in Wales. It is intended, that by cancelling charges that might otherwise apply before the coming into force date, overseas visitors will not be deterred from presenting for treatment due to charging concerns. It will also ensure that those who have received

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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.

treatment for monkeypox before the Regulations came into force are treated equally to those who receive treatment after the Regulations come into force.

For information, The Department of Health and Social Care (DHSC) have included a similar provision in its charging regulations save that DHSC has chosen to extend the exemption from charges to treatment that was provided to overseas visitors on or after 1 May 2022, as opposed to 23 May 2022. This is because the first case of monkeypox was identified in England earlier (6 May 2022) than in Wales (25 May 2022 and confirmed by Public Health Wales on 26 May 2022). The amending legislation brought into effect by DHSC in England came into force less than 21 days after it was laid, so as to minimise any public health risk of discouraging an overseas visitor from coming forward for treatment due to the prospect of being charged.

The 2022 Regulations were made and laid as soon as practicable to enable monkeypox to be included in the list of diseases in Schedule 1 which are exempt from NHS charge (where treatment is necessary to protect the wider public health).

If the 21 day convention is adhered to, there is a risk (as has been identified by DHSC in respect of its legislation in England) that overseas visitors will be deterred from presenting for treatment due to charging concerns and thereby become a public health risk to the wider community.

Not adhering to the 21 day convention allows the 2022 Regulations to come into force as early as practicable, thereby minimising the risk to wider public health.

I am copying this letter to the Minister for Rural Affairs, North Wales and Trefnydd, Huw Irranca-Davies MS, Chair of the Legislation, Justice and Constitution Committee, Russell George MS Chair of the Health and Social Care 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 blue ink, appearing to read 'M. E. Morgan'.

Eluned Morgan AS/MS

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

Agenda Item 3.2

SL(6)231 - The Council Tax (Amendments Relating to Discount Disregards and Exempt Dwellings) (Wales) Regulations 2022

Background and Purpose

The Homes for Ukraine Sponsorship Scheme (the "HFU Scheme") provides a route for those affected by the conflict in Ukraine to enter the UK if they have a named sponsor who can provide them with accommodation.

The purpose of *The Council Tax (Amendments Relating to Discount Disregards and Exempt Dwellings) (Wales) Regulations 2022* (the "Regulations") is to ensure that households who host individuals under the HFU Scheme (a "relevant Ukrainian person") will not lose out on council tax discounts or exemptions as a result of housing additional persons.

For the purposes of calculating council tax, certain classes of people are 'disregarded'. This means they're not counted when calculating how many people live in a property. This is relevant in determining whether homes are eligible for a discount on their council tax bills. To negate a relevant Ukrainian person from affecting the council tax status of their sponsors, Regulation 2 of the Regulations amends the *Council Tax (Additional Provisions for Discount Disregards) Regulations 1992* to disregard such individuals.

In addition, certain dwellings (such as homes occupied exclusively by students) are exempt from paying council tax. Such dwellings are listed in the *Council Tax (Exempt Dwellings) Order 1992* (the "Exempt Dwellings Order"). Regulation 3 of these Regulations amends the Exempt Dwellings Order to ensure that there is no loss of an existing exemption where a household hosts a relevant Ukrainian person.

A Regulatory Impact Assessment ("RIA"), outlined in the Explanatory Memorandum, has been undertaken in respect of these Regulations.

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

The Explanatory Note states that these Regulations amend the Exempt Dwellings Order to:

"[...] provide that exemptions relating to occupied dwellings where individuals admitted to the United Kingdom under the Homes for Ukraine Scheme reside in such dwellings in England, also apply to dwellings in Wales".

It is unclear why Regulation 3(4) of these Regulations inserts the words "*in England*" into Article 2(3A) of the Exempt Dwellings Order in respect of Wales.

Article 2(3A) provides that occupation by a relevant Ukrainian person is to be disregarded in considering whether a dwelling is 'occupied' in respect of eleven classes of dwellings (B, D, E, F, H, I, J, K, L, Q and T) in article 3 of the Exempt Dwellings Order.

The rationale for expressly limiting article 2(3A) to England is not explained and seems contrary to the apparent policy aim in the Explanatory Note and Memorandum. A Welsh Government response is required.

Merits Scrutiny

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

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

The Explanatory Memorandum states that these Regulations ensure that:

"[...] host households who offer accommodation to people from Ukraine under the 'Homes for Ukraine Scheme' do not incur any additional council tax costs". (emphasis added)

The rationale for limiting these Regulations to individuals sponsored under the HFU Scheme is not explained in the Explanatory Memorandum.

Under the '[Appendix Ukraine Scheme](#)' to the Immigration Rules, persons affected by the conflict in Ukraine may qualify for permission to enter the UK under the following schemes:

- The **HFU Scheme** - allowing Ukrainian nationals and their family members to come to the UK if they have a named sponsor who can provide them with accommodation for a minimum of six months; and the
- **Ukraine Family Scheme** (the "UFS") – allowing Ukrainian nationals to join UK-based family members, or extend their stay in the UK.

At a UK level as at 28 June 2022, a [total](#) of 98,400 visas had been issued under the HFU Scheme, and 44,100 under the UFS.



As drafted, these Regulations extend to households who host people under the HFU Scheme, but not to those hosted under the UFS. In practice, this means that households who host additional family members under the UFS may lose existing exemptions and discounts for council tax.

The Welsh Government is asked to explain why these Regulations do not extend to those who have permission to enter the UK under the Ukraine Family Scheme.

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 final paragraph of the Explanatory Note to these Regulations states that after considering the Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments:

"[...] it was not considered necessary to carry out a regulatory impact assessment [...]"

However, an RIA has been undertaken in respect of these Regulations. It is set out in paragraph 6 (and subsequent sub-paragraphs) of the Explanatory Memorandum.

Whilst the Explanatory Note is not part of the Regulations, this discrepancy could be misleading.

Welsh Government response

A Welsh Government response is required in respect of the technical reporting point, and both merits points.

Legal Advisers

Legislation, Justice and Constitution Committee

04 July 2022



Government Response: The Council Tax (Amendments Relating to Discount Disregards and Exempt Dwellings) (Wales) Regulations 2022

Technical Scrutiny point 1:

Response

Article 2(3A) of the Council Tax (Exempt Dwellings) Order 1992, which was inserted by The Council Tax (Discount Disregards and Exempt Dwellings) (Amendment) (England) Regulations 2022, relates to unoccupied properties. As stated in the explanatory notes, the policy intent is to provide that exemptions relating to occupied properties extend to Wales. The insertion of the words “in England” into Article 2(3A) was necessary to ensure that it was clear that this article relating to unoccupied properties does not apply to Wales.

Merit Scrutiny point 1:

Response

This approach is the same as that taken in England and Scotland. The criteria for entry under the Ukraine Family Scheme differ from those for the Homes for Ukraine Scheme. Under the Ukraine Family Scheme, there is an expectation that people from Ukraine will join their family members in the UK and that their relatives will be able to provide accommodation.

The intention of these regulations is to encourage take-up of the ‘Homes for Ukraine’ scheme by ensuring people who provide accommodation to a person or family from Ukraine are not dissuaded from doing so by the prospect of losing any discounts or exemptions they are currently entitled to.

Merit Scrutiny point 2:

Response

This was an oversight. The Welsh Government will explore whether this may be corrected with a correction slip.

Agenda Item 3.3

SL(6)222 – The Plant Health etc. (Fees) (Amendment) (Wales) (EU Exit) (No. 2) Regulations 2022

Background and Purpose

The Plant Health etc. (Fees) (Wales) Regulations 2018 (the “**2018 Regulations**”) specify fees payable to the Welsh Ministers in relation to plant health and certification services.

These Regulations amend the 2018 Regulations:

- in relation to the fees payable by an importer of a consignment originating in a third country in respect of a physical check and identity check of plants, plant products or other objects, including providing for a flat rate fee in respect of certain checks;
- to extend an existing exemption from the payment of fees payable in respect of certification and pre-export services relating to certain consignments to Northern Ireland from 31 December 2022 to 31 December 2023; and
- to reinstate provision prescribing fees payable for samples taken on imports suspected of being infected with a controlled plant pest, which was omitted in error by the Plant Health etc. (Fees) (Wales) (Amendment) 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

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

Merits Scrutiny

The following 2 points are identified for reporting under Standing Order 21.3 in respect of this instrument.

1. 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.



These Regulations amend fees payable to the Welsh Ministers under the 2018 Regulations in connection with plant health services. The Explanatory Memorandum accompanying these Regulations (at section 6) states that:

"The impact of the proposed changes across Wales on business, charities or voluntary bodies are estimated to save c. £60K per annum in Wales due to lower levels of checks and subsequent impact on fees. However, the way in which mixed consignments are managed, may result in a very small over-recovery of £1.5K".

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 (at section 4) states that:

"The fees for plant health checks determined by the 2018 Regulations are being amended in this instrument to reflect the frequencies of checks established under the Official Controls (Plant Health) (Frequency of checks) Regulations 2022...."

In a Written Statement issued on 4 July 2022 by Julie James MS, Minister for Climate Change, the Welsh Government confirmed that it is giving consent to the Secretary of State to make the 2022 Regulations, and that those Regulations:

"...make provisions for a GB focused risk-based frequency of checks regime, allowing the modification of the frequency of plant health checks on specific import trade pathways, depending on the level of plant health risk posed to GB...[The 2022 Regulations]...will apply equally to imports from non-EU countries and high-priority goods from EU member States, Switzerland, and Liechtenstein."

Welsh Government response

A Welsh Government response is not required.

Legal Advisers

Legislation, Justice and Constitution Committee

6 July 2022



Agenda Item 3.4

SL(6)225 – The Renting Homes (Wales) Act 2016 (Housing Association Tenancies: Fundamental Provisions) Regulations 2022

Background and Purpose

These Regulations limit the application of certain provisions of the Renting Homes (Wales) Act 2016 ("the 2016 Act") in relation to a specific form of tenancy and makes minor consequential amendments to primary legislation to reflect this.

The 2016 Act introduces fundamental provisions which if included in an occupation contract become a fundamental term of that contract.

Section 22(1) of the 2016 Act enables the Welsh Ministers to make regulations which specify that any provision of any enactment is, or is not, a fundamental provision applicable to an occupation contract.

These Regulations provide that the relevant sections of the 2016 Act dealing with the variation of rent are not fundamental provisions applicable to occupation contracts that are housing association tenancies (within the meaning given by Part 6 of the Rent Act 1977 ("the 1977 Act")).

These Regulations make consequential amendments to the 2016 Act and the 1977 Act for these types of tenancies, so that where a housing association tenancy is a secure or periodic standard occupation contract, the current arrangements which apply to variation of rent for these tenancies continues to apply. The Explanatory Memorandum states that the effect of these Regulations is to preserve existing enhanced rights in relation rent protection enjoyed by such tenants.

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 point is 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.

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

“No formal consultation has taken place as these Regulations make only consequential technical amendments.”

Welsh Government response

A Welsh Government response is not required.

Legal Advisers

Legislation, Justice and Constitution Committee

27 June 2022





Llywodraeth Cymru
Welsh Government

WRITTEN STATEMENT BY THE WELSH GOVERNMENT

TITLE Implementation of the Renting Homes (Wales) Act 2016: laying of the affirmative instruments in the third tranche of subordinate legislation

DATE 21 June 2022

BY Julie James, Minister for Climate Change

I recently announced that the provisions of the Renting Homes (Wales) Act 2016 would be brought into force on 1 December 2022.

Today, I have laid part of the third tranche of subordinate legislation required to support the implementation of the 2016 Act.

There are seven substantive statutory instruments in this third tranche. The four instruments laid today are all being made via the Senedd's affirmative procedure and are scheduled for plenary debate on 12 July 2022. They are:

The Renting Homes (Wales) Act 2016 (Amendment) Regulations 2022

This SI makes a series of amendments to Schedules 2, 3, 8A, 9, 9B and 9C of the 2016 Act. These amendments provide that tenancies or licences concerning certain kinds of accommodation related to bail or probation, or to immigration and asylum, are not occupation contracts. The amendments also reflect some recent changes to the law relating to the provision of this accommodation.

The Renting Homes (Wales) Act 2016 (Amendment of Schedule 12) Regulations 2022

Schedule 12 sets out arrangements for tenancies and licences currently in existence which will convert into occupation contracts when the 2016 Act comes into force. The purpose of the Schedule is to ensure that the transition is as seamless as possible and that the parties to existing tenancies and licences are treated fairly when their tenancy or licence undergoes conversion into an occupation contract, with the correct balance being struck in respect of both parties' rights and obligations.

The amendments being made by this SI include:

- Protecting the existing rights of 16 or 17 year olds who currently hold a secure tenancy which is a licence, or an assured agricultural occupancy which is a licence;
- Provision about which types of tenancy and licence can convert into supported standard contracts: only assured shorthold tenancies and licences will convert into supported standard contracts and where conversion does occur, not all of the provisions relating to supported standard contracts in the 2016 Act will apply to that converted contract;
- Adding Starter Tenancies to the list of current tenancies that will convert into Introductory Standard Contracts;
- Providing that the deposit scheme requirements apply only to converted assured shorthold tenancies, and making a range of provision about the rent variation arrangements for certain types of tenancies;
- Protecting, as far as possible, the rights of any current holder of an Assured Agricultural Occupancy; and
- Ensuring that for fixed term tenancies where the fixed term ends, and the contract becomes periodic before 1 December, the current two-month no-fault notice period will continue to apply after 1 December. For fixed term contracts that convert on 1 December and then become periodic (if the landlord does not seek possession at the end of the fixed term by issuing a two-month no-fault notice), the six-month notice will apply to the substitute periodic contract that follows the fixed term.

- ***The Renting Homes (Wales) Act 2016 (Consequential Amendments) Regulations 2022***

These Regulations make amendments to primary legislation in consequence of the provisions of the 2016 Act.

Generally, these amendments either:

- a. ensure that existing provision in primary legislation continues to have appropriate effect by
 - i. referencing relevant occupation contracts alongside references to existing types of tenancies, or
 - ii. including the terminology used in the 2016 Act;or,
- b. where the provisions of the 2016 Act are intended to replace elements of existing law, or the existing law is incompatible that set out in the 2016 Act, by disapplying that law.

These amendments are necessary to implement the 2016 Act, provide coherence, clarity and ensure consistency of the law.

The Renting Homes (Wales) Act 2016 (Housing Association Tenancies: Fundamental Provisions) Regulations 2022

This SI provides that the relevant sections of the 2016 Act dealing with the variation of rent applicable to secure and periodic standard contracts are not fundamental provisions of occupation contracts that are housing association tenancies (within the meaning in Part 6 of the Rent Act 1977 (“the 1977 Act”)).

This SI also makes consequential amendments to the 2016 Act and to section 93 of the 1977 Act. The overall effect of this SI is that the current arrangements and protections which apply to the variation of rent in relation these specific tenancies will continue to apply.

All of these statutory instruments can be accessed [here](#).

I will also shortly be laying three further implementation SIs. These are being made via the Senedd’s negative procedure so will not be subject to Senedd debate. I will publish a further written statement to alert Members when those SIs have been published.

Guidance, and other resources for landlords and tenants can be accessed via the Renting Homes Wales website: <https://gov.wales/housing-law-changing-renting-homes>.

SL(6)226 – The Renting Homes (Wales) Act 2016 **(Amendment of Schedule 12) Regulations 2022**

Background and Purpose

These Regulations make a series of amendments to Schedule 12 to the Renting Homes (Wales) Act 2016.

Schedule 12 sets out arrangements for tenancies and licences currently in existence which will convert into occupation contracts on the “appointed day” (i.e. the day on which the 2016 Act is brought into force). These are referred to as “converted contracts”. The Explanatory Memorandum to these Regulations states that, *“The purpose of Schedule 12 is to ensure that the transition is as seamless as possible and that the parties to existing tenancies and licences are treated fairly when their tenancy and licence undergoes conversion into an occupation contract, with a balance being struck in respect of both parties’ rights and obligations.”*

These Regulations seek to address a number of issues that have been identified relating to the conversion process. These include:

- Providing that licences held by 16 and 17 year olds which are secure tenancies or assured agricultural occupancies (“AAOs”) convert into occupation contracts;
- Making a number of other amendments concerning the conversion of AAOs;
- Making amendments that concern supported accommodation and outline which tenancies and licences that can, and cannot, be supported standard contracts;
- Making amendments in relation to “starter tenancies”;
- Providing that the deposit scheme provisions of the 2016 Act only apply to a converted contract that, immediately before the appointed day, was an assured shorthold tenancy;
- Providing that where there is a converted periodic standard contract which, immediately before the appointed day, was an assured tenancy containing a term about rent variation, the rent can only be varied in accordance with that term, and the landlord cannot use section 123 of the 2016 Act to vary the rent;
- Making an amendments so that the contract-holder under certain types of contract can, under regulations made under paragraph 15(2) of Schedule 12 to the 2016 Act, apply for a determination of rent for the dwelling;
- Providing that where a substitute contract is a periodic standard contract (which either arises under section 184(2) or is within section 184(6) of the 2016 Act) the landlord must give 6 months’ notice under section 173 of the 2016 Act and the landlord cannot give a section 173 notice within the period of 4 months, starting with the date on which the contract-holder became entitled to occupy the dwelling under the original tenancy or licence;



- Providing that, in relation to a substitute contract that is a periodic standard contract arising under section 184(2) of the 2016 Act, the minimum notice period under section 174 of the 2016 Act is 6 months (not 2 months);
- Amendments to clarify the effect of certain provisions and rectify minor drafting errors.

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.

No consultation has been carried out in relation to these Regulations. The Explanatory Memorandum to these Regulations (which also cover the Renting Homes (Wales) Act 2016 (Amendment) Regulations 2022) notes that:

"Due the technical nature of these two SIs and the fact that none of amendments they contain make any substantive changes to policy positions set out in the primary legislation, no formal consultation has been undertaken. However, several of the issues addressed by these amendments were raised with Welsh Government by external stakeholders seeking clarification on the application of the legislation in relation to particular types of accommodation. Detailed discussions have taken place with relevant stakeholders to explore these matters and have informed the development of the amendments."

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.

These Regulations amend primary legislation, namely Schedule 12 to the Renting Homes (Wales) Act 2016. The Committee notes that the Legislation, Justice and Constitution Committee of the Fifth Senedd reported on the Renting Homes (Amendment) (Wales) Bill during Stage 1 proceedings. The Report references the existence of Henry VIII powers and the clarifications sought at the time from the Minister in relation to the justification for certain regulation-making powers in that Bill being Henry VIII powers. The Minister's response was:



"The Schedules to the 2016 Act contain a power for the Welsh Ministers to amend them, as we will need to review the matters contained within those Schedules as the housing landscape evolves over time. We need to have the flexibility to react to those changes and make appropriate provision within the various Schedules, as necessary. The Bill therefore adopts the same approach. The alternative would seem to be regulations which would also amend primary legislation or, alternatively, would need to be read alongside the primary legislation, resulting in detail falling outside of primary legislation into secondary legislation, which can itself attract criticism so far as scrutiny and accessibility of the law issues are concerned."

Welsh Government response

A Welsh Government response is not required.

Legal Advisers

Legislation, Justice and Constitution Committee

4 July 2022





Llywodraeth Cymru
Welsh Government

WRITTEN STATEMENT BY THE WELSH GOVERNMENT

TITLE	Implementation of the Renting Homes (Wales) Act 2016: laying of the affirmative instruments in the third tranche of subordinate legislation
DATE	21 June 2022
BY	Julie James, Minister for Climate Change

I recently announced that the provisions of the Renting Homes (Wales) Act 2016 would be brought into force on 1 December 2022.

Today, I have laid part of the third tranche of subordinate legislation required to support the implementation of the 2016 Act.

There are seven substantive statutory instruments in this third tranche. The four instruments laid today are all being made via the Senedd's affirmative procedure and are scheduled for plenary debate on 12 July 2022. They are:

The Renting Homes (Wales) Act 2016 (Amendment) Regulations 2022

This SI makes a series of amendments to Schedules 2, 3, 8A, 9, 9B and 9C of the 2016 Act. These amendments provide that tenancies or licences concerning certain kinds of accommodation related to bail or probation, or to immigration and asylum, are not occupation contracts. The amendments also reflect some recent changes to the law relating to the provision of this accommodation.

The Renting Homes (Wales) Act 2016 (Amendment of Schedule 12) Regulations 2022

Schedule 12 sets out arrangements for tenancies and licences currently in existence which will convert into occupation contracts when the 2016 Act comes into force. The purpose of the Schedule is to ensure that the transition is as seamless as possible and that the parties to existing tenancies and licences are treated fairly when their tenancy or licence undergoes conversion into an occupation contract, with the correct balance being struck in respect of both parties' rights and obligations.

The amendments being made by this SI include:

- Protecting the existing rights of 16 or 17 year olds who currently hold a secure tenancy which is a licence, or an assured agricultural occupancy which is a licence;
- Provision about which types of tenancy and licence can convert into supported standard contracts: only assured shorthold tenancies and licences will convert into supported standard contracts and where conversion does occur, not all of the provisions relating to supported standard contracts in the 2016 Act will apply to that converted contract;
- Adding Starter Tenancies to the list of current tenancies that will convert into Introductory Standard Contracts;
- Providing that the deposit scheme requirements apply only to converted assured shorthold tenancies, and making a range of provision about the rent variation arrangements for certain types of tenancies;
- Protecting, as far as possible, the rights of any current holder of an Assured Agricultural Occupancy; and
- Ensuring that for fixed term tenancies where the fixed term ends, and the contract becomes periodic before 1 December, the current two-month no-fault notice period will continue to apply after 1 December. For fixed term contracts that convert on 1 December and then become periodic (if the landlord does not seek possession at the end of the fixed term by issuing a two-month no-fault notice), the six-month notice will apply to the substitute periodic contract that follows the fixed term.

- ***The Renting Homes (Wales) Act 2016 (Consequential Amendments) Regulations 2022***

These Regulations make amendments to primary legislation in consequence of the provisions of the 2016 Act.

Generally, these amendments either:

- a. ensure that existing provision in primary legislation continues to have appropriate effect by
 - i. referencing relevant occupation contracts alongside references to existing types of tenancies, or
 - ii. including the terminology used in the 2016 Act;or,
- b. where the provisions of the 2016 Act are intended to replace elements of existing law, or the existing law is incompatible that set out in the 2016 Act, by disapplying that law.

These amendments are necessary to implement the 2016 Act, provide coherence, clarity and ensure consistency of the law.

The Renting Homes (Wales) Act 2016 (Housing Association Tenancies: Fundamental Provisions) Regulations 2022

This SI provides that the relevant sections of the 2016 Act dealing with the variation of rent applicable to secure and periodic standard contracts are not fundamental provisions of occupation contracts that are housing association tenancies (within the meaning in Part 6 of the Rent Act 1977 (“the 1977 Act”).

This SI also makes consequential amendments to the 2016 Act and to section 93 of the 1977 Act. The overall effect of this SI is that the current arrangements and protections which apply to the variation of rent in relation these specific tenancies will continue to apply.

All of these statutory instruments can be accessed [here](#).

I will also shortly be laying three further implementation SIs. These are being made via the Senedd’s negative procedure so will not be subject to Senedd debate. I will publish a further written statement to alert Members when those SIs have been published.

Guidance, and other resources for landlords and tenants can be accessed via the Renting Homes Wales website: <https://gov.wales/housing-law-changing-renting-homes>.

SL(6)227 – The Renting Homes (Wales) Act 2016 (Amendment) Regulations 2022

Background and Purpose

These Regulations amend Schedules 2, 3, 8A, 9, 9B and 9C to the Renting Homes (Wales) Act 2016 ("the Act") and make consequential amendments to the Immigration Act 2016 and the Renting Homes (Amendment) (Wales) Act 2021.

For the purposes of these Regulations:

- Schedule 2 to the Act lists those tenancies and licences that can never be occupation contracts under the Act, despite falling within the general rule set out in section 7 of the Act, which determines whether a tenancy or licence is an occupation contract and therefore subject to the provisions of the Act.
- Schedule 3 to the Act lists a range of occupation contracts which are exempted from the general rule under sections 11 and 12 of the Act that community landlords provide secure contracts.
- Schedule 8A to the Act lists those types of standard contracts which can be ended with not less than two months' notice under a landlord's notice or break clause (rather than the six months' notice period that applies in relation to all other standard occupation contracts).
- Schedule 9 lists those types of contracts which can be ended within the first six months of the occupation date.
- Schedule 9B lists those types of fixed term standard contracts which may be terminated at the end of the fixed term period with two months' notice by means of a landlord's notice.
- Schedule 9C lists those fixed term standard contracts which may include a landlord's break clause, which the Act generally does not permit.

Regulation 2 adds tenancies and licences which relate to bail and probation accommodation as well as to asylum and immigration accommodation to the list in Part 3 of Schedule 2, meaning they will not generally be occupation contracts under the Act.

Regulations 3 to 7 amend Schedules 3, 8A, 9, 9B and 9C to the Act to remove reference to certain types of accommodation provided for asylum seekers etc. from the list of exemptions in each of those Schedules.

Regulation 8 makes a consequential amendment to the Immigration Act 2016 to ensure that when section 4 of the Immigration and Asylum Act 1999 is repealed, paragraph 7(3)(k)(i) of Schedule 2 (as inserted by regulation 2 of this SI) will no longer refer to section 4 of the 1999 Act.



Regulation 9 makes consequential amendments to Schedule 6 to the Renting Homes (Amendment) (Wales) Act 2021, related to the provision in regulations 3 and 5.

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.

These Regulations amend the the Immigration Act 2016 and the Renting Homes (Amendment) Wales Act 2021 in reliance on enabling powers contained in section 255 of the Act.

The italic text at the head of these Regulations and the preamble each refer to sections 256(3) and (4)(h), (i), (la), (m), (mb) and (mc) of the Act, which require that regulations that amend Schedules 2, 3, 8A, 9, 9B and 9C to the Act are subject to the affirmative procedure.

Section 256(5) of the Act requires regulations to be subject to the affirmative procedure where they are made under the Act and amend, modify or repeal any provision of an Act of Parliament or a Measure or Act of the Senedd. It would therefore appear that the italic text at the head of these Regulations and the preamble should also refer to section 256(5) of the Act.

Merits Scrutiny

The following 2 points are identified for reporting under Standing Order 21.3 in respect of this instrument.

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

No consultation has been carried out in relation to these Regulations. The Explanatory Memorandum to these Regulations (which also cover the Renting Homes (Wales) Act 2016 (Amendment of Schedule 12) Regulations 2022) notes that:

“Due the technical nature of these two SIs and the fact that none of amendments they contain make any substantive changes to policy positions set out in the primary legislation, no formal consultation has been undertaken. However, several of the issues addressed by these amendments were raised with Welsh Government by external



stakeholders seeking clarification on the application of the legislation in relation to particular types of accommodation. Detailed discussions have taken place with relevant stakeholders to explore these matters and have informed the development of the amendments."

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.

These Regulations amend primary legislation, namely the Renting Homes (Wales) Act 2016, the Immigration Act 2016 and the Renting Homes (Amendment) (Wales) Act 2021. The Committee notes that the Legislation, Justice and Constitution Committee of the Fifth Senedd reported on the Renting Homes (Amendment) (Wales) Bill during Stage 1 proceedings. The Report references the existence of Henry VIII powers and the clarifications sought at the time from the Minister in relation to the justification for certain regulation-making powers in that Bill being Henry VIII power. The Minister's response was:

"The Schedules to the 2016 Act contain a power for the Welsh Ministers to amend them, as we will need to review the matters contained within those Schedules as the housing landscape evolves over time. We need to have the flexibility to react to those changes and make appropriate provision within the various Schedules, as necessary. The Bill therefore adopts the same approach. The alternative would seem to be regulations which would also amend primary legislation or, alternatively, would need to be read alongside the primary legislation, resulting in detail falling outside of primary legislation into secondary legislation, which can itself attract criticism so far as scrutiny and accessibility of the law issues are concerned."

Welsh Government response

A Welsh Government response is required on the Technical Scrutiny point.

Legal Advisers

Legislation, Justice and Constitution Committee

6 July 2022





Llywodraeth Cymru
Welsh Government

WRITTEN STATEMENT BY THE WELSH GOVERNMENT

TITLE Implementation of the Renting Homes (Wales) Act 2016: laying of the affirmative instruments in the third tranche of subordinate legislation

DATE 21 June 2022

BY Julie James, Minister for Climate Change

I recently announced that the provisions of the Renting Homes (Wales) Act 2016 would be brought into force on 1 December 2022.

Today, I have laid part of the third tranche of subordinate legislation required to support the implementation of the 2016 Act.

There are seven substantive statutory instruments in this third tranche. The four instruments laid today are all being made via the Senedd's affirmative procedure and are scheduled for plenary debate on 12 July 2022. They are:

The Renting Homes (Wales) Act 2016 (Amendment) Regulations 2022

This SI makes a series of amendments to Schedules 2, 3, 8A, 9, 9B and 9C of the 2016 Act. These amendments provide that tenancies or licences concerning certain kinds of accommodation related to bail or probation, or to immigration and asylum, are not occupation contracts. The amendments also reflect some recent changes to the law relating to the provision of this accommodation.

The Renting Homes (Wales) Act 2016 (Amendment of Schedule 12) Regulations 2022

Schedule 12 sets out arrangements for tenancies and licences currently in existence which will convert into occupation contracts when the 2016 Act comes into force. The purpose of the Schedule is to ensure that the transition is as seamless as possible and that the parties to existing tenancies and licences are treated fairly when their tenancy or licence undergoes conversion into an occupation contract, with the correct balance being struck in respect of both parties' rights and obligations.

The amendments being made by this SI include:

- Protecting the existing rights of 16 or 17 year olds who currently hold a secure tenancy which is a licence, or an assured agricultural occupancy which is a licence;
- Provision about which types of tenancy and licence can convert into supported standard contracts: only assured shorthold tenancies and licences will convert into supported standard contracts and where conversion does occur, not all of the provisions relating to supported standard contracts in the 2016 Act will apply to that converted contract;
- Adding Starter Tenancies to the list of current tenancies that will convert into Introductory Standard Contracts;
- Providing that the deposit scheme requirements apply only to converted assured shorthold tenancies, and making a range of provision about the rent variation arrangements for certain types of tenancies;
- Protecting, as far as possible, the rights of any current holder of an Assured Agricultural Occupancy; and
- Ensuring that for fixed term tenancies where the fixed term ends, and the contract becomes periodic before 1 December, the current two-month no-fault notice period will continue to apply after 1 December. For fixed term contracts that convert on 1 December and then become periodic (if the landlord does not seek possession at the end of the fixed term by issuing a two-month no-fault notice), the six-month notice will apply to the substitute periodic contract that follows the fixed term.

- ***The Renting Homes (Wales) Act 2016 (Consequential Amendments) Regulations 2022***

These Regulations make amendments to primary legislation in consequence of the provisions of the 2016 Act.

Generally, these amendments either:

- a. ensure that existing provision in primary legislation continues to have appropriate effect by
 - i. referencing relevant occupation contracts alongside references to existing types of tenancies, or
 - ii. including the terminology used in the 2016 Act;or,
- b. where the provisions of the 2016 Act are intended to replace elements of existing law, or the existing law is incompatible that set out in the 2016 Act, by disapplying that law.

These amendments are necessary to implement the 2016 Act, provide coherence, clarity and ensure consistency of the law.

The Renting Homes (Wales) Act 2016 (Housing Association Tenancies: Fundamental Provisions) Regulations 2022

This SI provides that the relevant sections of the 2016 Act dealing with the variation of rent applicable to secure and periodic standard contracts are not fundamental provisions of occupation contracts that are housing association tenancies (within the meaning in Part 6 of the Rent Act 1977 (“the 1977 Act”).

This SI also makes consequential amendments to the 2016 Act and to section 93 of the 1977 Act. The overall effect of this SI is that the current arrangements and protections which apply to the variation of rent in relation these specific tenancies will continue to apply.

All of these statutory instruments can be accessed [here](#).

I will also shortly be laying three further implementation SIs. These are being made via the Senedd’s negative procedure so will not be subject to Senedd debate. I will publish a further written statement to alert Members when those SIs have been published.

Guidance, and other resources for landlords and tenants can be accessed via the Renting Homes Wales website: <https://gov.wales/housing-law-changing-renting-homes>.

SL(6)229 – The Renting Homes (Wales) Act 2016 (Consequential Amendments) Regulations 2022

Background and Purpose

These Regulations make amendments to primary legislation in consequence of the provisions of the Renting Homes (Wales) Act 2016 ("the 2016 Act").

Generally, these amendments either:

- (a) ensure that existing provision in primary legislation continues to have appropriate effect by referencing the relevant occupation contracts alongside references to existing types of tenancies or by including the terminology used in the 2016 Act; or
- (b) where the provisions of the 2016 Act are intended to replace elements of existing law or the existing law is incompatible with that set out in the 2016 Act, by disapplying that law.

The Explanatory Memorandum to the Regulations states that these amendments are necessary to implement the 2016 Act, provide coherence and clarity, and ensure consistency of the law.

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

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

Regulation 10 inserts wording into section 60A of the County Courts Act 1984 ("the 1984 Act"). Section 60A is not yet in force, it will be brought into force when section 191 of the Legal Services Act 2007 comes into force. The Welsh Government is asked to explain why regulation 2 does not state that regulation 10 is to come into force immediately after section 191 of the Legal Services Act 2007 comes into force.

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

Further in relation to regulation 10, the current wording of section 60A(3) of the 1984 Act refers in paragraph (a) to the Housing Act 1985 ("the 1985 Act"), then goes on in paragraph



(b) to refer to "the Act", meaning the 1985 Act referred to in the previous paragraph (a). However, regulation 10(2)(a)(i) inserts a new paragraph (aa) which will sit in between the existing paragraphs (a) and (b). The new paragraph (aa) refers to the 2016 Act. When this new wording is inserted it is highly likely that upon first reading these provisions readers will think that the Act referred to in paragraph (b) is the 2016 Act not, as it should be, the 1985 Act. The Welsh Government is asked to provide its view in this regard and confirm whether any steps will be taken to remedy this.

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

Regulation 16(2) inserts the wording "in England" after "dwelling-house" in section 1(1) of the Housing Act 1988. However, the phrase "dwelling-house" appears in two instances in section 1(1) and it is not clear if the wording "in England" should be inserted after one or both of those instances.

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

There are several issues in these Regulations which arise when cross-referring to existing legislation:

- a. Regulation 6(2) refers to Schedule 1 of the Sexual Offences Act 1956 ("the 1956 Act"). However, the 1956 Act has a First Schedule rather than Schedule 1;
- b. Regulation 7 inserts new wording into the Land Compensation Act 1973 ("the 1973 Act"). There are several cross-referencing errors in this regulation:
 - i. Regulation 7(2)(a)(ii) makes a reference to "sub-paragraph (v)" but this should refer to "paragraph (v)";
 - ii. There is also a typographical error in regulation 7(2)(a)(ii) where the words to be inserted into the 1973 Act should be "or (f)" not "of (f)";
 - iii. In regulation 7(2)(b)(i) there is reference to "sub-paragraph (e)(iii)", this should be "paragraph (e)(iii)";
 - iv. Regulation 7(2)(b)(ii) inserts new wording into section 29(4) of the 1973 Act. It is stated that the new wording is to be inserted after sub-paragraph (iv), but it does not state which paragraph it refers to. The correct reference is paragraph (e)(iv), not sub-paragraph (iv).
- c. Regulation 10 inserts new wording into the 1984 Act. There are two cross-referencing errors in this regulation:
 - i. Regulation 10(2)(a) inserts new wording into section 60A of the 1984 Act. It refer to "paragraph (3)", but this should be "subsection (3)".



- ii. Regulation 10(2)(b) inserts new definitions into section 60A of the 1984 Act. The opening words refer to “paragraph (7)” but this should be “subsection (7)”. In the definition of “prohibited conduct standard contract” the words “of the” are repeated. There should also be semi-colons at the end of each definition.
- d. Regulation 11(5) inserts new wording into section 32 of the 1985 Act. There are two cross-referencing errors in this regulation:
 - i. The heading of section 32 of the 1985 Act is referred to as “power to dispose of land held for the purposes of this Act”, but the word “Act” should read “Part”.
 - ii. In the new subsection (3A)(d)(ii), reference is made to Schedule 3 to the 2016 Act and it is not clear whether the wording in parentheses is intended to be a summary of what Schedule 3 does or whether it is the title of Schedule 3. The wording used is “various forms of occupation contract made with community landlords which may be standard contracts”, but the heading of Schedule 3 is “occupation contracts made with or adopted by community landlords which may be standard contracts”.
- e. Regulation 11(19) refers to the heading of section 247 of the 1985 Act as “changes of ownership of land to be notified to local housing authority”. The heading of section 247 of the 1985 Act is “changes of ownership **or occupation** of land to be notified to local housing authority” (emphasis added);
- f. Regulation 14(2) amends section 283(3A) of the Insolvency Act 1986. The regulation references subsection (3A) but “3A” has not been bracketed;
- g. Regulation 16(3) inserts a new section 1A into the Housing Act 1988 (“the 1988 Act”). At subsections (2) and (4) of that new section 1A, reference is made to “paragraph (3)”. As these references are made in relation to a sub-division of a section of an Act of Parliament, these references should instead read “subsection (3)”;
- h. Regulation 18 amends the Local Government and Housing Act 1989 (“the 1989 Act”). The following cross-referencing errors are noted in that regulation:
 - i. Regulation 18(5)(c)(iii) refers to “sub-paragraph 3” of paragraph 2 of Schedule 10 to the 1989 Act. The “3” should be bracketed.
 - ii. Regulation 18(5)(d)(ii) refers to “sub-paragraph 5(a)” of paragraph 4 of Schedule 10 to the 1989 Act. The “5” should be bracketed.
 - iii. Regulation 18(5)(h)(iv) refers to “sub-paragraph 3(c)” of paragraph 11 of Schedule 10 to the 1989 Act. The “3” should be bracketed.
 - iv. Regulation 18(5)(i)(i) refers to “section 24 (incorporation and modification of supplementary terms)”. This should instead read “section 24 (incorporation and modification of supplementary **provisions**)” (emphasis added).



- i. Regulation 19 amends the Coal Mining Subsidence Act 1991 ("the 1991 Act"). The following cross-referencing errors are noted in that regulation:
 - i. Regulation 19(2)(a) inserts a new sub-paragraph (4)(f) into paragraph 1 of Schedule 4 to the 1991 Act. In doing so, the regulation states, "(a) in sub-paragraph (4), after (e), insert–". It should state, "(a) in sub-paragraph (4), after **paragraph** (e), insert–" (emphasis added);
 - ii. Regulation 19(2)(b) inserts a new sub-paragraph (7) into paragraph 1 of Schedule 4 to the 1991 Act. However, the regulation refers to this sub-paragraph being inserted after "paragraph (6)", rather than "**sub**-paragraph (6)" (emphasis added).
- j. Regulation 23(2) inserts a new section 1(8) into the Landlord and Tenant (Covenants) Act 1995. In doing so, the regulation reads "After subsection 1(7)...". It should read, "After **section** 1(7)..." (emphasis added).
- k. There are instances of incorrect chapter numbers being cited when referring to Acts of Parliament in the Regulations:
 - i. Regulation 14(2)(a) makes reference to "the Rent Act 1977 (c. 47)". This should read "the Rent Act 1977 (**c. 42**)" (emphasis added). 1977 c. 47 would take readers to the Local Authorities (Restoration of Works Powers) Act 1977;
 - ii. Regulation 16(3) makes reference to "the Local Government and Housing Act 1989 (c. 49)". This should read "the Local Government and Housing Act 1989 (**c. 42**)" (emphasis added). 1989 c. 49 does not correspond to an Act of Parliament.

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

Regulation 11(5)(b) inserts new a new subsection (3A) into section 32 of the 1985 Act. The new subsection (3A) refers to a supported standard contract. However, no definition of a supported standard contract appears in the 1985 Act. Regulation 11 goes on to insert a definition of a standard contract into the 1985 Act but not a supported standard contract.

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

Regulation 11(8) inserts new wording into the 1985 Act to set out where in that Act the new definitions inserted by regulation 11(7) will appear. Regulation 11(7) inserts a new definition for an "occupation contract" but this is not included in regulation 11(8). There are also no opening and closing quotation marks around the wording to be inserted by regulation 11(8) (the same issue arises in relation to regulations 11(18) and 11(25)).

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



Regulation 11(11)(b) omits wording from section 85ZA of the 1985 Act which is the result of the omission of section 85ZA(8) effected by regulation 11(11)(a). Regulation 11(11)(b) therefore removes the words "and (8)" from section 85ZA(9), but does not remove the plural "subsections" in the preceding wording. The amendment should therefore substitute "subsections (7) and (8)" with "subsection (7)" in order for the legislation to make sense.

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

Regulation 11(23) amends section 554 of the 1985 Act. However, the structure of the amendments set out in regulation 11(23)(b) makes it unclear how such amendments are to take effect. It appears that regulation 11(23)(b)(i) should actually be regulation 11(23)(b) and that regulation 11(23)(b)(ii) should actually be regulation 11(23)(c) in order for this regulation to make sense.

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

Regulation 16(4) omits certain wording from section 8(4A)(a) and (4B) of the 1988 Act. However, it appears that paragraph 6(c) of Schedule 29 to the Coronavirus Act 2020 (as amended) ("the 2020 Act") only required that those provisions *be read* in the way suggested by regulation 16(4), rather than inserting the wording that regulation 16(4) seeks to omit. Regardless, that provision of the 2020 Act expired on 25 March 2022. Clarification is sought as to why regulation 16(4) has been considered necessary.

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

Regulation 16(9) inserts a definition of "secure contract" into section 45 of the 1988 Act by linking the term to its meaning in section 8 of the 2016 Act. It appears that the word "same" is missing from the associated explanation. The regulation should read, "'secure contract' has the same meaning as in the Renting Homes (Wales) Act 2016 (anaw 1) (see section 8 of that Act);" (emphasis added).

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

Regulation 18(5)(c)(iv) inserts a definition of "the 2016 Act" into paragraph 2(6) of Schedule 10 to the 1989 Act. It appears that the intention is to insert this definition after the definition of the "Housing Act 1988," but, as currently drafted, the regulation suggests that the definition of "the 2016 Act" is to be inserted immediately after the words "Housing Act 1988,".

A semi-colon should also appear within the quoted term relating to the 1988 Act, rather than a comma. It currently reads "Housing Act 1988," (emphasis added), but should read "Housing Act 1988;".



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

Regulation 18(5)(d)(v) inserts the wording “or an occupation contract” into paragraph 4(7)(a) of Schedule 10 to the 1989 Act. In the English text, the closing quotation marks around the inserted wording are missing. This error does not occur in the Welsh text.

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

Regulation 18(5)(e)(iv) inserts a new sub-paragraph (3)(cc) into paragraph 6 of Schedule 10 to the 1989 Act. In the Welsh version of the Regulations, there is a typographical error, as the new paragraph (cc) begins “n relation to...”, rather than “in relation to...” (emphasis added). This error does not occur in the English version.

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

Regulation 18(5)(f)(v) amends paragraph 9(4) of Schedule 10 to the 1989 Act to insert wording after “assured periodic contract” in both places it occurs. However, “assured periodic contract” does not appear in paragraph 9(4) of Schedule 10. It appears that the regulation should refer to “assured periodic tenancy” (emphasis added), which does appear twice in the paragraph.

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

Closing quotation marks around the wording are missing from some provisions:

- a. Regulation 18(5)(h)(i) inserts the wording “or the periodic standard contract” into paragraph 11(1)(a) of Schedule 10 to the 1989 Act;
- b. Regulation 34(4)(a):
 - i. in paragraph (i), in the English text, there is a missing set of closing quotation marks between the 2 semi-colons at the end of the definition of “contract-holder”; and
 - ii. in paragraph (ii), there is a missing set of closing quotation marks at the end of “or an occupation contract”.

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

Regulation 18(5)(h)(ix) inserts wording into paragraph 11(8)(c) of Schedule 10 to the 1989 Act, after “assured periodic tenancy”. However, “assured periodic tenancy” appears in the text appearing after paragraph (c), rather than within that paragraph. Therefore, the regulation should refer to paragraph 11(8) of Schedule 10 to the 1989 Act, rather than paragraph 11(8)(c).



This defect has a knock-on effect in relation to regulation 18(5)(h)(x). That regulation inserts a new paragraph (d) into paragraph 11(8) of Schedule 10 to the 1989 Act. As the regulations appear to have considered the wording appearing after paragraph 11(8)(c) to form part of paragraph (c), regulation 18(5)(h)(x) causes the wording currently appearing after paragraph 11(8)(c) to subsequently appear after the new paragraph (d). This does not appear to have been the intention of regulation 18(5)(h)(ix) and (x).

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

Regulation 22(4)(a) inserts wording into section 69(3)(c) of the Leasehold Reform, Housing and Urban Development Act 1993 ("the 1993 Act"). In doing so, reference is made to "that Act". However, "that Act" is not defined for the purposes of the section and it is not clear to which Act of Parliament it refers. Preceding section 69(3)(c), reference is made in section 69 to the Leasehold Reform Act 1967, the Housing Act 1996, and the Commonhold and Leasehold Reform Act 2002.

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

Regulation 22(4)(b) inserts a new subsection (3A) into section 69 of the 1993 Act. Paragraph (a) of that new subsection appears to contain a drafting error in that it states "(see section 18 (see also section 19) [sic] of that Act)". Whilst the references to section 18 and 19 of the 2016 Act appear correct, that sentence requires amending.

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

Regulation 22(5)(h) inserts a new paragraph 5 into Schedule 9 to the 1993 Act. However, the new paragraph 5 does not substitute the pre-existing paragraph 5, nor does that appear to be the intention of the regulation. Therefore, as currently drafted, Schedule 9 to the 1993 Act would contain two versions of paragraph 5. The regulation should instead insert the provision as "paragraph 4A".

20. Standing Order 21.2(viii) – that it uses gender specific language.

These Regulations include gender specific language in two places:

- a. Regulation 24(3)(b)(ii), which inserts new sub-paragraph (7) into paragraph 7 of Schedule 7 to the Family Law Act 1996, includes the use of "his" in three places; and
- b. Regulation 25(15)(b), which inserts text into section 160A(8) of the Housing Act 1996 ("the 1996 Act"), includes the use of "he".

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



Regulation 24(3)(b) inserts text following "Chapter 1 of Part V of the Housing Act 1996", but appears to be missing "or" from the start of the inserted text.

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

Regulation 25(4)(d) substitutes "Subsection (1)(A)" in section 124(3) of the 1996 Act, but there is no subsection (1)(a). It appears that this should be "Subsection (1A)".

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

Regulation 25, which amends the 1996 Act, includes a number of omissions that do appear to be incorrect:

- Regulation 25(9)(a) omits section 143E(3)(a)(ii) of the 1996 Act, but there is no subsection (3)(a)(ii) in section 143E. It is not clear which provision should be omitted.
- Regulation 25(11) omits the wording "or 143H" from section 143I(1) of the 1996 Act, but the wording within that section is "or 143H(3)".

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

Regulation 27(2)(b) includes, in the new paragraph 3A(1), the text "referred to in this Part as "the 2016 Act"", but the definition is only used in paragraph 3A, and there are not any Parts in Schedule 7 to the Commonhold and Leasehold Reform Act 2002. It appears that the reference to "Part" should be to "paragraph".

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

Regulation 32 amends the Prevention of Social Housing Fraud Act 2013 to add references to "secure contract" alongside existing references to "assured tenancies". Within those sections amended by Regulation 32, there are references to "tenant" and "tenancy". It would appear that in place of those terms, the legislation should refer to "contract-holder" and "occupation contract". It is noted that the Consumer Rights Act 2015 is amended by Regulation 34 to insert references to "contract-holder" and "occupation contract" alongside tenant and tenancy respectively.

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

Regulation 32(5)(d) provides for the insertion of text, but does not include a reference to the subsection to be amended. It is not clear how the amendment could operate without a reference to the provision to which it applies.

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



Regulation 33(2) includes a reference to “the tenant’s share (within the meaning given by that section)”. It appears that the text should be “the tenant’s **total** share (within the meaning given by that section)” because “total share” is a defined term in section 7(7) of the 1993 Act.

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

Regulation 34(4)(b) provides for the substitution of text within the definition of “long lease”. Subparagraph (ii) refers to “paragraph (a), but following the amendment to the paragraphs within the definition, this appears to be incorrect, and should instead refer to “subparagraph (i)”.

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

Regulation 34(4)(b) provides for the substitution of text within the definition of “long lease”, and specifically inserts the text “has the meaning given by paragraph 8 of Schedule 2 to the Renting Homes (Wales) Act 2016 (anaw 1)”. Paragraph 8 of Schedule 2 to the 2016 Act uses the term “long tenancy”, and it would appear appropriate to reference that term within the inserted text.

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

In Regulation 33(12)(a), the definition of “occupation contract” is inserted after the definition of “looked after, accommodated or fostered”. Elsewhere in these Regulations, the phrase “in the appropriate place in the alphabetical order insert” has been used when introducing new definitions. It would seem more appropriate here to use that latter approach, as the English and Welsh text are introducing the new definition after different definitions because of the different order of definitions in both language texts.

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

In Regulation 34(4)(b), the amendment that begins “in the definition of “long lease”...” is incorrectly numbered as subparagraph (b). It appears that this should be numbered as paragraph (iii), as it also is amending a definition found within section 88(1).

As a result, it appears that subparagraph (c) is also incorrectly numbered and should be subparagraph (b) (due to the earlier incorrect referencing).

Merits Scrutiny

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

32. 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 1 provides that various parts of regulation 25 are stated to come into force once section 120 of, and various paragraphs of Schedule 8 to, the Housing and Planning Act 2016 come into force. Neither the Explanatory Memorandum nor the Explanatory Notes give any indication as to when these provisions are expected to be brought into force. The Welsh Government is asked to provide further information in this regard.

33. 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.

Although the Committee notes that they do not form part of these Regulations themselves, over 50 errors have been found in the footnotes to these Regulations which have been notified separately to Welsh Government officials. Footnotes are a useful tool for readers of legislation only insofar as they are accurate and the Committee therefore encourages the Welsh Government to ensure that this is the case.

34. 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 reviewing these amendments, the Committee notes that in several instances the Welsh Government does not appear to have adhered to its own drafting guidelines, as set out in "Writing Laws for Wales". The Committee encourages the Welsh Government to adhere to its own standards when drafting legislation.

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

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

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

Welsh Government response

A Welsh Government response is required in relation to all reporting points save for point 35.

Legal Advisers

Legislation, Justice and Constitution Committee

7 July 2022





Llywodraeth Cymru
Welsh Government

WRITTEN STATEMENT BY THE WELSH GOVERNMENT

TITLE Implementation of the Renting Homes (Wales) Act 2016: laying of the affirmative instruments in the third tranche of subordinate legislation

DATE 21 June 2022

BY Julie James, Minister for Climate Change

I recently announced that the provisions of the Renting Homes (Wales) Act 2016 would be brought into force on 1 December 2022.

Today, I have laid part of the third tranche of subordinate legislation required to support the implementation of the 2016 Act.

There are seven substantive statutory instruments in this third tranche. The four instruments laid today are all being made via the Senedd's affirmative procedure and are scheduled for plenary debate on 12 July 2022. They are:

The Renting Homes (Wales) Act 2016 (Amendment) Regulations 2022

This SI makes a series of amendments to Schedules 2, 3, 8A, 9, 9B and 9C of the 2016 Act. These amendments provide that tenancies or licences concerning certain kinds of accommodation related to bail or probation, or to immigration and asylum, are not occupation contracts. The amendments also reflect some recent changes to the law relating to the provision of this accommodation.

The Renting Homes (Wales) Act 2016 (Amendment of Schedule 12) Regulations 2022

Schedule 12 sets out arrangements for tenancies and licences currently in existence which will convert into occupation contracts when the 2016 Act comes into force. The purpose of the Schedule is to ensure that the transition is as seamless as possible and that the parties to existing tenancies and licences are treated fairly when their tenancy or licence undergoes conversion into an occupation contract, with the correct balance being struck in respect of both parties' rights and obligations.

The amendments being made by this SI include:

- Protecting the existing rights of 16 or 17 year olds who currently hold a secure tenancy which is a licence, or an assured agricultural occupancy which is a licence;
- Provision about which types of tenancy and licence can convert into supported standard contracts: only assured shorthold tenancies and licences will convert into supported standard contracts and where conversion does occur, not all of the provisions relating to supported standard contracts in the 2016 Act will apply to that converted contract;
- Adding Starter Tenancies to the list of current tenancies that will convert into Introductory Standard Contracts;
- Providing that the deposit scheme requirements apply only to converted assured shorthold tenancies, and making a range of provision about the rent variation arrangements for certain types of tenancies;
- Protecting, as far as possible, the rights of any current holder of an Assured Agricultural Occupancy; and
- Ensuring that for fixed term tenancies where the fixed term ends, and the contract becomes periodic before 1 December, the current two-month no-fault notice period will continue to apply after 1 December. For fixed term contracts that convert on 1 December and then become periodic (if the landlord does not seek possession at the end of the fixed term by issuing a two-month no-fault notice), the six-month notice will apply to the substitute periodic contract that follows the fixed term.

- ***The Renting Homes (Wales) Act 2016 (Consequential Amendments) Regulations 2022***

These Regulations make amendments to primary legislation in consequence of the provisions of the 2016 Act.

Generally, these amendments either:

- a. ensure that existing provision in primary legislation continues to have appropriate effect by
 - i. referencing relevant occupation contracts alongside references to existing types of tenancies, or
 - ii. including the terminology used in the 2016 Act;or,
- b. where the provisions of the 2016 Act are intended to replace elements of existing law, or the existing law is incompatible that set out in the 2016 Act, by disapplying that law.

These amendments are necessary to implement the 2016 Act, provide coherence, clarity and ensure consistency of the law.

The Renting Homes (Wales) Act 2016 (Housing Association Tenancies: Fundamental Provisions) Regulations 2022

This SI provides that the relevant sections of the 2016 Act dealing with the variation of rent applicable to secure and periodic standard contracts are not fundamental provisions of occupation contracts that are housing association tenancies (within the meaning in Part 6 of the Rent Act 1977 (“the 1977 Act”).

This SI also makes consequential amendments to the 2016 Act and to section 93 of the 1977 Act. The overall effect of this SI is that the current arrangements and protections which apply to the variation of rent in relation these specific tenancies will continue to apply.

All of these statutory instruments can be accessed [here](#).

I will also shortly be laying three further implementation SIs. These are being made via the Senedd’s negative procedure so will not be subject to Senedd debate. I will publish a further written statement to alert Members when those SIs have been published.

Guidance, and other resources for landlords and tenants can be accessed via the Renting Homes Wales website: <https://gov.wales/housing-law-changing-renting-homes>.

Agenda Item 3.8

SL(6)232 – The Welsh Language Standards (No. 8) Regulations 2022

Background and Purpose

The Welsh Language (Wales) Measure 2011 ("the Measure") makes provision for the specification of standards of conduct in relation to the Welsh language ("standards"). These replace the system of Welsh language schemes provided for by the Welsh Language Act 1993.

The Welsh Language Standards (No. 8) Regulations ("the Regulations") specify service delivery standards; policy making standards; operational standards; and record keeping standards. The Regulations make the standards specifically applicable to a person listed in Schedule 6 ("the bodies"). The Welsh Language Commissioner is authorised to issue Compliance Notices to those bodies in relation to the standards specified, subject to certain exceptions set out in regulation 3(2). Those bodies are:

- General Chiropractic Council
- General Dental Council
- General Medical Council
- General Optical Council
- General Osteopathic Council
- General Pharmaceutical Council
- Health and Care Professions Council
- Nursing and Midwifery Council
- Professional Standards Authority for Health and Social Care

These Regulations follow the Welsh Language Standards (No.7) Regulations 2018 ("the 2018 Regulations"), which specified standards in relation to the conduct of Local Health Boards, National Health Service Trusts in Wales, Community Health Councils and the Board of Community Health Councils in Wales. Usually a number in the name of one of a series of Statutory Instruments refers to the number made in the particular year. In this case the number refers to the whole series of Standards Regulations, continuing on from the 2018 Regulations, in the same manner as commencement orders are numbered.

These Regulations use the Welsh alphabet in the Welsh version and the English version, because of the nature and subject matter of the Regulations. This style is different to the usual numbering style adopted in subordinate legislation made by the Welsh Ministers.

The Welsh Ministers held a public consultation on draft Welsh Language Standards Regulations between 16 March 2020 and 2 October 2020. Due to the Covid pandemic, the



consultation was extended so that all those with an interest in the draft Regulations had an opportunity to share their views. The Regulations will come into force on 31 October 2022, should the Senedd approve the draft Regulations.

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 point is 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

The Committee considered these Regulations at its meeting on 27 June 2022. In response to the Committee's report on the Regulations, the Minister for Education and Welsh Language wrote to the Chair of this Committee noting the Minister's intention to withdraw and re-lay a corrected version of the Regulations. These Regulations were subsequently re-laid on 30 June 2022.

Welsh Government response

A Welsh Government response is not required.

Legal Advisers

Legislation, Justice and Constitution Committee

5 July 2022



Jeremy Miles AS/MS
Gweinidog y Gymraeg ac Addysg
Minister for Education and Welsh Language



Llywodraeth Cymru
Welsh Government

Eich cyf/Your ref: SL(6)213

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

29 June 2022

Dear Huw,

I have noted the report on The Welsh Language Standards (No. 8) Regulations 2022, and I wish to make the Committee aware that I intend to withdraw and re-lay a corrected version of the Regulations.

In order to enable the debate to proceed on 12 July as planned, I am seeking the Committee's assistance to expedite the final report on these Regulations.

Yours sincerely,

Jeremy Miles AS/MS
Gweinidog y Gymraeg ac Addysg
Minister for Education and Welsh Language

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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.

SL(6)218 – The Provision of Information by Head Teachers to Parents and Adult Pupils (Wales) Regulations 2022

Background and Purpose

The Provision of Information by Head Teachers to Parents and Adult Pupils (Wales) Regulations 2022 ("the Regulations") are made by the Welsh Ministers in exercise of the powers conferred on them by sections 408(1) and 569(4) and (5) of, and paragraph 3 of Schedule 1(3) to, the Education Act 1996. In accordance with section 408(5) of that Act, the Welsh Ministers have consulted with such persons as they consider desirable.

The Curriculum and Assessment (Wales) Act 2021 ("the 2021 Act") establishes a new framework for a curriculum and makes provision about assessment for children and pupils in Wales ("the new CfW").

Regulation 1 provides for the commencement of the Regulations by year groups. This will mirror the planned roll out of the new CfW which will also be phased in over a period of time by year groups. The new CfW and the Regulations will be rolled out for children and pupils in a phased manner. The new CfW will become mandatory for the year groups in schools and other settings as follows—

(a) on 1 September 2022 for—

- (i) children in a maintained nursery school,
- (ii) pupils in a reception year, and
- (iii) pupils in years 1, 2, 3, 4, 5 and 6,

(b) on 1 September 2022 for children and pupils in year 7 in those schools and other settings where there is a curriculum provided in accordance with the 2021 Act,

(c) on 1 September 2023 for children and pupils in years 7 and 8,

(d) on 1 September 2024 for children and pupils in year 9,

(e) on 1 September 2025 for children and pupils in year 10, and

(f) on 1 September 2026 for children and pupils in year 11.

The Regulations apply in relation to children and pupils to whom education is provided—

(a) in maintained schools,

(b) in maintained nursery schools, and



(c) in pupil referral units ("PRUs").

The Regulations apply to PRUs by virtue of paragraph 3 of Schedule 1 to the Education Act 1996. Regulation 2(2) provides that, in relation to a PRU, a reference to a head teacher is a reference to a teacher in charge of a PRU and that a reference to a governing body is a reference to a management committee (if there is one) and to a teacher in charge of a PRU if there is not.

Regulation 3 and Schedule 1 provide for the phased disapplication and revocation of the Head Teacher's Report to Parents and Adult Pupils (Wales) Regulations 2011 ("the 2011 Regulations"). The disapplication and revocation of the 2011 Regulations mirrors the planned roll out of the new CfW and the Regulations.

Regulation 4 requires the head teacher of a maintained school to make arrangements to provide information about the pupil's termly progress to parents of registered pupils and to adult pupils. The information that must be provided is set out in Part 1 of Schedule 2.

Regulation 5 requires the head teacher of a maintained school to provide information on the annual progress of registered pupils to parents of registered pupils and to adult pupils ("annual information"). The information that must be provided is set out in Parts 2 and 3 of Schedule 2. Regulation 6 sets out the reporting period for the annual information.

Regulation 7 provides that an adult pupil or the parent of a pupil may request any information required by virtue of regulation 5 and Parts 2 and 3 of Schedule 2 they consider is missing from the annual information provided.

Regulation 8 requires the head teacher to provide to any pupil who has ceased to be of compulsory school age a school leaver's report ("school leaver's report"). The information that must be provided in the school leaver's report is set out in Part 4 of Schedule 2.

Regulation 9 sets out the reporting period for the school leaver's report.

Regulation 10 sets out certain restrictions on the provision of information.

Regulation 11 provides that, where necessary, any document or information required to be made available under these Regulations must be translated into English or Welsh or another language, or produced in Braille or audio tape.

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

These Regulations do not define the term “head teacher” but this term is used extensively in the Regulations. Other instruments in the suite, such as The Curriculum and Assessment (Wales) Act 2021 (Consequential Amendments) (Secondary Legislation) (No.2) Regulations 2022 define “head teacher” as having “the meaning given to it in section 579(1) of the 1996 Act”. This inconsistency in approach could cause confusion to the reader, particularly given the significance of the term ‘head teacher’ to the operation of the Regulations.

Welsh Government response

A Welsh Government response is required.

Committee Consideration

The Committee considered the instrument at its meeting on 4 July 2022 and reports to the Senedd in line with the reporting point above.



Government Response: The Provision of Information by Head Teachers to Parents and Adult Pupils (Wales) Regulations 2022

Merit Scrutiny point:

The Welsh Government notes the Committee Report and agrees with its conclusion. There is a partial definition of the term “head teacher” in section 579(1) of the Education Act 1996 to the effect that head teacher includes acting head teacher. The term acting head teacher is not itself defined in the 1996 Act. The Welsh Government agrees that it would have been helpful to the reader to have referred the reader to the partial definition in section 579(1) of the 1996 Act. We will amend the 2022 Regulations to address this point at the next available opportunity.

**WRITTEN STATEMENT
BY
THE WELSH GOVERNMENT**

TITLE European Parliamentary Elections (Amendment and Revocation)
(United Kingdom and Gibraltar) (EU Exit) Regulations 2022

DATE 05 July 2022

BY Mick Antoniw MS, Counsel General and Minister for the
Constitution

SO 30C – SI laid in Parliament which amends legislation in a devolved area

In alignment with my obligations under Standing Order 30C, I wish to make members aware of the consent that I have provided to the UK Government to legislate to revoke legacy European Parliament elections legislation on the Welsh Government's behalf.

The purpose of the Statutory Instrument

The UK Government's Department for Levelling Up, Housing and Communities has recently made us aware of their intention to revoke legacy European Parliament elections legislation retained in UK law that is no longer required within the UK and to remove redundant references to European Parliamentary elections in some secondary legislation relating to domestic elections. The UK Government intend to exercise the powers granted to them by sections 8(1) (in order to address failures of retained EU law to operate effectively and other deficiencies (in particular under section 8(2)(a) and (g) of the 2018 Act) arising from the withdrawal of the UK from the EU) and 24(3) f Schedule 7 to the European Union (Withdrawal) Act 2018 in order to do so.

The Statutory Instrument will:

- a) omit redundant references related to European Assembly elections in the Representation of the People (Scotland) Regulations 1986 (S.I. 1986/1111) – These regulations extend to Scotland only;

- b) omit redundant references related to European Parliamentary elections in the Representation of the People (Combination of Polls) (England and Wales) Regulations 2004 (S.I. 2004/294) – this includes some general amendments to remove redundant references and also to remove provisions which relate to the combination of polls at a PCC election and a European Parliamentary election and at a combined authority mayoral election and a European Parliamentary election;
- c) omit redundant references to European Parliamentary elections and a consequential amendment in Schedule 4 to the Police and Crime Commissioner Elections Order 2012 (S.I. 2012/1917) – PCC elections are reserved elections;
- d) make a consequential amendment to the Combined Authorities (Mayoral Elections) Order 2017 (S.I. 2017/67) - a combined authority is a type of local government institution introduced in England by the Local Democracy, Economic Development and Construction Act 2009. These do not apply in Wales;
- e) omit Table 2 from Part 2 of Schedule 1 to the European Parliamentary Elections Etc (Repeal, Revocation, Amendment and saving Provisions) (United Kingdom and Gibraltar) (EU Exit) Regulations 2018 (S.I. 2018/1310).

The specific Legislation to be revoked under the Statutory Instrument is as follows:

- (a) *Regulation (EU, Euratom) No 1141/2014 of the European Parliament and of the Council on the statute and funding of European political parties and European political foundations;*
- (b) *Regulation (EU, Euratom) 2018/673 of the European Parliament and of the Council amending Regulation (EU, Euratom) No 1141/2014 on the statute and funding of European political parties and European political foundations;*
- (c) *Council Decision (EU, Euratom) 2018/994 amending the Act concerning the election of the members of the European Parliament by direct universal suffrage, annexed to Council Decision 76/787/ECSC;*
- (d) *the European Parliamentary Elections (Welsh Forms) Order 2014.*

Any impact the Statutory Instrument may have on the Senedd's legislative competence and/or the Welsh Ministers' executive competence

The Statutory Instrument contains provisions that revokes legislation (three EU instruments and the European Parliamentary Elections (Welsh Forms) Order 2014), the subject matter of which is within devolved competence, so the Statutory Instrument requires the prior consent of the Welsh Ministers.

The Statutory Instrument has no impact on the Welsh Ministers' executive competence or the Senedd's legislative competence. The Statutory Instrument does not involve the transfer of any functions to or from the Welsh Ministers nor does it confer any new functions on the Welsh Ministers.

Why consent was given

This is largely a technical and non-controversial matter. There is no divergence between the Welsh Government and the UK Government on the policy and making separate arrangements would lead to duplication and unnecessary complication of the statute book. Therefore, I am content that providing consent for the UK Government to make these revocations on behalf of Wales is the most appropriate course of action in this particular instance for reasons of efficiency and expediency.



Llywodraeth Cymru
Welsh Government

Huw Irranca-Davies MS
Chair of Legislation, Justice and Constitution Committee
SeneddLJC@assembly.wales

Paul Davies MS
Chair of Economy, Trade, and Rural Affairs Committee
SeneddEconomy@senedd.wales

4 July 2022

Dear Paul, Huw,

I wanted to let you know, per the inter-institutional relations agreement, that a meeting of the Ministerial Forum for Trade is scheduled for 5th July 2022.

The agenda will include;

- a review of the Terms of Reference for the group (please note once the terms of reference have been agreed the group will transition into the Inter-ministerial Group (Trade))
- an update on US State Memorandum of Understandings (MoUs), and
- an update on the UK-India Free Trade Agreement (FTA) Negotiations

I will update you further following the meeting.

Yours sincerely,

Vaughan Gething AS/MS
Gweinidog yr Economi
Minister for Economy

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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.

**WRITTEN STATEMENT
BY
THE WELSH GOVERNMENT**

TITLE **The Official Controls (Plant Health) (Frequency of Checks) Regulations 2022**

DATE **04 July 2022**

BY **Julie James MS, Minister for Climate Change**

Members of the Senedd will wish to be aware that we are giving consent to the Secretary of State exercising a subordinate legislation-making power in a devolved area in relation to Wales.

Agreement was sought by Victoria Prentis MP, Minister of State for Farming, Fisheries and Food to make a Statutory Instrument (SI) titled The Official Controls (Plant Health) (Frequency of Checks) Regulations 2022 ("the Regulations") to apply in relation to Great Britain.

The above titled SI will be made by the Secretary of State, in exercise of the powers conferred by Articles 22(3) and 54(3) of Regulation (EU) 2017/625 of the European Parliament and of the Council ('the Official Control Regulations').

The SI amends Regulation EU Legislation and make provisions for a GB focused risk-based frequency of checks regime, allowing the modification of the frequency of plant health checks on specific import trade pathways, depending on the level of plant health risk posed to GB. This instrument will apply equally to imports from non-EU countries and high-priority goods from EU member States, Switzerland, and Liechtenstein.

The Regulations were laid before the UK Parliament on 30 June 2022 to come into force on 22 July 2022.

Any impact the SI may have on the Senedd's legislative competence and/or the Welsh Ministers' executive competence

Previous Phytosanitary Conditions Amendments put in place previous corrections required to the regulatory regime for plant health. These broadened the executive competence of the Welsh Ministers by conferring functions on them (in their capacity

as the 'Competent Authority' for Wales) without encumbrance. The Minister will wish to note that the Regulations do not transfer any functions to the Secretary of State.

The purpose of the amendments

The Regulations makes provisions for a GB focused risk-based frequency of checks regime, allowing the modification of the frequency of plant health checks on specific import trade pathways, depending on the level of plant health risk posed to GB. This instrument will apply equally to imports from non-EU countries and high-priority goods from EU member States, Switzerland, and Liechtenstein.

The Regulations and accompanying Explanatory Memorandum, setting out the detail of the provenance, purpose and effect of the amendments is available here:

[The Official Controls \(Plant Health\) \(Frequency of Checks\) Regulations 2022 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukdsi/2022/01/37001_1/eng/schedule/1)

Why consent has been given

Consent has been given for the UK Government to make these corrections in relation to, and on behalf of, Wales for reasons of efficiency, expediency and to protect biosecurity by introducing protective measures for at-risk plant goods across the UK. The amendments have been considered fully and there is no divergence in policy.



Huw Irranca-Davies MS
Chair,
Legislation, Justice and Constitution Committee
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5 July 2022

Dear Huw,

I refer to my letter to you of 28 June 2022. I am writing to inform the Committee I have given my consent to the Secretary of State to lay The Official Controls (Plant Health) (Frequency of Checks) Regulations 2022 in relation to Wales. I have laid a Written Statement which can be found at

<https://senedd.wales/media/a4udat5q/ws-ld15212-e.pdf>

The Regulations intersect with devolved policy and will apply to Wales. The provisions could be made by Welsh Ministers in exercise of our own powers. The Regulations extend to England, Scotland and Wales.

The Regulations will be made by the Secretary of State, in exercise of the powers conferred by Articles 22(3) and 54(3) of Regulation (EU) 2017/625 of the European Parliament and of the Council ('the Official Control Regulations').

The Statutory Instrument (SI) is subject to the negative procedure and was laid before Parliament on 30 June 2022 with a commencement date of 22 July 2022.

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Although the Welsh Government's general principle is that the law relating to devolved matters should be made and amended in Wales, on this occasion, it is considered appropriate for the substance of the amendments to apply to Wales as there is no policy divergence between the Welsh and UK Government in this matter. This ensures a coherent and consistent statute book with the regulations being accessible in a single instrument. I consider that legislating separately for Wales would be neither the most appropriate way to give effect to the necessary changes nor a prudent use of Welsh Government resources given other important priorities.

I have written similarly to Llyr Gruffydd MS, the Chair of the Climate Change, Environment, and Infrastructure Committee.

Yours sincerely



Julie James AS/MS
Y Gweinidog Newid Hinsawdd
Minister for Climate Change

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

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6 July 2022

Dear Huw,

Inter-Institutional Relations Agreement: British-Irish Council Summit in Guernsey

I am writing in accordance with the inter-institutional relations agreement to notify you of the thirty seventh Summit meeting of the British-Irish Council which will be held in Guernsey later this week.

The Summit will take place in a hybrid format, with both virtual and in person attendees. Julie James MS, Minister for Climate Change and I will be representing the Welsh Government. I will attend in person and the Minister will attend virtually.

As well as the usual opportunity for a general update on issues, the Summit will focus on Collaborative Spatial Planning.

Prior to the Summit the Minister for Minister for Climate Change will attend a ministerial meeting on Collaborative Spatial Planning.

A communiqué will be agreed by the Council at the Summit detailing the discussions held at the Summit and at the Ministerial discussion of Collaborative Spatial Planning. I will write again following the Summit to share these with you. I will also update the Senedd with a statement on the Summit next week.

Yours sincerely,



MARK DRAKEFORD

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Agenda Item 7.1

Y Gweinidog Cyfiawnder Cymdeithasol
Minister for Social Justice



Llywodraeth Cymru
Welsh Government

Huw Irranca-Davies MS
Chair of the Legislation, Justice and Constitution Committee
Welsh Parliament
Cardiff Bay
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5 July 2022

Dear Huw,

Thank you for your letter of 22 June to the First Minister of Wales, the Rt Hon. Mark Drakeford MS regarding the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention). I am responding as the responsibility for Violence Against Women, Domestic Abuse and Sexual Violence (VAWDASV) falls within my portfolio.

You asked for details of the Welsh Government's involvement in the decision to ratify the Convention. I was contacted by Rachel Maclean MP, UK Minister for Safeguarding on 3rd May who informed me of the that the UK Government would commence the ratification proceedings for the Council of Europe Convention on Combating Violence Against Women and Girls and Domestic Violence with a request for my officials to review the Explanatory Memorandum and respond by 6th May.

While I welcome the commencement of this process, and have written to UK Ministers to encourage them to ratify the convention on a number of occasions, I have raised several concerns in writing to the Minister for Safeguarding along with my disappointment at the short timescales offered to consider this in sufficient detail. These concerns have also been discussed between Welsh and UK Government officials.

I expressed my concern regarding the plans outlined in paragraph 9.10 of the Memorandum to submit a reservation on Article 59 which relates to support for migrant victims of VAWDASV. I highlighted my disappointed that the plight of migrant women was not recognised on the face of the Domestic Abuse Act 2021 and that I am again disappointed to see that these victims and survivors will not be adequately supported and provided for within the ratification of the Istanbul Convention.

The reason stated for this reservation was the ongoing evaluation of the Home Office's Support for Migrant Victims pilot scheme. While the Welsh Government welcomes this

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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.

scheme, and I am pleased to see this has been extended, I regard the pilot to be testing the question of how, not whether, migrant victims and survivors are supported. I do not see the existence of the pilot as an acceptable reason to submit a reservation to Article 59.

This action is at odds with the Welsh Government 'Nation of Sanctuary' approach. Our approach recognises the particular challenges and hardships faced by refugee, migrant and asylum-seeking women fleeing VAWDASV and aims to provide assistance and support to enable them to rebuild their lives in Wales. In light of this, I called for the UK Government to reverse this decision to ensure migrant victims and survivors are recognised and supported as the Convention intended.

This position is supported by the Scottish Government and the Minister for Equalities and Older People, Christina McKelvie MSP also wrote to the Minister for Safeguarding to express similar concerns.

You also asked whether the Welsh Government's involvement is accurately described in the Explanatory Memorandum. As part of my response to the Minister for Safeguarding, I noted my concerns with regards to paragraph 10.2 in the Memorandum which covers Articles within the Convention that relate to reserved and devolved matters. Section 10 of the Memorandum relates to Consultation, and not legislative competence. I asked that this paragraph be removed, or, in the alternative, my officials be given sufficient time to carry out a detailed analysis of the Convention through the lens of competence. The UK Government did not agree to this and the Welsh Government therefore reserved its position on legislative competence.

Additionally in your letter, you asked how the Welsh Government is carrying out its duties under the Convention, for each of its articles relating to devolved areas which are set out in the Explanatory Memorandum. Each year the UK publishes a [progress report](#) which summarises our compliance with the Convention. It outlines the progress of both the UK Government and devolved administrations.

Furthermore, our recently published [National Strategy for Violence Against Women, Domestic Abuse and Sexual Violence 2022-2026](#) sets out how we are tackling VAWDASV in Wales. While the Convention sets out minimum standards to prevent violence against women, protect victims and prosecute perpetrators, through the delivery of our strategy we intend to go beyond these minimum standards and make our Welsh contribution to tackling the global epidemic that is VAWDASV.

We are committed to working with the UK Government to ratify the Convention however this process must also find solutions that can address the inequalities faced by migrant victims and survivors of VAWDASV.

Yours sincerely,

A handwritten signature in black ink, reading 'Jane Hutt'.

Jane Hutt AS/MS

Y Gweinidog Cyfiawnder Cymdeithasol
Minister for Social Justice

The Rt Hon. Mark Drakeford MS
First Minister of Wales

22 June 2022

Dear Mark

Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence

You will be aware that my Committee is responsible for monitoring the implementation of non-trade international agreements in the Sixth Senedd.

During our meeting on 6 June 2022 we considered the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence.

The Convention aims to protect women against all forms of violence, and to prevent, prosecute and eliminate violence against women and girls through the creation of a wide-ranging legal framework. The Convention defines 'violence against women' and 'domestic violence' and places obligations on parties to take a coordinated and coherent approach to tackling these crimes.

I enclose the report on our consideration of the agreement. You will note that we agreed to request the following information from the Welsh Government:

- its involvement in the decision to ratify the Convention and whether this is accurately described in the Explanatory Memorandum;
- how it is carrying out its duties under the Convention, for each of its articles relating to devolved areas, as set out in the Explanatory Memorandum; and
- whether further actions are needed to ensure it is fully compliant with the Convention.

We would be grateful to receive your response by 7 September 2022.

Yours sincerely,

Huw Irranca-Davies

Huw Irranca-Davies

Chair

Agenda Item 7.2

Senedd Cymru

Welsh Parliament

Welsh Parliament

Finance Committee

Chair, Children, Young People, and Education Committee
Chair, Climate Change, Environment, and Infrastructure Committee
Chair, Culture, Communications, Welsh Language, Sport, and International Relations Committee
Chair, Economy, Trade, and Rural Affairs Committee
Chair, Equality and Social Justice Committee
Chair, Health and Social Care Committee
Chair, Legislation, Justice and Constitution Committee
Chair, Local Government and Housing Committee

6 July 2022

Welsh Government Draft Budget 2023-24

Dear Committee Chairs

Budget Engagement

On 11 April 2022, I wrote to notify you of the Finance Committee's programme of engagement for its scrutiny of the forthcoming Welsh Government's Draft Budget 2023-24. The Committee has now completed its three engagement strands:

- a stakeholder event in Llanhilleth Miners' Institute;
- a workshop with member of the Welsh Youth Parliament; and
- focus groups with the Welsh public.

An engagement report has been published which summarises the responses we received during our engagement work.



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Plenary Debate on the Welsh Government's Spending Priorities

On 13 July, the Committee will hold a Plenary debate on the Welsh Government's Spending Priorities and the engagement report referred to above will be included as a supporting document for the debate.

We believe this debate allows the best opportunity for Members to influence the Welsh Government's spending priorities prior to the formulation of the draft budget in the autumn and I would encourage Committees to contribute to this important debate and press for action in their areas of interest.

Timetable and approach to budget scrutiny

Following the announcement by the UK Government last year of a multi-year settlement, the Committee had hoped that we would return to a 'normal budget' process this year, after several years of curtailed scrutiny. However, the Minister for Finance and Local Government has written to me to explain that the lack of certainty over the significant pressures facing the Welsh Government's spending plans will not be resolved until the Welsh Government knows whether its settlement will change in any UK Autumn Fiscal event.

The Minister sought the Committee's view on a preferred timetable for publishing of the draft budget, with our preferred option being that it is published in October to enable eight weeks for scrutiny with the final budget being published in December.

The Minister for Rural Affairs and North Wales, and Trefnydd has now written to the Business Committee to notify it that the Welsh Government intends to publish the outline and detailed draft budgets together by 13 December at the latest or within four weeks of the UK Government's autumn budget. The Trefnydd also confirmed that she will provide an updated budget timetable in the autumn term, as soon as details of the UK fiscal event is known..

Given that the publication of the draft budget will be delayed again this year, the Committee's call for evidence will take place in September. I will write to you again with further information on the consultation, and any revisions to the budget timetable, in due course.

Budget Process Protocol

The Budget Process Protocol between the Senedd and the Welsh Government has been in place since 2017. The protocol sets out an understanding between the Finance Committee and the Welsh Government on the administrative arrangements for the scrutiny of the annual draft budget and other related budgetary matters.



This is the fourth consecutive year where the two-stage budget process has not been used and scrutiny has been curtailed due to “exceptional circumstances”. Whilst we acknowledge that delays have been due to the uncertainty of funding from the UK Government, a curtailed budget processes is becoming commonplace and, as Chair, I do not wish to have similar discussions around timetabling issues year upon year.

For this reason, I have asked the Minister to commit to a review of the budget process protocol ahead of the budget round for 2024-25 to ensure it remains fit-for-purpose.

If you have any comments on your experience of your Committee’s budget scrutiny, I would be grateful to hear from you.

If you have any questions about any aspect of the draft budget process, please feel free to contact me or the Clerk to the Finance Committee, Owain Roberts, 0300 200 6388, seneddfinance@senedd.wales.

Yours sincerely



Peredur Owen Griffiths MS
Chair of the Finance Committee

Croesewir gohebiaeth yn Gymraeg neu Saesneg.

We welcome correspondence in Welsh or English.



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Agenda Item 15

Statement by the First Minister: The Legislative Programme – 5 July 2022

Diolch, Llywydd. Today, I am pleased to make a statement on our legislative programme. This is an essential part of our ambitious and radical programme for government that will help to shape Wales for the future. We're now in the third Senedd term since the people of Wales voted to give the then National Assembly the power to make Assembly Acts. Since 2011, we have been building up to the volume of primary legislation that this Government will bring forward over the course of this Senedd term. This is a programme that demonstrates our extensive use of those powers, and at an extensive rate.

Dyw'r gwaith o gyflwyno'r rhaglen ddeddfwriaeth sylfaenol ddim yn digwydd mewn gwagle. Mae pwysau eraill yn bodoli sy'n effeithio ar y Llywodraeth a'r Senedd. Mae gennym raglen sylweddol o is-ddeddfwriaeth sy'n cyd-fynd â'n rhaglen ddeddfwriaeth. Yn aml, mae diffyg dealltwriaeth ynglŷn â pha mor eang a phwysig yw is-ddeddfwriaeth. Yn y blynyddoedd diwethaf, mae cynnydd amlwg wedi bod o ran maint y deddfwriaeth a phwysigrwydd y penderfyniadau sy'n cael eu gwneud fel hyn. Mae hynny wedi ychwanegu'n sylweddol at lwyth waith y Weithrediaeth a'r ddeddfwrfa, yn y Cyfarfod Llawn ac yn y pwyllgorau.

Bringing forward the primary legislative programme does not take place in a vacuum. Other pressures exist that have an impact on the Government and the Senedd. A significant programme of subordinate legislation sits alongside and underpins our legislative programme. Very often, there is a lack of understanding about how broad and important subordinate legislation is. In recent years, there has been an increase in the volume of such legislation and the importance of the decisions determined in this way. This has significantly increased the workload of the Executive and the legislature in recent years, both in Plenary and committees.

Since early February 2020, Llywydd, more than 300 items of subordinate legislation have been made in relation to coronavirus alone, often with fundamental impact on the daily lives of our fellow citizens. The current surge in COVID numbers, as we've discussed this afternoon, reminds us that this journey is still not over. And, Llywydd, while the volume of EU exit-related secondary legislation has diminished in the last 12 months, we will still be bringing Brexit-derived statutory instruments to the Senedd until the end of this calendar year.

Beyond COVID and Brexit, in the last 12 months, we have made over 50 SIs to implement major Acts passed in the last Senedd, including legislation to support schools and teachers to deliver our radical changes to the curriculum for Wales, and the provisions of the Local Government and Elections (Wales) Act 2021. Members will consider regulations to make 20 mph the default speed limit in residential areas next

week here in the Senedd, a key component of our programme for government. Further secondary legislation will follow during the year, including regulations to implement the Tertiary Education and Research (Wales) Bill, and aspects of the Health and Social Care (Quality and Engagement) (Wales) Act 2020, such as the duty of candour.

Llywydd, allwn ni chwaith ddim anwybyddu bwriadau deddfwriaethol Llywodraeth y Deyrnas Unedig. Yn yr hinsawdd bresennol, mae'r rhain yn creu risg sylweddol i Gymru ac i ddatganoli. Mae Ysgrifennydd Gwladol Cymru wedi dweud bod 27 o'r Biliau a gyhoeddwyd yn Araith y Frenhines ym mis Mai yn debygol o ymestyn i Gymru a bod yn gymwys iddi. Mae eisoes yn amlwg y bydd llawer o'r rhain yn cynnwys darpariaethau sy'n ymwneud â meysydd datganoledig, a fydd yn effeithio ar y setliad datganoli. Mae hynny'n golygu bod angen i'r Llywodraeth hon a'r Senedd fod yn wyladwrus, ystyried cynigion yn fanwl, ac ymateb yn unol â hynny.

Llywydd, we also cannot ignore the legislative intentions of the UK Government, which, in the current climate, represent a significant risk to Wales and to devolution. The Secretary of State for Wales has said that 27 UK Bills announced in the Queen's Speech in May are likely to extend and apply to Wales. It is already clear that many of these will contain provisions relating to devolved areas, and this will result in incursions into the devolution settlement. This requires this Government and the Senedd to remain vigilant, consider proposals in detail, and respond accordingly.

Llywydd, despite these many other legislative pressures and the challenging context during the first year of this Senedd term, we have already introduced four primary Bills to the floor of the Senedd. The Tertiary Education and Research (Wales) Bill was passed by Members last week and will put a new system in place for post-16 education and training in Wales. Members will consider Stage 3 amendments to our Welsh Tax Acts etc. (Power to Modify) Bill this afternoon. That Bill will provide Welsh Ministers with carefully delineated and time-limited powers to respond quickly to protect Welsh citizens against sudden and unexpected decisions of the UK Government that could have a significant impact on the liabilities of individuals and on revenue for Welsh public services. We've already introduced the Social Partnership and Public Procurement (Wales) Bill. This unique legislation, delivered in conjunction with our social partners, will ensure the fair rights of workers and lead to more socially responsible public procurement. And, yesterday, we introduced the first consolidation Bill before the Senedd, the Historic Environment (Wales) Bill, which will make the law in Wales relating to listed buildings and the historic environment more accessible in future.

Llywydd, rwy'n troi nawr at Filiau sydd i'w cyflwyno yn y flwyddyn i ddod. Mae'r Llywodraeth hon wedi ymrwymo i greu Cymru decach, wyrddach a chryfach. Cafodd y portffolio newid hinsawdd ei greu i'w gwneud yn haws i brif feysydd y Llywodraeth ddatganoledig gael yr effaith fwyaf yn y maes hwn. Mae dyletswydd foesol i ni wneud cynnydd ar yr agenda hwn, a byddwn yn cyflwyno nifer o Filiau i wneud cyfres o newidiadau pwysig dros y 12 mis nesaf.

Llywydd, I now turn to those Bills to be brought forward in the coming year. This Government is committed to creating a fairer, greener and stronger Wales. The establishment of a climate change portfolio was designed to make it easier to mobilise the main areas of devolved Government with the greatest impact in this area. There is a moral imperative that we make progress on this agenda, and we will bring forward a number of Bills to make a series of important changes over the next 12 months.

As an early priority, Llywydd, we will bring forward a Bill to ban or restrict the sale of some of the most commonly littered single-use plastics in Wales. This will meet our key programme for government commitment in this area. But, in addition, the Bill will also support our ongoing legal challenge to the United Kingdom Internal Market Act 2020. In the current litigation, brought by the Counsel General, the court has indicated it would find it helpful to consider a practical example, in the form of a piece of Senedd legislation, against which it can test the issues under consideration. This Bill will provide that practical example, and in that context we will be seeking the agreement of Business Committee to expedite the scrutiny of the Senedd on this Bill.

Llywydd, a clean air Bill is a significant priority for this Government. We want to build on action already under way to reduce emissions and deliver vital improvements in air quality, supporting healthier communities and better environments. Our White Paper set out how we intend to enable ambitious air quality targets and put in place a more robust regulatory framework to support them. This will be accompanied by measures to make sure all parts of society play their part in reducing air pollution, and I look forward to working with Members across the Chamber to develop that Bill once it is introduced.

Llywydd, we have set out our ambition to reform the way agriculture is supported in the future, with an emphasis both on high-quality and sustainable food production and rewarding farmers for the delivery of environmental and associated social outcomes. We will publish an outline sustainable farming scheme ahead of the Royal Welsh Show and the series of summer agriculture events that follow. Llywydd, the timing here is deliberate. It will allow for meaningful engagement on the detail of the proposed scheme ahead of the introduction of the agriculture Bill itself, which will be brought before the Senedd in the autumn.

Members will also be aware that we have made significant progress since establishing our coal tip safety taskforce two years ago. The Law Commission's landmark report, 'Regulating Coal Tip Safety in Wales', was published earlier this year. It clearly concluded that the law as it stands is not fit for today's purposes. The report informed our White Paper consultation and we will introduce a Bill on coal tip safety to establish a consistent approach to the management, monitoring and oversight of disused coal tips throughout Wales. This will protect those communities that bear the legacy of our industrial past, as well as support critical infrastructure and the environment by reducing the likelihood of landslides.

Llywydd, we're also committed to simplifying the consenting process for specified types of major on and offshore infrastructure, and we will, therefore, introduce an infrastructure consenting Bill to provide more certainty for communities and developers alike. The Bill will replace existing statutory regimes for the consenting of Welsh infrastructure projects, and it will rationalise the number of authorisations required to construct and operate a project into a single consent.

Llywydd, mae datganiad blynyddol y rhaglen ddeddfwriaethol yn cael ei ddefnyddio fel arfer i gyhoeddi Biliau y bydd y Llywodraeth yn eu cyflwyno yn ystod y 12 mis nesaf. Fodd bynnag, mae'r Senedd yn craffu ar ddeddfwriaeth mewn continwwm, ac nid yw Biliau'n cwmpo ar ddiwedd sesiwn. Felly, fe hoffwn i edrych ychydig ymhellach ymlaen at ddechrau trydedd flwyddyn y rhaglen a sôn am nifer o Filiau pwysig eraill.

Llywydd, the annual legislative programme statement has been typically used to announce the Bills that the Government will introduce in the coming 12 months. However, the Senedd scrutinises legislation in a continuum, and Bills do not fall at the end of a session. Therefore, I want to look a little further ahead to the start of the third year of the programme and to mention a number of other important Bills.

Llywydd, as I mentioned earlier, the challenges for both the Executive and the legislature in managing the legislative pressures associated with primary and secondary legislation initiated here, as well as legislation initiated in Westminster, are considerable. To ensure that this Senedd is able to execute its responsibilities and ensure that we have greater capacity to scrutinise legislation, we will bring forward a Bill to reform the Senedd. We're on track to deliver on our commitment set out in the co-operation agreement with Plaid Cymru to deliver that Bill within 12 to 18 months of the special purpose committee's report. This crucial, once-in-a-generation legislation will create a modern Senedd, reflecting the Wales we live in today and with the means to represent and deliver for the people of Wales.

We heard of the importance of transport earlier this afternoon, Llywydd, and transport accounts for nearly a fifth of our carbon emissions, yet we cannot currently plan bus networks to help break our reliance on private cars by making sure people can access services reliably and sustainably. Our consultation on fundamental change to the way bus services are planned in Wales closed last week. In the autumn of next year, we will bring forward a bus Bill, allowing all levels of government in Wales to work together to design the bus networks our communities need.

And early in that third year we will also introduce a local government finance Bill. It will be before the Senedd before the end of 2023, and that Bill will deliver our programme for government commitment to reform the council tax in Wales. Through partnership working and extensive engagement with ratepayers, we continue to explore options for non-domestic rate reform, and that will require a combination of both primary and subordinate legislative action.

Llywydd, mae agenda llawn o ddeddfwriaeth o'n blaen, ond mae'r rhain yn gerrig sylfaen pwysig tuag at y Gymru rydym am ei gweld. Er mwyn cyflawni'r agenda, byddwn yn parhau i weithio ar draws y Siambr hon i sicrhau ein bod yn gwneud y ddeddfwriaeth orau bosibl sy'n gwella bywydau holl bobl Cymru. Mae'r datganiad hwn yn dangos ein hymrwymiad i ddyfodol tecach, gwyrddach a chryfach, ac rwy'n cymeradwyo'r rhaglen ddeddfwriaethol hon i'r Senedd.

Llywydd, there's packed legislative agenda ahead of us, but these are the significant building blocks towards the Wales we want to see. To deliver it, we will continue to work across the Chamber to ensure our legislation is the best it can be and improves the lives of all the people of Wales. This statement demonstrates our commitment to a fairer, greener and stronger future, and I commend this legislative programme to the Senedd.