

Agenda – Legislation, Justice and Constitution Committee

Meeting Venue:	For further information contact:
Virtual – Video conference via Zoom	P Gareth Williams
Meeting date: 2 October 2023	Committee Clerk
Meeting time: 13.30	0300 200 6565
	SeneddLJC@senedd.wales

1 Introductions, apologies, substitutions and declarations of interest
(13.30)

2 Instruments that raise issues to be reported to the Senedd under Standing Order 21.2 or 21.3
(13.30 – 13.35)

Made Negative Resolution Instruments

2.1 SL(6)383 – The Standards Committees (Wales) (Amendment) Regulations 2023

(Pages 1 – 3)

[Regulations](#)

[Explanatory Memorandum](#)

Attached Documents:

LJC(6)-26-23 – Paper 1 – Draft report

2.2 SL(6)384 – The Standards Committees (Grant of Dispensations) (Wales) (Amendment) Regulations 2023

(Pages 4 – 5)

[Regulations](#)

[Explanatory Memorandum](#)



Attached Documents:

LJC(6)-26-23 – Paper 2 – Draft report

2.3 SL(6)385 – The Rating Lists (Valuation Date) (Wales) Order 2023

(Pages 6 – 7)

[Order](#)

[Explanatory Memorandum](#)

Attached Documents:

LJC(6)-26-23 – Paper 3 – Draft report

Affirmative Resolution Instruments

2.4 SL(6)382 – The Local Elections (Principal Areas) (Single Transferable Vote) (Wales) Rules 2023

(Pages 8 – 14)

[Rules](#)

[Explanatory Memorandum](#)

Attached Documents:

LJC(6)-26-23 – Paper 4 – Draft report

Composite Affirmative Resolution Instruments

2.5 SL(6)386 – The Greenhouse Gas Emissions Trading Scheme (Amendment) (No. 2) Order 2023

(Pages 15 – 16)

[Order](#)

[Explanatory Memorandum](#)

Attached Documents:

LJC(6)-26-23 – Paper 5 – Draft report

3 Instruments that raise issues to be reported to the Senedd under Standing Order 21.2 or 21.3 – previously considered (13.35 – 13.40)

Made Negative Resolution Instruments

**3.1 SL(6)379 – The Local Government Officers (Political Restrictions)
(Amendment) (Wales) Regulations 2023**

(Pages 17 – 19)

Attached Documents:

LJC(6)–26–23 – Paper 6 – Report

LJC(6)–26–23 – Paper 7 – Welsh Government response

**3.2 SL(6)380 – The National Health Service (General Medical Services Contracts)
(Wales) Regulations 2023**

(Pages 20 – 37)

Attached Documents:

LJC(6)–26–23 – Paper 8 – Report

LJC(6)–26–23 – Paper 9 – Welsh Government response

**3.3 SL(6)381 – The Firefighters' Pensions (Remediable Service) (Wales)
Regulations 2023**

(Pages 38 – 43)

Attached Documents:

LJC(6)–26–23 – Paper 10 – Report

LJC(6)–26–23 – Paper 11 – Welsh Government response

4 Inter–Institutional Relations Agreement

(13.40 – 13.45)

**4.1 Written Statement and correspondence from the Minister for Social Justice
and Chief Whip: The Safety, Security and Migration Interministerial Group**

(Pages 44 – 47)

Attached Documents:

LJC(6)–26–23 – Paper 12 – Letter from the Minister for Social Justice and
Chief Whip, 25 September 2023

LJC(6)–26–23 – Paper 13 – Written Statement by the Minister for Social Justice
and Chief Whip, 25 September 2023

4.2 Written Statement and correspondence from the Minister for Economy: Inter-Ministerial Group for Trade

(Pages 48 – 49)

Attached Documents:

LJC(6)-26-23 – Paper 14 – Letter from the Minister for Economy, 25 September 2023

LJC(6)-26-23 – Paper 15 – Written Statement by the Minister for Economy, 25 September 2023

4.3 Correspondence with the Minister for Rural Affairs and North Wales, and Trefnydd: Regulations to implement the Windsor Framework

(Pages 50 – 55)

Attached Documents:

LJC(6)-26-23 – Paper 16 – Letter from the Minister for Rural Affairs and North Wales, and Trefnydd, 25 September 2023

LJC(6)-26-23 – Paper 17 – Letter to the Minister for Rural Affairs and North Wales, and Trefnydd, 18 September 2023

4.4 Correspondence from the Minister for Finance and Local Government: Finance: Interministerial Standing Committee Meeting

(Pages 56 – 57)

Attached Documents:

LJC(6)-26-23 – Paper 18 – Letter from the Minister for Finance and Local Government, 27 September 2023

4.5 Correspondence with the Minister for Climate Change: The Fluorinated Greenhouse Gases (Amendment) Regulations 2023

(Pages 58 – 64)

Attached Documents:

LJC(6)-26-23 – Paper 19 – Letter from the Minister for Climate Change, 27 September 2023

LJC(6)-26-23 – Paper 20 – Letter to the Minister for Climate Change, 15 September 2023

4.6 Correspondence from the Minister for Rural Affairs and North Wales, and Trefnydd: The Official Controls (Plant Health) (Prior Notification) and Phytosanitary Conditions (Amendment) Regulations 2023

(Pages 65 – 67)

Attached Documents:

LJC(6)-26-23 – Paper 21 – Letter from the Minister for Rural Affairs and North Wales, and Trefnydd, 28 September 2023

5 Papers to note

(13.45 – 13.50)

5.1 Correspondence from the Welsh Language Commissioner: Use of the Welsh language

(Page 68)

Attached Documents:

LJC(6)-26-23 – Paper 22 – Letter from the Welsh Language Commissioner, 15 September 2023

5.2 Correspondence from the Finance Committee to the Minister for Finance and Local Government: 2024–25 Draft Budget

(Pages 69 – 70)

Attached Documents:

LJC(6)-26-23 – Paper 23 – Letter from the Finance Committee to the Minister for Finance and Local Government, 25 September 2023

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

(13.50)

7 Supplementary Legislative Consent Memorandum (Memorandum No. 4) on the Levelling-up and Regeneration Bill

(13.50 – 14.10)

(Pages 71 – 89)

Attached Documents:

LJC(6)-26-23 – Paper 24 – Draft report

8 Scrutiny of the Welsh Government draft budget 2024–25

(14.10 – 14.20)

SL(6)383 – The Standards Committees (Wales) (Amendment) Regulations 2023

Background and Purpose

The Standards Committees (Wales) (Amendment) Regulations 2023 (“these Regulations”) add Corporate Joint Committees (“CJs”) established by regulations made under Part 5 of the Local Government and Elections (Wales) Act 2021 (“the 2021 Act”) to the definition of “relevant authority” in the Standards Committees (Wales) Regulations 2001 (“the 2001 Regulations”).

CJs are corporate bodies consisting of those county and county borough councils which are specified in the establishment regulations. In some circumstances National Park authorities are also members of a CJC; where this is the case this is also set out in the relevant CJC establishment regulations.

Adding CJs to the definition of “relevant authority” in the 2001 Regulations ensures that, unless otherwise specified, the 2001 Regulations apply to CJs in relation to standards committees set up by those CJs as it would to other relevant authorities. Some specific provision has been made in respect of CJs where the 2001 Regulations as drafted do not fit the membership structure of CJs. These Regulations provide for the size, composition and proceedings of standards committees set up by CJs.

They also correct two small errors in the Welsh language text of the 2001 Regulations. The first error is at regulation 7(1) of the 2001 Regulations and is corrected by a substitution of the word “officer” for the incorrect word “member” as set out in regulation 6 (a) of these Regulations. The second error is of an identical nature and is in 7(2) of the 2001 Regulations and has been corrected by translation of the amendment at regulation 6(c) of these Regulations which, whilst not a direct translation of the English version, has the same legal effect in both languages.

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 2 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 but the following explanation is noted in part 5 of the Explanatory Memorandum:

“The overall approach to the development of the legislative framework which underpins CJs and the duties which should apply has been co-developed with Local Government, the Welsh Local Government Association, and a number of professional networks, including, for example, Lawyers in Local Government and the Society of Welsh Treasurers.

The consultation on the Corporate Joint Committee (General) (Wales) Regulations 2022 between 10 November 2021 and 22 December 2021 asked respondents if they agreed with the intended approach to give full effect to the application of Part 3 of the 2000 Act to CJs and made clear the specific orders and regulations which would subsequently have to be amended. All respondents to that consultation agreed to the approach outlined.”

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 Regulatory Impact Assessment has been carried out in relation to these Regulations but the following explanation is noted in part 6 of the Explanatory Memorandum:

“A separate regulatory impact assessment has not been prepared in respect of these Regulations. However, the regulatory impact assessment to accompany the Mid Wales Corporate Joint Committee Regulations 2021, the North Wales Corporate Joint Committee Regulations 2021, the South East Wales Corporate Joint Committee Regulations 2021 and the South West Wales Corporate Joint Committee Regulations 2021 assessed the potential costs and benefits associated with establishing the CJs through regulations. In assessing the potential costs and benefits the RIA considered the overarching policy intent that Corporate Joint Committees should be treated as part of the ‘local government family’. The costs associated with the application of the 2001 Regulations to CJs was considered therefore as part of the regulatory impact assessment on the establishment regulations themselves.”

Welsh Government response

A Welsh Government response is not required.



Legal Advisers
Legislation, Justice and Constitution Committee
26 September 2023



Agenda Item 2.2

SL(6)384 – The Standards Committees (Grant of Dispensations) (Wales) (Amendment) Regulations 2023

Background and Purpose

Corporate Joint Committees (“CJC”) were established by regulations made under Part 5 of the Local Government and Elections (Wales) Act 2021. They are regional corporate bodies, with [broadly similar](#) powers and duties to local authorities, and are [responsible](#) for strategic development planning, regional transport planning and promoting the economic well-being of their area.

These Regulations add CJs to the definition of “*relevant authority*” in the Standards Committees (Grant of Dispensations) (Wales) Regulations 2001 (the “2001 Regulations”).

The 2001 Regulations set out the circumstances and procedure for a standards committee of a relevant authority to grant dispensations from prohibitions in the code of conduct for members or co-opted members of that relevant authority.

The Explanatory Memorandum notes that this regulation forms part of a package of instruments which underpin the establishment of CJs and which seek to ensure CJs are subject to the same administrative and governance requirements as the rest of local government. It further notes that the overall intent is that a CJC will be treated as part of the “local government family” and will be largely subject to the same or similar powers and duties as local authorities in the way they operate and are governed.

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



1. Standing Order 21.3(vi) – 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 a regulatory impact assessment (“RIA”) has not been prepared in respect of these Regulations. However, it notes that:

“[the RIAs accompanying the regulations which established the four current CJs in Wales] assessed the potential costs and benefits associated with establishing the CJs through regulations. In assessing the potential costs and benefits the RIA considered the overarching policy intent that Corporate Joint Committees should be treated as part of the ‘local government family’. The costs associated with the application of the 2001 Regulations to CJs was considered therefore as part of the regulatory impact assessment on the establishment regulations themselves”.

Welsh Government response

A Welsh Government response is not required

Legal Advisers

Legislation, Justice and Constitution Committee

26 September 2023



Agenda Item 2.3

SL(6)385 – The Rating Lists (Valuation Date) (Wales) Order 2023

Background and Purpose

Paragraph 2(3) of Schedule 6 to the Local Government Finance Act 1988 provides that when compiling a non-domestic rating list, the rateable value of a non-domestic hereditament is to be determined by reference to the day on which the list must be compiled or on a day preceding that day specified by order.

This Order specifies 1 April 2024 as the day by reference to which the rateable value of a non-domestic hereditament is to be determined for the purposes of the next local and central non-domestic rating lists compiled for Wales after this Order comes into force.

Procedure

Negative.

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

Technical Scrutiny

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

Merits Scrutiny

The following 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 Explanatory Memorandum to the Order notes that,

“...the Welsh Government has committed to, by default, reduce the interval between revaluations from five to every three years. Following the revaluation which took effect on 1 April 2023, the next revaluation is planned to take place on 1 April 2026, subject to the passage of necessary primary legislation.”

Welsh Government response

A Welsh Government response is not required.



Legal Advisers
Legislation, Justice and Constitution Committee
26 September 2023



Agenda Item 2.4

[SL\(6\)382 – The Local Elections \(Principal Areas\) \(Single Transferable Vote\) \(Wales\) Rules 2023](#)

Background and Purpose

On 6 May 2022, the provisions of the Local Government and Elections (Wales) Act 2021 (**the 2021 Act**) relating to the single transferable vote (**STV**) system at the election of councillors to a principal council (i.e. a county council or a county borough council) came into force. These provisions allow principal councils to decide to conduct elections using the STV system instead of the simple majority system.

Section 13 of the 2021 Act inserted section 36A of the Representation of the People Act 1983, which enables the Welsh Ministers to make rules for the conduct of local government elections in Wales. That power has been exercised to make the Local Elections (Principal Areas) (Wales) Rules 2021 (**the 2021 Rules**). The 2021 Rules set out how elections to principal councils must be conducted where the simple majority system is in use. They do not make provision for the conduct of elections where the STV system is in use.

These Local Elections (Principal Areas) (Single Transferable Vote) (Wales) Rules 2023 (**the STV Rules**) amend the 2021 Rules to provide for the conduct of elections where the STV system is used. The 2021 Rules will continue to make provision about the simple majority system for the conduct of elections in principle areas which have not decided to use the STV system.

STV is a preferential voting system, which means voters are asked to rank the available candidates in order of preference, using numbers. Voters may choose to rank all the available candidates or only as many as they wish. STV is considered to be a system of proportional representation. It usually produces results which generally reflect the proportions of votes cast for the different political parties, groups and independents in an individual electoral area and across the election as a whole.

The STV system is formally defined in [section 6\(2\) of the 2021 Act](#).

The following prescribed form for the front of the STV ballot paper is set out in the STV Rules:



Election of councillors to [insert the name of the county or county borough council] – [insert name of ward]

You can make as many or as few choices as you want to.
Put the number **1** in the voting box next to your first choice.
Put the number **2** in the voting box next to your second choice.
Put the number **3** in the voting box next to your third choice. **And so on.**

JAMES, Lisa
6, Y Stryd, Y Dre CY36 4EZ
Promotion of Ethics in Local Government Party

Emblem	<input type="checkbox"/>
--------	--------------------------

KAY, Michael
12, High Street, CP1 5LL
Electoral Law Improvement Party

Emblem	<input type="checkbox"/>
--------	--------------------------

THOMAS, Gareth
Iceland
Electoral Law Improvement Party

Emblem	<input type="checkbox"/>
--------	--------------------------

THOMAS RICHARDS, Angharad
The County of Hafod
Good Law Party

Emblem	<input type="checkbox"/>
--------	--------------------------

WILLIAMS, Sian
92, The Avenue, CP12 3LO
Independent

<input type="checkbox"/>

WYATT, Cath
The County of Cornwall
Efficiency Party

Emblem	<input type="checkbox"/>
--------	--------------------------

XERRI, Mathew
24 Pen-y- Lan, CP2 6NQ
Good Law Party

Emblem	<input type="checkbox"/>
--------	--------------------------



Procedure

Draft affirmative.

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

Technical Scrutiny

The following 6 points are identified for reporting under Standing Order 21.2 in respect of this instrument.

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

We note the following minor drafting errors.

- In rule 2(a), the description of the amendment, “in the words in brackets” fails to identify the location and is unhelpful because all of the definitions listed in rule 3(3) include words in brackets afterwards. It would have been sufficient to state “for “section 202(1)” substitute “sections 202(1) and 203(1)”” as there is only a single reference to section 202(1) in rule 3(3).
- References to “paragraph” should instead be references to “sub-paragraph”.
 - In rules 3(5)(c) and 7(5)(c), the locations of the amendments are incorrectly described as “before paragraph (a)”. However, they should both be described as “sub-paragraph (a)” as they are divisions within paragraphs found in rule 31 of Schedules 1 and 2 respectively to the 2021 Rules.
 - In rules 4(2) and 8(2), in the new rules 60J, 60K, 60O, 60P, 64N, 64O, 64S and 64T, there are repeated references to “paragraph (a) (“transferable papers”)” and “paragraph (b) (“non-transferable papers”)”. However, the descriptions of these references are incorrect and they should all be described as “sub-paragraph (a) (“transferable papers”)” and “sub-paragraph (b) (“non-transferable papers”)”.
- In rule 8(1), in the English text, there are words missing in the description of the location of the amendment to the heading of Part 4 of “Schedule 2 2021 Rules”. It should state “Schedule 2 to the 2021 Rules”.

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

New rule 60F sets out a list of defined terms which apply to Chapter 2. When a rule in Chapter 2 uses one of those terms, readers are often reminded that the term is defined in rule 60F. For example:



- Rule 60F defines “quota”.
- Rule 60I(2) uses the term “quota”.
- Rule 60I(5) reminds readers that the meaning of “quota” can be found in rule 60F.

We note that rule 60F also defines “stage of the count”. However, when “stage of the count” is used in, for example, rules 60I, 60K and 60Q, there is no reminder that the meaning of “stage of the count” can be found in rule 60F. See also the use of the term “continuing candidate” in rule 60N.

The same issue arises as regards the definitions set out in rule 64J.

We also note that rule 3 of the 2021 Rules includes definitions that apply to the 2021 Rules as a whole; for example, rule 3 defines “the 1983 Act” as meaning the Representation of the People Act 1983. However, where the 2021 Rules use the term “the 1983 Act” there is no reminder that the definition can be found in rule 3.

We would be grateful if the Welsh Government could explain its approach to definitions and when it is necessary to remind readers of where definitions can be found.

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

In some places, the STV Rules refer to the transfer of papers generally in accordance with a particular rule. However, in other places, these STV Rules refer to the transfer of papers in accordance with specific paragraphs of a particular rule.

For example:

- Rule 60P(3) refers to the transfer of papers “in accordance with this rule”.
- Rule 64T(3) refers to the transfer of papers “in accordance with paragraphs (4) and (5) of this rule”.

It is unclear whether this difference is intended and what effect it has on the transfer of papers.

See also rules 60J, 60K, 64N, 64O and 64S.

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

New rule 60P(5) refers to the transfer value of a vote as “the value at which the vote **on the ballot paper** was received by the excluded candidate” (emphasis added). However, the equivalent rule 64T(5) refers to the transfer value of a vote as “the value at which the vote was received by the excluded candidate”.

It is unclear whether this difference is intended and what effect it has on the transfer value of a vote.



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

New rules 60T and 64X set out the procedure for re-counting votes. These rules largely reflect existing rules 57 of Schedule 1 and 61 of Schedule 2. However, those existing rules include additional provision confirming that the rules that apply to a re-count also apply to any further re-counts. We note that new rules 60T and 64X do not include that additional provision.

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

- In rule 3(3)(b), in the new rule 22(3A)(a), there is a difference between the English and Welsh text. The English text refers to “Appendix **2A**” but the Welsh text refers to “Appendix **2**”.
- In rule 8(2), in the new rule 64G(3)(a), there is a difference between the English and Welsh text. The English text refers to “the **registration** officer” but it has been translated in the Welsh text as meaning “the **returning** officer”.
- In rule 8(2), in the new rule 64R(1), there is a difference between the English and Welsh text. The English text refers to “rule 64N **or 64O**” but the Welsh text only refers to “rule 64N”.
- In Schedule 3, in the new Appendix 5A, in the new “Official Proxy Poll Card” on page 50 (English text)/ page 64 (Welsh text), there is a difference between the English and Welsh text. In the final sentence of the right-hand column, the English text refers to “A poll card sent or delivered to **the proxy of an elector...**” but this has been translated as meaning “A poll card sent or delivered **to an elector...**” in the Welsh text.

The same error also occurs in Schedule 7, in the new Appendix 5A for Schedule 2 to the 2021 Rules, in the new “Official Proxy Poll Card” on page 77 (English text)/ page 83 (Welsh text).

- In Schedule 6, in the new Appendix 4A, in the “Instructions on marking the ballot papers and completing the postal voting statement”, in point 2 on page 69 (English text)/ page 74 (Welsh text), there is a difference between the English and Welsh text. In the Welsh text, there is an additional paragraph which isn’t found in the English text immediately after the words that correspond to “Put the number 3 in the voting box next to your third choice. And so on”. The additional paragraph in the Welsh text provides instructions to the reader concerning inserting the numbers in the boxes on the right-hand side of the voting paper next to the candidate’s name.
- In Schedule 6, in the new Appendix 4A, in the “Instructions on marking the ballot papers and completing the postal voting statement” in point 2 on page 69 (English text)/ page 74 (Welsh text), there is a difference between the English and Welsh text. In the English



text, in the paragraph which begins with the words “Where the ballot paper has been sent to a person voting as proxy,....” there is a reference to “a suitable form of words **for marking** the ballot paper”. But this has been translated as meaning “a suitable form of words **for the instructions for marking** the ballot paper” in the Welsh text. It appears that the Welsh text is correct on this occasion as the words “for the instructions” have been included earlier in the same phrase in point 2 of these instructions and in a similar provision later in Schedule 8, in point 3 of the new Appendix 6A.

- In Schedule 7, in the new Appendix 5A, in the new “Official Proxy Poll Card”, on the “Back of card” on page 78 (English text)/ page 83 (Welsh text), there is a difference between the English and Welsh text. In the English text, the word ‘write’ appears at the end of the sentence “Do not mark the ballot paper in any other way **write**”. As a result, the English text doesn’t make sense and the translation has omitted the word in the Welsh text. It appears that the Welsh text is correct as the same sentence has been used without “write” elsewhere in approximately 9 places in the Schedules.

Merits Scrutiny

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

7. 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

New rule 32(12) sets out information that must be included inside voting compartments in polling stations when the STV system is used. The information that must be included is:

- (a) an instruction to the voter to put the number 1 in the voting box next to their first choice;
- (b) an explanation to the voter that they may make as many or as few additional choices as they wish, together with an instruction on how to do this by putting the number 2 next to their second choice, the number 3 next to their third choice and so on.”

Given that the STV system will be novel to many voters, did the Welsh Government consider including more information inside voting compartments, including, for example, an explanation of the consequences of making additional choices (i.e. that votes may be transferred where a candidate is elected and has a surplus of votes)?

Welsh Government response

A Welsh Government response is required for points 2 to 7.

Legal Advisers

Legislation, Justice and Constitution Committee

27 September 2023



SL(6)386 – The Greenhouse Gas Emissions Trading Scheme (Amendment) (No. 2) Order 2023

Background and Purpose

The UK Emissions Trading Scheme (“ETS”) was established by the Greenhouse Gas Emissions Trading Scheme Order 2020 (“the principal Order”) as a UK-wide greenhouse gas emissions trading scheme to encourage cost-effective emissions reductions from the power, industry and aviation sectors. It was designed jointly by the Governments of the UK, Scotland, Wales and the Northern Ireland Executive. It contributes to the UK’s emissions reduction targets and net zero goal, as well as the emissions reduction pathway in Wales.

The principal Order set up the UK ETS to be operational from 1 January 2021 and to run for ten scheme years. The scheme works by requiring operators of energy intensive industrial installations, power generators, and aircraft operators to monitor, report on, and surrender “allowances” equivalent to their greenhouse gas emissions in each scheme year. Some participants receive an allocation of allowances free of charge, details of which are published in allocation tables.

This Order contains a number of amendments which cover technical changes in response to changing needs of the scheme participants ascertained via the consultation responses. In particular, this Order:

- streamlines the classification of electricity generators to allow more equitable access to free allocation (FAs);
- caps the FAs of aircraft operators at 100% of their verified emissions; and
- allows operators of carbon capture plants to receive FAs.

It is noted that there are no aviation operators in Wales under the definitions of the UK ETS.

Procedure

Draft Affirmative.

A draft of the Order has been laid before Senedd Cymru, the United Kingdom Parliament and the Scottish Parliament. The draft must be approved by each of those legislatures before it can be made by His Majesty.

Technical Scrutiny

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

- 1. Standing Order 21.2(ix) – that it is not made or to be made in both English and Welsh**



We note that a draft of the Order has been laid before Senedd Cymru, the United Kingdom Parliament and the Scottish Parliament. Therefore, the draft Order is in English only and will be made in English only.

Merits Scrutiny

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

Welsh Government response

A Welsh Government response is not required.

Legal Advisers

Legislation, Justice and Constitution Committee

27 September 2023



Senedd Cymru

Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad

—

Welsh Parliament **Pack Page 16**

Legislation, Justice and Constitution Committee

SL(6)379 – The Local Government Officers (Political Restrictions) (Amendment) (Wales) Regulations 2023

Background and Purpose

The Local Government Officers (Political Restrictions) Regulations 1990 (“the **1990 Regulations**”) impose restrictions on the public political activities of local government officers in posts which are politically restricted for the purposes of Part 1 of the Local Government and Housing Act 1989 (“**restricted posts**”).

The restrictions take the form of terms and conditions that are deemed to be incorporated into those officers’ terms of appointment and conditions of employment (“**the restrictions**”).

These Regulations extend the restrictions to officers of a corporate joint committee established by regulations under Part 5 of the Local Government and Elections (Wales) Act 2021 (“**CJC**”) where those officers are appointed to, or employed in, restricted posts.

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.

Regulation 3 inserts a new definition of “*local authority*” in regulation 2 of the 1990 Regulations which provides that, for the purposes of the 1990 Regulations, a local authority includes a CJC.

In the Schedule to the 1990 Regulations, which contains the restrictions, there are a number of references to a local authority. For example, paragraph 2C of that Schedule provides for immediate termination of appointment in circumstances where a relevant office holder gives notice to “the local authority” of an intention to become a candidate at a Senedd election.



The Government is therefore asked to clarify the intended effect of regulation 3 of these Regulations, insofar as it relates to each of the references to “local authority” appearing in the Schedule to the 1990 Regulations.

Merits Scrutiny

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

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

The Explanatory Memorandum notes that these Regulations are:

“...part of a package of instruments which underpin the establishment of CJs and which seek to ensure CJs are subject to the same administrative and governance requirements as local government.”

Welsh Government response

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

Committee Consideration

The Committee considered the instrument at its meeting on 25 September 2023 and reports to the Senedd in line with the reporting points above.



Government Response: The Local Government Officers (Political Restrictions) (Amendment) (Wales) Regulations 2023 (“the 2023 Regulations”)

Technical Scrutiny point

We agree that the Schedule to the Local Government Officers (Political Restrictions) Regulations 1990 (“the 1990 Regulations”) has become difficult to navigate due to the amendments made by different Governments over time, including the insertion of paragraph 2C by the Secretary of State. Nevertheless, we consider that the practical effect of the amendment made by the 2023 Regulations will be clear to corporate joint committees (“CJCs”).

The new definition of “local authority” inserted by regulation 3 of these Regulations applies to regulation 3 of the 1990 Regulations and to paragraphs 2 and 2D of the Schedule. Paragraphs 2B and 2C of the Schedule do not apply to local authorities in Wales and the term in paragraph 1 is defined by reference to a definition in the Local Government and Housing Act 1989 which does not include CJCs.

When the opportunity arises, the Welsh Ministers will aim to remake the 1990 Regulations so far as they apply to Wales to improve their accessibility.

Agenda Item 3.2

SL(6)380 – The National Health Service (General Medical Services Contracts) (Wales) Regulations 2023

Background and Purpose

These Regulations revoke and replace the National Health Service (General Medical Services Contracts) (Wales) Regulations 2004 (“the 2004 Regulations”).

The Regulations set out the framework for General Medical Services (“GMS”) contracts under Part 4 of the National Health Service (Wales) Act 2006 (“the Act”). The GMS contractor will hold a common Unified GMS contract (“Unified Contract”) with a local health board (“LHB”) for the provision of NHS primary medical services to patients, against which it is intended that they can easily demonstrate high levels of quality standards and care.

The Explanatory Memorandum to the Regulations states that Unified Contract aims to:

- simplify what services all GP practices in Wales provide as part of the NHS, and how they evidence assurance of service delivery;
- align general practice with developing service models for delivery of care, based around the ethos of prudent healthcare;
- make it easier for patients and healthcare professionals to understand responsibilities for the provision of services;
- reduce administrative bureaucracy;
- free up time and resource for service delivery; and
- enable use of data and technology to help plan resources and delivery of services.

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

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



The Misuse of Drugs Act 1971 is referenced 6 times in the Regulations but that Act is not defined and no footnote or citation appears anywhere in the Regulations in relation to that Act.

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

There are several instances of terms which are defined in regulation 3(1) not then being used correctly later in the Regulations, including:

- a) In regulation 2(a) and Schedule 6 there is reference to the National Health Service (General Medical Services Contracts) (Wales) Regulations 2004. However, this has been defined as “the 2004 Regulations” by regulation 3(1).
- b) In regulation 17(1), there is a reference to a “general medical services contract”. However, this has been defined in regulation 3(1) as “GMS contract”.
- c) In Schedule 2, in paragraph 1(2)(a) and (3), there are references to “Public Health Wales NHS Trust”. However, this body has been defined as “Public Health Wales” in regulation 3(1).

It is important that defined terms are used consistently or if a different meaning is intended that this is clearly explained.

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

Regulation 3(1) provides for a definition of “national disqualification”. The definition contains a paragraph (iv) which states:

sections 83, 86, 103 or 105 (performers of pharmaceutical services and assistants) of the Act

Ordinarily, and in the remainder of the definition, references to statutory provisions are to the section number followed by the section heading. There is no reference to the section headings for sections 83, 86 or 103 in this definition (albeit section 86 is referenced with its full heading earlier in regulation 3(1) which may explain why the heading for section 86 is omitted here). Further, the heading of section 105 of the Act is “Supplementary Lists”. None of the section numbers referred to in the definition are entitled “Performers of pharmaceutical services and assistants”.

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

In regulation 3(1), in the definitions of “the 2004 Regulations” and the “Pharmaceutical Regulations”, in the Welsh text, the word “(Wales)” in the titles of those SIs has been incorrectly translated as “(Mawrth)” which can mean Tuesday, the month of March, the planet Mars, or the Roman god of war Mars, depending on the context.



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

In regulation 3(1), in the definition of “adjudicator”, in the Welsh text, the translation has misinterpreted the meaning of “paragraph 106(5) of Schedule 3” by linking that Schedule to “the Act” mentioned earlier in the reference to “section 7(8) of the Act” in that definition. This is done by adding the feminine preposition “iddi” after the reference to “paragraph 106(5) of Schedule 3” in the Welsh text. Therefore, the reader of the Welsh text is misled to believe that paragraph 106(5) of Schedule 3 is found in the Act. But, it is referring to the paragraph 106(5) of Schedule 3 found later in these Regulations.

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

In regulation 3(1), in the definition of “Local Health Board”, the phrase “unless the context otherwise requires” has been used. However, the Welsh Government’s drafting guidelines, Writing Laws for Wales, paragraph 4.8(5), states that it generally is not helpful to the reader to use that phrase and that it should be explained where the definition applies. Further explanation would therefore assist in this regard.

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

Regulation 3(1) provides for a definition of “online practice profile” which makes reference to the NHS website. “NHS website” is not defined in the Regulations, and as there are numerous NHS websites across the UK and within Wales there may be confusion as to which website is being referred to.

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

Regulation 3(1) provides for a definition of “optometrist independent prescriber” which includes optometrists registered in the register of visiting optometrists from relevant European States maintained under section 8B(1)(a) of the Opticians Act 1989. Section 8B was repealed by the European Qualifications (Health and Social Care Professions) (Amendment etc.) (EU Exit) Regulations 2019 (“the 2019 Regulations”). This repealed provision is also referred to in the definition of paragraph (d) of the definition of “supplementary prescriber”. Clarification is required as to whether the saving provision in the 2019 Regulations applicable to section 8B(1)(a) remains applicable or whether reference to section 8B(1)(a) is now obsolete. If the saving provision remains applicable then further information on this point would have been useful in a footnote.

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

In regulation 3(1), in the definition of “optometrist independent prescriber”, in the Welsh text, the term “dispensing opticians” has been translated as “optegwyr fferyllol”. This suggests to



the reader of the Welsh text that it means “pharmaceutical opticians” or “pharmacy opticians” in the context of the terminology used for “dispensing” elsewhere in these Regulations. The Welsh Government’s website has standardised the translation of the term with status A as “optegwyr cyflenwi”, and “optegwyr gweinyddu” would also appear to be another possibility as “gweinyddu” has been used for “dispensing” in these Regulations.

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

Regulation 3(1) provides for definitions of “paramedic independent prescriber”, “registered paramedic”, “registered radiographer” and “therapeutic radiographer independent prescriber”, all of which refer to the Health and Care Professions Council register. Regulation 3(1) also provides definitions for “pharmacist independent prescriber”, “registered pharmacist” and “supplementary prescriber” which refer to the General Pharmaceutical Council Register. Unlike other registers such as these which are referred to in the Regulations, these registers are not defined, nor is there any information included as to the statutory or other basis for the existence of such registers in these definitions.

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

Regulation 3(1) provides for a definition of “pharmaceutical services” and states that it includes “directed services”, but the Regulations do not define or provide any further information as to the meaning of “directed services”, which would assist the reader in understanding this definition.

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

Regulation 3(1) provides for a definition of “physiotherapist independent prescriber” which refers to a person who is registered under article 5 of the Health and Social Work Professions Order 2002. There is no such Order. The citation in the footnote indicates that the correct Order is the Health Professions Order 2001.

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

Regulation 3(1) provides for a definition of “Pre-employment Checks Standards” and states that they must include elements of the NHS Employment Checks Standards published by the NHS Confederation. It appears that these Standards are in fact published by NHS Employers, which is the employers’ organisation for the NHS England. It would be helpful if the Welsh Government could confirm whether this is correct, and why only five of the six Standards are included in the definition of “Pre-employment Checks Standards” (the work health assessments standard being omitted).

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



Regulation 3(1) provides for a definition of “prescription form” which makes reference to an “NHS Foundation Trust”, but this latter term is not defined in regulation 3(1).

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

Regulation 3(1) provides for a definition of “regulatory or supervisory body” which includes “any other body listed in section 25(2) of the National Health Service Reform and Health Care Professions Act 2002”. Section 25(2) sets out the functions of the Professional Standards Authority for Health and Social Care and does not include a list of bodies. Clarification is therefore required as to whether the reference should in fact be to section 25(3).

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

Regulation 3(1) provides for a definition of “repeatable prescription” which makes reference to a “dispensing doctor”. All of the other terms in the definition are defined elsewhere but a definition for the term “dispensing doctor” is not provided. “Dispensing doctor” is also referred to in paragraph 60(2) of Schedule 3. It would be useful for the reader to have clarity on who a dispensing doctor is.

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

In regulation 3(1), in the definition of “repeatable prescriber”, there are drafting errors in paragraphs (b), and (c)(ii) and (iii) where there are references to “the 2006 Act”. However, there is no definition of “the 2006 Act” in these Regulations and it appears to be referring to the defined term “the Act”.

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

Regulation 5(3)(c) refers to the National Health Service (Vocational Training) Regulations (Northern Ireland) 1998. The reference should be to the Medical Practitioners (Vocational Training) Regulations (Northern Ireland) 1998.

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

In regulations 5(5) and 6(2)(f), in the Welsh text, “December” has been incorrectly translated as the month of “March”. In addition, in regulation 6(2)(g), in the Welsh text “August” has also been incorrectly translated as the month of “March”.

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

Regulation 6(2)(f) makes reference to a person who has been convicted in the UK of a criminal offence (other than murder) committed on or after 14 December 2001 and has been



sentenced to a term of imprisonment of longer than 6 months. Could clarification be provided as to why a specific date is necessary?

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

Regulation 6(2)(g) and paragraph 119(3)(h) of Schedule 3 refers to offence committed on or after 26 August 2002. Could clarification be provided as to why a specific date is necessary?

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

Regulation 6(2)(h) refers to offences committed on or after 1 March 2004. Could clarification be provided as to why a specific date is necessary?

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

In regulation 17(2)(a), in the English text, "its" has been used without an earlier reference to a noun which means that it is not clear what the "its" is referring to in paragraph (2). In the Welsh text, the phrase "the contractor's" has been used in the translation in the corresponding place, which is clearer if it has interpreted the meaning correctly.

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

In regulation 17(4), in the definition of "disease", in the Welsh text, "three-character" has been translated as "tri-chymeriad". "Cymeriad" has several meanings in Welsh including the characteristics or reputation of a person or area etc. However, "three-character" in this context refers to a code with letters and numbers used to identify a disease so "cymeriad" doesn't seem to correctly convey the meaning of "character" in this phrase. Other words such as "nod" or "symbol" would seem to be more appropriate in this context.

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

In regulation 28(11)(c), there is a difference between the language texts, as all of the closing words in the English text after paragraph (ii) are missing from the translation. As a result, the Welsh translation does not make sense or convey the meaning of the English text. Further, in the Welsh text, "their" in the phrase "(or their equivalent)" has been translated as meaning only "the providers". If it is referring to both "contractors or providers" or if it is referring to the "unified services" then the translation is incorrect and has misinterpreted the meaning of the phrase.

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



In Schedule 1, in the second column of Table 1, there is a difference between the English and Welsh texts. In the Welsh text, "Marine" in the title of "Naval and Marine Pay and Pensions Act 1865" has been translated as "Môr" which has several possible meanings including "sea", "relating to the sea" or "ocean". However, the "Marine" is referring to soldiers who would be described today as "Royal Marine Commandos". Therefore, the meaning has been incorrectly interpreted and does not convey the meaning of "Marine" in the title of that Act. Words such as "Morlu" or "Môr-filwyr" would have been more appropriate in the context.

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

In Schedule 2, in paragraph 1(1)(b), there is a difference between the English and Welsh text. In the English text, there is a reference to "paragraph 78 of Schedule 3". However, in the Welsh text this reference has been translated as "paragraph 79 of Schedule 3".

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

In Schedule 2, in paragraph 7(1)(b), the phrase "such vaccines and immunisations" has been used in the English text. However, in the Welsh text, it has been translated as meaning "such vaccinations and immunisations". Therefore, there is a difference in meaning between both language texts. The Welsh text appears to be correct as in paragraph 7(1)(a) and the earlier paragraph 3(2)(b) of this Schedule, the phrase "vaccinations and immunisations" was used in the English text.

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

Paragraph 3(2)(a) of Schedule 2 requires a contractor to offer to provide vaccinations and immunisations to children. Unlike elsewhere in the Regulations, paragraph 3(2)(a) does not limit this duty to children for whom the contractor has responsibility under the contract. Clarification would therefore be useful as to whether the paragraph 3(2)(a) is intended to impose a duty to make the offer only to children for whom the contractor has responsibility under the contract and, if so, why this is not explicitly stated.

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

Paragraphs 16, 18 and 19 of Schedule 3 relates to the provision of "services" by a contractor's cluster and contributions to the GP Collaborative. The word "services" is included in several definitions within the Regulations but is not itself defined. It would therefore assist the reader to have clarity regarding which services are referred to in paragraphs 16, 18 and 20 of Schedule 3.

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



There is an error in the references contained in paragraph 22(b)(i) of Schedule 3. References in the Welsh version to “baragraff 44(1)(a)” and “baragraff 44(1)(b)” should be to “baragraff 43(1)(a)” and “baragraff 43(1)(b)”. The English version appears to be correct.

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

There is an inconsistency between the English and Welsh versions at paragraph 39(3) of Schedule 3. The provision in English says “subject to paragraph 41”, whilst the Welsh version says “subject to paragraph 42”. The English reference appears to be correct.

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

There is an inconsistency between the English and Welsh versions at paragraphs 49(8) and 50(1)(b) of Schedule 3. The Welsh version of the Regulations contains cross-referencing errors, so that references to paragraph 58 should be to paragraph 57.

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

Paragraphs 49, 50 and 51 of Schedule 3 refers to the patient’s authorised person in the context of prescriptions. The term “authorised person” is not defined and it is therefore not clear who a patient’s authorised person would be or how someone can be made an authorised person.

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

Paragraphs 50 of Schedule 3 refers to a contractor’s EPS go live date, but the Regulations provide no information as to what this is or how it is to be determined. Further clarification would assist the reader in this regard.

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

In the English text, paragraph 51(1) of Schedule 3 refers to “DHCW”, but the Regulations do not define this acronym nor is any footnote included to confirm what this is.

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

In paragraph 79(3) of Schedule 3, “Welsh GP Record” is defined, however in paragraph 79(1) of the English version it is also defined as ‘(WGPR)’ and only ‘WGPR’ is used in paragraph 79(2). This issue does not occur in the Welsh version of the Regulations.

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



Paragraph 92 of Schedule 3 deals with the provision of information to a relevant person. The term “relevant person” is defined in paragraph 92(3) to include a medical officer, nursing officer, occupational therapist or physiotherapist (plus one other not relevant to this reporting point). Paragraph 92(4) goes on to define each of these roles save for nursing officer, a definition for this term is missing and therefore it is not possible to determine who a nursing officer is for the purpose of paragraph 92.

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

In paragraph 114(4) of Schedule 3, the English version states that the paragraph is without prejudice to any other rights to terminate the contract that the LHB or the contractor may have. The Welsh version only refers to the contractor and does not include the LHB.

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

Paragraph 117(6) of Schedule 3 makes reference to a Fitness to Practise Panel and an Interim Orders Panel under the Medical Act 1983. That Act has been amended so that a Fitness to Practise Panel is now a Medical Practitioners Tribunal and an Interim Orders Panel is an Interim Orders Tribunal.

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

Paragraph 119(3)(v) of Schedule 3 permits an LHB to terminate a contract where the contractor has refused to be medically examined due to concerns that they are incapable of providing services under the contract. It goes on to state that such termination may occur in such a case where the contract is with two or more individuals or a company and the LHB is satisfied that the contractor is taking adequate steps to deal with the matter. It appears odd that the LHB has the right to terminate the contract even when it is satisfied that adequate steps are being taken to deal with the matter, therefore clarification is required as to whether this is correct or whether termination should only be an option where the LHB is not satisfied that the matter is being dealt with.

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

There is a referencing inconsistency between the English and Welsh texts in paragraph 126(1) of Schedule 3. The English version reads ‘123(2)’ and the Welsh version reads ‘123’.

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

Paragraph 128(4)(a) of Schedule 3 requires the completion of the Clinical Governance Practice Self-Assessment Tool and the Information Governance Toolkit. No further



information is provided in relation to these two terms and they are not defined in the Regulations.

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

There is an inconsistency between the English and Welsh texts in paragraph 135 of Schedule 3. Sub-paragraph (1) of paragraph 135 of the Welsh version is missing. The text is correct but the ‘—(1)’ is missing.

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

Paragraph 135(2) of Schedule 3 requires the services to be provided in a manner that assists the LHB to comply with the Health and Care Standards and the Duty of Quality Guidance. No further information is provided in relation to these two terms and they are not defined in the Regulations.

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

Paragraph 1(w) of Schedule 4 contains an incomplete reference. It refers to paragraph 60(2)(b) but does not go on to confirm where that paragraph is to be found. There is no paragraph 60(2)(b) in Schedule 4, it appears that it should refer to Schedule 3.

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

Paragraph 1(2) of Schedule 5 amends the definition of “Medical Regulations” in the National Health Service (Performers Lists) (Wales) Regulations 2004. It is presumed that the intention is that the definition will now refer to the Regulations, but as amended the title will be incorrect – it will refer to the “National Health Service (General Medical Services) (Wales) Regulation 2023”, with the word “Contracts” being omitted.

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

Paragraph 1(3) of Schedule 5 amends the National Health Service (Performers Lists) (Wales) Regulations 2004 to make reference to regulation 10(6) of these Regulations. However, these Regulations do not include a regulation 10(6).

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

In Schedule 5, in paragraph 2(2)(a)(iii) and (iv)(bb), the description identifies a figure “6” to be substituted by the amendment. However, it can be argued that it is not sufficiently clear as there are references in the definitions of “patient list” and “repeatable prescriber” to “the 2006



Act". Therefore, the description fails to distinguish between the "6" in "the 2006 Act" and where it occurs on its own in those definitions.

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

Paragraph 2(2)(a)(iv)(aa) of Schedule 5 amends the National Health Service (Pharmaceutical Services) (Wales) Regulations 2002 ("the 2002 Regulations") to replace references to paragraph 40 of Schedule 6 to the 2004 Regulations with references to paragraph 53 of Schedule 3 to these Regulations. However, the content of paragraph 40 of Schedule 6 is very similar to paragraph 52 of these Regulations, therefore it appears that the reference to paragraph 53 should be to paragraph 52.

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

Paragraph 2(2)(b) of Schedule 5 amends the 2002 Regulations to replace references to paragraphs 47 to 51 of Schedule 6 to the 2004 Regulations with references to paragraphs 60 and 61 of Schedule 3 to these Regulations. Paragraphs 47 to 51 refer to dispensing services, but only paragraph 60 of Schedule 3 to these Regulations refers to such services. It therefore appears that paragraph 61 is referred to in error.

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

Paragraph 2(3)(a)(ii) of Schedule 5 amends the 2002 Regulations to replace references to paragraph 42(2) of Schedule 6 to the 2004 Regulations with references to paragraph 56 of Schedule 3 to these Regulations. However, it is not clear whether the intention is to insert a reference to the whole of paragraph 56 of Schedule 3 instead of paragraph 42(2) of Schedule 6, or whether the new reference should only be to a sub-paragraph within paragraph 56. Further, it is also not clear whether the reference to paragraph 56 should be to paragraph 55.

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

Paragraph 2(3)(c)(i) of Schedule 5 amends the 2002 Regulations to replace references to paragraphs 89A and 90 of Schedule 6 to the 2004 Regulations with references to paragraph 102 of Schedule 3 to these Regulations. However, the content of paragraph 89A of Schedule 6 is very similar to paragraph 101 of Schedule 3 to these Regulations, therefore it appears that the reference to paragraph 102 should be to paragraph 101. On the same basis, paragraph 3(c)(ii) of Schedule 5 seems to incorrectly refer to paragraph 103 of these Regulations where it should refer to paragraph 102.

Merits Scrutiny

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



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

The Explanatory Note states that the Regulations set out, for Wales, the framework for general medical services contracts under section 42 of the National Health Service Act 2006, which is then defined for the purpose of the remainder of the Explanatory Note as “the Act”. The Act referred to is incorrect, the correct Act is the National Health Service (Wales) Act 2006. Although the Explanatory Note does not form part of the Regulations, which do refer to the correct Act, this error may cause confusion for the reader, particularly as the National Health Service Act 2006 is also an Act of the UK Parliament. Using an incorrect reference for a defined term also means that the remainder of the Explanatory Note contains incorrect references.

55. 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.

, Over 100 typographical, grammatical and footnote errors have been found in these Regulations which have been notified separately to Welsh Government officials. In particular, although the Committee notes that they do not form part of the Regulations themselves, 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.

Welsh Government response

A Welsh Government response is required for all reporting points.

Committee Consideration

The Committee considered the instrument at its meeting on 25 September 2023 and reports to the Senedd in line with the reporting points above.



Government Response: The National Health Service (General Medical Services Contracts) (Wales) Regulations 2023

The Welsh Government notes both the Technical and Merits Scrutiny points raised and has provided responses to each point below. In addition to the responses the Welsh Government wishes the Committee to know that an amending S.I. will be introduced at the earliest convenience in order to rectify those points where amendment or further clarification has been raised under the Standing Orders.

Technical Scrutiny point 1:

Noted. An amendment to correct this will be effected at the earliest convenience, to include a definition of the Misuse of Drugs Act 1971 and footnote/s at the appropriate place/s in the Regulations.

Technical Scrutiny point 2:

Noted. An amendment to correct this will be effected at the earliest convenience, as follows:

Regulation 2(a) and Schedule 6 will be amended so reference to the National Health Service (General Medical Services Contracts) (Wales) Regulations 2004 reads "the 2004 Regulations"

Regulation 17(1) will be amended and reference to "general medical services contract" will be replaced with "GMS Contract"

Paragraph 1(2)(a) and (3) of Schedule 2 will be amended so that references to "Public Health Wales NHS Trust" reads "Public Health Wales".

Technical Scrutiny point 3:

Noted. An amendment to correct this will be effected at the earliest convenience, and the section headings will be included after each reference. The heading for the reference to section 105 will also be amended to 'supplementary lists'.

Technical Scrutiny points 4 and 5:

Noted. An amendment to correct this will be effected in the Welsh text at the earliest convenience.

Technical Scrutiny point 6:

Noted. An amendment to correct this will be effected at the earliest convenience. The definition will be amended so to remove "unless the context otherwise requires,".

Technical Scrutiny point 7:

Noted. An amendment to correct this will be effected at the earliest convenience.

Technical Scrutiny point 8:

Noted. An amendment to correct this will be effected at the earliest convenience. Reference will be made in a footnote to the relevant savings provisions which can be found in the 2019 Regulations which apply in specific circumstances.

Technical Scrutiny point 9:

Noted. An amendment to correct this will be effected in the Welsh text at the earliest convenience.

Technical Scrutiny point 10:

Noted. An amendment to correct this will be effected at the earliest convenience. Both 'Health and Care Professions Council Register' and 'General Pharmaceutical Council Register', will be defined in the interpretation (Regulation 3).

Technical Scrutiny point 11:

Noted. An amendment to correct this will be effected at the earliest convenience.

Technical Scrutiny point 12:

Noted. An amendment to correct this will be effected at the earliest convenience, and the correct Order will be referenced in the definition of "physiotherapist independent prescriber".

Technical Scrutiny point 13:

The regulations reflect the agreed policy position and those standards which apply in relation to the GMS Contract in Wales as agreed with GPC Wales.

Technical Scrutiny point 14:

This reflects the position in the NHS (Pharmaceutical Services) (Wales) Regulations 2020.

Technical Scrutiny point 15:

Noted. An amendment to correct this will be effected at the earliest convenience to reference section 25(3).

Technical Scrutiny points 16 ,17 and 18:

Noted. An amendment to correct this will be effected at the earliest convenience.

Technical Scrutiny point 19:

Noted. An amendment to correct this will be effected in the Welsh text at the earliest convenience.

Technical Scrutiny point 20:

This is a policy decision to ensure the provision only includes those criminal offences which attract sentences of a term of imprisonment longer than 6 months (i.e. not summary only offences).

Technical Scrutiny point 21:

The date refers to when the National Health Service (General Medical Services) (Amendment) (Wales) (No. 2) Regulations 2002 came into force and when the particular provision took effect.

Technical Scrutiny point 22:

The date reflects the coming into force of the NHS (General Medical Services Contracts) (Wales) Regulations 2004.

Technical Scrutiny point 23:

Noted. An amendment to correct this will be effected at the earliest convenience.

Technical Scrutiny points 24, 25, 26 and 27:

Noted. An amendment to correct this will be effected in the Welsh Text at the earliest convenience.

Technical Scrutiny point 28:

Noted. An amendment to correct this will be effected in the English Text at the earliest convenience.

Technical Scrutiny point 29:

Noted. An amendment to correct this will be effected at the earliest convenience.

Technical Scrutiny point 30:

Noted. An amendment to correct this will be effected at the earliest convenience, "services" will be amended to "primary medical services".

Technical Scrutiny points 31, 32 and 33:

Noted. An amendment to correct this will be effected in the Welsh Text at the earliest convenience.

Technical Scrutiny point 34:

Noted. An amendment to correct this will be effected at the earliest convenience.

Technical Scrutiny point 35:

This provision is self-explanatory, the go live date will be the date on which the EPS system is live for the particular contractor. There will not be one uniform go live date for every contractor so further explanation is not necessary.

Technical Scrutiny points 36, 37 and 38:

Noted. An amendment to correct this will be effected at the earliest convenience.

Technical Scrutiny point 39:

Noted. An amendment to correct this will be effected in the Welsh Text at the earliest convenience.

Technical Scrutiny points 40, 41 and 42:

Noted. An amendment to correct this will be effected at the earliest convenience.

Technical Scrutiny point 43:

These are known specific components of the system of governance to those who will be using this provision of the Regulations. No further explanation is required.

Technical Scrutiny point 44:

Noted. An amendment to correct this will be effected at the earliest convenience.

Technical Scrutiny point 45:

This is a known set of standards and guidance within the profession and is clear. No further explanation is required.

Technical Scrutiny points 46, 47 and 48:

Noted. An amendment to correct this will be effected at the earliest convenience.

Technical Scrutiny point 49:

The number "6" only appears on its own once in the definition and therefore is considered to be clear. Were the intention to replace the number "2006" that would have been used.

Technical Scrutiny point 50:

The NHS (Pharmaceutical Services) (Wales) Regulations are a 2020 set of Regulations rather than "2002". They are incorrectly defined as and referred to as "the 2002 Regulations" in the subsequent points of this report. An amendment to correct the reference to paragraph 53 will effected at the earliest convenience.

Technical Scrutiny point 51:

Noted. An amendment to omit the reference to paragraph 61 will be effected at the earliest convenience.

Technical Scrutiny point 52:

Noted, the incorrect paragraph reference will be amended. It is intentional to refer to the whole rather than the subsection however.

Technical Scrutiny point 53:

Noted. An amendment to omit the reference to paragraph 61 will be effected at the earliest convenience.

Merit Scrutiny point 54:

Noted. This will be amended at the earliest opportunity.

Merit Scrutiny point 55:

Noted. These errors will be corrected when the regulations are amended at the earliest opportunity.

Agenda Item 3.3

SL(6)381 – The Firefighters' Pensions (Remediable Service) (Wales) Regulations 2023

Background and Purpose

The Public Service Pensions and Judicial Offices Act 2022 (the “2022 Act”) makes provision to address age based discrimination in public service pension schemes. The 2022 Act was made following a finding in the case of the *Secretary of State for the Home Department & the Welsh Ministers v Sargeant & Others* [2018] EWC Civ 2844 that transitional protections in reformed firefighters’ pension schemes were unlawfully discriminatory on the basis of age. In relation to Wales, those provisions were set out in the Firefighters Pension Scheme (Wales) Regulations 2015.

The first phase of the remedy set out in the 2022 Act was implemented by the Firefighters’ Pension Scheme (Wales) (Amendment) Regulations 2022 (SI 2022/343 (W.85)).

These regulations make provision to implement the second phase of the remedy set out in the 2022 Act.

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

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

In the Welsh text of regulation 23(2)(b), it appears that “a’r swm amgen” should read “ac mae’r swm amgen”.

The Welsh and English texts of regulation 29(1)(a) appear to be different – it appears that the Welsh text is correct by expressly referring to A’s divorce **or** annulment.

In the Welsh text of regulation 39(2), it appears that “pe bai’r hawliau hynny” should read “pe bai’r hawliau hynny wedi bod”.

In the Welsh text of regulation 41(4), it appears that “adran 89(1)” should read “adran 86(1)”.



The Welsh and English texts of regulation 46 appear to be different. At the end of the regulation, the Welsh text refers to the condition that the relevant date is not later than 1 October 2024, while the English text refers to the condition that the relevant date is later than 1 October 2024.

In the Welsh text of regulation 65(4), it appears that "gwasanaeth adferadwy" should read "gwasanaeth rhwymediol".

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

The term "end of the section 6 election period" is defined by reference to the 2022 Act in a footnote to regulation 10(5). However the term "end of the section 6 election period" is first used in regulation 4(4)(a), with no signpost for the reader as to the location of the definition.

The Welsh Government is asked to explain why the footnote containing the definition is not included in regulation 4(4)(a) to accompany the first reference to "end of the section 6 election period".

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

In regulation 22(2), the closing words of the definition of "legacy scheme amount" refer to "section 29(2)" but it is not clear which legislation is being referred to.

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

Regulation 32 makes provision for remedial arrangements to pay voluntary contributions. A remedy member may enter into an agreement to pay voluntary contributions to the member's legacy scheme for added benefits (see regulation 32(2)). Regulation 32(3)(b) states that the member may only enter into such an agreement if (amongst other matters):

"the scheme manager is satisfied that it is more likely than not that, but for a relevant breach of a non-discrimination rule, M would, during the period of M's remedial service, have entered into the same or similar arrangement,"

It is unclear from the provision how the scheme manager is to be satisfied that this is the case, and what matters may tend to satisfy a scheme manager as to the position. We note the requirement in regulation 32(4)(b) to provide any information the scheme manager reasonably requires to be provided to them. However, this does not explain the circumstances that would allow the scheme manager to make this decision, just that the information to allow that to happen will be required.

Merits Scrutiny

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



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

These Regulations come into force on 1 October 2023. However, they make retrospective provision. The Explanatory Memorandum at paragraph 2.2 states as follows:

“2.2 These Regulations ... make retrospective provision in consequence of the retrospective reversion to legacy pension schemes for firefighters’ remediable service under section 2(1) of the [2022 Act]. Retrospective provision in these Regulations is made in accordance with section 3(3)(b) of the Public Service Pensions Act 2013...”

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

These Regulations make complex technical provision relating to firefighter pensions. It is noted that more could have been done to make these Regulations accessible to the reader.

For example, Part 4 of the Regulations makes many references to “WRPA 1999”. A footnote to the first use of this term informs the reader that, in accordance with section 110(1) of the 2022 Act, “WRPA 1999” means the Welfare Reform and Pensions Act 1999. As this Act appears to be central to the interpretation of Part 4 of these Regulations, it would be more accessible if “WRPA 1999” had been defined within the Regulations themselves.

Welsh Government response

A Welsh Government response is required.

Committee Consideration

The Committee considered the instrument at its meeting on 25 September 2023 and reports to the Senedd in line with the reporting points above.



Government Response: The Firefighters' Pensions (Remediable Service) (Wales) Regulations 2023

Technical Scrutiny point 1: The Welsh Government notes that the Committee has raised a number of individual points under this heading. Each point has been addressed individually below:

- The Welsh Government accepts that “a’r swm amgen” could instead have read “ac mae’r swm amgen”, however we consider the words used are suitably clear for the reader.
- The Welsh Government agrees that the Welsh and English texts in regulation 29(1)(a) differ grammatically and that the Welsh text is the preferred drafting. That said, we consider the meaning of the English drafting is clear and the legal effect of the provision is consistent with the Welsh version.
- The Welsh Government agrees that including the words “wedi bod” would be a direct translation of the English text, but consider that the “wedi bod” is implied by “pe bai” and that the Welsh text is suitably clear.
- The Welsh Government agrees that the cross reference in regulation 41(4) should read “adran 86(1)” and not “adran 89(1)”. This will be amended at the next available opportunity.
- The Welsh Government agrees that the English and Welsh texts in regulation 46 differ. The English text is correct and the Welsh text will be amended at the next available opportunity.
- The Welsh Government agrees that in regulation 65(4) of the Welsh text “gwasanaeth adferadwy” should read “gwasanaeth rhwymedïol”. This will be amended at the next available opportunity.

Technical Scrutiny point 2: The Welsh Government acknowledges that it would be of greater assistance to a reader if the footnote signposting the definition of the term “end of the section 6 election period” were located at the first instance of the term’s use, rather than the second instance.

It is the Welsh Government’s view though, that the while such signposting provides a helpful aid to the reader, the reader does not need it by way of explanation to understand the meaning of this term. When considering the meaning of a particular term in these regulations, the reader will have regard to the general interpretation provisions at regulation 2. Consequently, the reader will be aware from regulation 2(3) that they must have regard to terms defined in Chapter 1 of Part 1 of the Public Service Pensions and Judicial Offices Act 2022 in order to understand a number of terms used in these regulations.

Technical Scrutiny point 3: The Welsh Government’s view is that it is clear, in the context of regulation 22, that the Act being referred to in relation to the second mention of “section 29(2)” in regulation 22(2) is the WRPA 1999 as this Act is referred to earlier

in the provision. Additionally, “section 29(2) of WRPA 1999” is referred to five times in regulation 22 and “section 29(3) of WRPA 1999” is referred to twice. No other Act is referred to in that regulation.

Technical Scrutiny point 4: The Welsh Government appreciates that regulation 32 does not specify the exact matters which may tend to satisfy a scheme manager as to the likelihood of a remedy member having previously entered into an added years pension arrangement, had the age-based discrimination not occurred.

The power to make provision for remedial arrangements to purchase added years in a member’s legacy pension scheme is conferred by section 25(1) of the Public Service Pensions and Judicial Offices Act 2022. Where a responsible authority (in this case the Welsh Ministers) wish to make such provision, section 25(3) of that Act requires such provision to only allow a remedy member to enter into such arrangements “if the scheme manager is satisfied that it is more likely than not that, but for a relevant breach of a non-discrimination rule, M would, during the period of M’s remediable service in the employment or office, have entered into the same or similar arrangements”.

The Welsh Government’s view is that it is appropriate that the scheme manager be given discretion in these circumstances. The factors which go to satisfying the scheme manager of the likelihood of a remedy member’s past actions may be dependent upon the personal circumstances of the individual concerned. The individual scheme managers will likely hold records on the particular remedy member, and be best placed to determine what, if any, further information might be needed from the remedy member in any particular case.

Merit Scrutiny point 5: The Welsh Government notes that these regulations are to be reported under Standing Order 21.3(ii), on the basis that they make retrospective provision. The Welsh Government notes that such provision is a necessary consequence of the retrospective effect of the Public Service Pensions and Judicial Offices Act 2022.

Merit Scrutiny point 6: The Welsh Government acknowledges that these regulations make complex technical provision. The Welsh Government has sought to balance the accessibility of these regulations for the lay reader, with the efficacy of their provisions in the context of a complicated retrospective pensions remediation exercise which have an impact on a number of statutory pension schemes.

The making of these regulations follows a 12-week public consultation period. The consultation document was drafted in a way to make it accessible to ordinary scheme members, for instance by using plausible illustrative examples and including a full glossary of technical terms; this approach was warmly welcomed by both employers and firefighters’ representative bodies. During that period numerous stakeholders and individual scheme members engaged with the consultation. Comments received

during that period enabled the Welsh Government to improve the drafting of these Regulations.

Nevertheless, the Welsh Government appreciates that the complexity of the remediation exercise, together with requirements imposed directly by the Public Service Pensions and Judicial Offices Act 2022 and the Public Service Pensions (Exercise of Powers, Compensation and Information) Directions 2022, may render these Regulations to be less easily accessible to lay readers than other instruments.

In respect of the Committee's specific point about references to "WRPA 1999", the Welsh Government's view is that the footnote signposting the definition of the term does indeed assist the reader, and hence the accessibility of these particular provisions. Such signposting in these regulations is considered particularly appropriate on the basis that a reader must have regard to the Public Service Pensions and Judicial Offices Act 2022 in any event if they are to fully understand the operation of this remediation exercise.

Agenda Item 4.1

Huw Hutt MS
Gweinidog Cyfiawnder Cymdeithasol a'r Prif Chwip
Minister for Social Justice and Chief Whip



Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref: Safety, Security and Migration IMG

Huw Irranca-Davies MS

Chair

Legislation, Justice and Constitution Committee

Senedd Cymru

SeneddLJC@senedd.wales

Cc Jenny Rathbone MS, Chair of the Equality and Social Justice Committee

25 September 2023

Dear Huw,

Inter-Institutional Relations Agreement: Safety, Security and Migration Interministerial Group

I am writing further to my letter of 21 June, and in accordance with the Inter-Institutional Relations Agreement, to report on the second meeting of the Safety, Security and Migration Interministerial Group (IMG), held on 11 July.

The meeting was attended by the Home Secretary, the Rt Hon. Suella Braverman KC MP, as the Chair, by the Scottish Government's Cabinet Secretary for Social Justice Shirley-Anne Somerville MSP and Northern Ireland's Senior Officials Cathy Galway and Julie Cummings.

The meeting provided me with an opportunity to express the concerns the Welsh Government has on aspects of the Illegal Migration Bill and the UK Government's delays with processing asylum applications. I also raised concerns with regards to the ongoing issues with accommodation.

In addition to the discussions around immigration I highlighted the need for improved engagement and data sharing on all aspects of Safety and National Security to ensure a successful collaborative approach to tackle drug crime and national security threats across the UK.

The next meeting is due to take place in November and I will inform you once a date has been finalised.

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:
0300 0604400

Bae Caerdydd • Cardiff Bay
Caerdydd • Cardiff
CF99 1SN

Gohebiaeth.Jane.Hutt@llyw.cymru
Correspondence.Jane.Hutt@gov.wales

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

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

Further information on the meeting can be found at: [Interministerial Group for Safety, Security and Migration Communiqué: 11 July 2023 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/news/interministerial-group-for-safety-security-and-migration-communicue-11-july-2023)

I am copying this letter to Jenny Rathbone MS, Chair of the Equality and Social Justice Committee.

A handwritten signature in black ink that reads "Jane Hutt". The signature is written in a cursive style with a long horizontal line above the first name.

Jane Hutt AS/MS
Gweinidog Cyfiawnder Cymdeithasol a'r Prif Chwip
Minister for Social Justice and Chief Whip



Llywodraeth Cymru
Welsh Government

STATEMENT BY THE WELSH GOVERNMENT

TITLE **Safety, Security and Migration Interministerial Group**

DATE **25 September 2023**

BY **Jane Hutt MS, Minister for Social Justice and Chief Whip**

In accordance with the Inter-Institutional Relations Agreement, I am giving notification that I attended the second meeting of the Safety, Security and Migration Interministerial Group (IMG), which took place virtually on 11 July, bringing together members of all four governments.

The meeting was attended by the Home Secretary, the Rt Hon. Suella Braverman KC MP, as the Chair, and the Scottish Government's Cabinet Secretary for Social Justice Shirley-Anne Somerville MSP. Senior Officials from the Northern Ireland Executive and Northern Ireland's Department of Justice were in also in attendance in the absence of Ministers.

At the meeting I expressed my disappointment that the vote by the Senedd to withhold consent to the Illegal Migration Bill was not considered by UK Government. I highlighted the concerns that Welsh Government have on the negative impact the bill will have on unaccompanied children in Wales and the need for us to be involved in the development of guidance to ensure Welsh Governments legislations are not over written.

During the meeting I also re-emphasised the Welsh Government's focus on Wales as a Nation of Sanctuary and our continuing commitment to asylum dispersal and community cohesion; and how thorough and consistent communication between the Home Office's private provider and Local Authorities is vital in ensuring Wales meets its accommodation target. I raised concerns on the increasing timescales for processing asylum applications and the negative impact this is having on both applicants and the economy and re-iterated my previous requests for a review of the current UK Government's policy which prevents asylum seekers for working for the first twelve months of entering the UK.

I praised the hard work being undertaken by Border Force officials to tackle the increasing influx of illegal drugs into the UK and welcomed the current work being undertaken to develop a memorandum of understanding with Welsh Government to improve information sharing. I expressed that the Welsh Government would welcome the opportunity to be engaged on all matters of crime and highlighted the benefits of a collaborative approach when tackling crime and threats to National Security.

A short joint Communiqué is published on the UK Government website at: [Interministerial Group for Safety, Security and Migration Communiqué: 11 July 2023](#)

Agenda Item 4.2

Vaughan Gething AS/MS
Gweinidog yr Economi
Minister for Economy

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

SeneddEconomy@senedd.wales

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

SeneddLJC@assembly.wales

25 September
2023

Dear Paul, Huw

I am writing in accordance with the inter-institutional relations agreement, to inform you that I attended the Interministerial Group for Trade on Thursday 7 September.

The meeting was attended by Nigel Huddleston, Minister of State at the Department for Business and Trade; Richard Lochhead, Minister for Small Business, Trade and Innovation, Scottish Government and Ministers from the Wales and Northern Ireland Offices.

We discussed the latest updates on the India and Canada Free Trade Agreement negotiations, as well as the latest developments around the UK's accession to the Comprehensive and Progressive Agreement for Trans-Pacific Partnership. A joint communique regarding the meeting will be issued in due course.

I will write to you again to inform you of the date of the next meeting.

Yours sincerely,



Vaughan Gething AS/MS
Gweinidog yr Economi
Minister for Economy

Bae Caerdydd • Cardiff Bay
Caerdydd • Cardiff
CF99 1SN

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:
0300 0604400

YPCCGB@llyw.cymru PSCGMET@gov.wales

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

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



Llywodraeth Cymru
Welsh Government

**WRITTEN STATEMENT
BY
THE WELSH GOVERNMENT**

TITLE **Interministerial Group for Trade**
DATE **25 September 2023**
BY **Vaughan Gething, Minister for Economy**

In accordance with the inter-institutional relations agreement, I can report to Members that I attended the Interministerial Group for Trade on 7 September.

The meeting was attended by:

- Minister Huddleston, UKG Department for Business and Trade.
- Minister Lochhead, Minister for Small Business, Innovation and Trade, Scottish Government.
- Ministers from the Wales Office and the Northern Ireland Office were also in attendance.

The Interministerial Group for Trade provides the primary forum to discuss matters of trade policy between the UK government, Northern Ireland Executive, Scottish Government and Welsh Government.

In the meeting we discussed the recent signing of the Comprehensive and Progressive Agreement on Trans-Pacific Partnership, as well as the latest updates on the ongoing Free Trade Agreement negotiations with India and Canada.



Llywodraeth Cymru
Welsh Government

Huw Irranca-Davies MS
Chair
Legislation, Justice and Constitution Committee
Welsh Parliament
Cardiff Bay
CF99 1SN

SeneddLJC@senedd.wales

25th September 2023

Dear Huw,

Thank you for your letter of 18 September regarding the regulations to implement the Windsor Framework. My response to your specific questions are set out below.

Regulation 6 of the Windsor Framework (Enforcement etc.) Regulations 2023 amends the Welsh language text of the Official Controls (Plant Health and Genetically Modified Organisms) (Wales) Regulations 2020. To what extent was the Welsh Government involved in the drafting of this regulation??

Welsh Government officials were involved in all stages of the process, including the clearance of the Welsh text.

Bae Caerdydd • Cardiff Bay
Caerdydd • Cardiff
CF99 1SN

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:
0300 0604400

Gohebiaeth.Lesley.Griffiths@llyw.cymru
Correspondence.Lesley.Griffiths@gov.wales

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

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

You stated the following in your written statement in respect of the Windsor Framework (Retail Movement Scheme) Regulations 2023: “Functions are conferred on the Secretary of State and a programme of governance will enable Welsh Government officials to ensure these functions are exercised in a manner that reflects Welsh interests. In addition, a Memorandum of Understanding will set out an agreement process to operate for any future possible changes to the [Retail Movement] Scheme.” Could you provide to the Committee further information about the programme of governance and, when finalised, a copy of the Memorandum of Understanding to which you refer?

The Windsor Framework Memorandum of Understanding (MoU) sets out the agreed ways of working between each of the Parties and their respective roles and responsibilities for the operation, delivery and enforcement of the Retail Movement Scheme (NIRMS) and NI Plant Health Label (NIPHL).

In terms of governance arrangements, the proposed signatories of the MoU are the Department for Environment, Food and Rural Affairs, the Welsh Government, the Scottish Government, the Department of Agriculture, Environment and Rural Affairs Northern Ireland (DAERA), The Food Standards Agency and Food Standards Scotland. The MoU establishes the responsibilities of the Parties and the general principles for their cooperation.

The representatives of the signatories to the document will meet at least twice a year to discuss the activities carried out under the MoU, the operation of the MoU and address any issues arising. They will also agree whether and how to incorporate policy areas yet to be agreed.

In order to meet the go live date 1st October, a draft of the MoU has been signed by officials which allows for data sharing. Work is ongoing to finalise version 1 of the MoU, with the aim to publish on the Welsh Government web page once jointly agreed by all governments. I will share this version with the committee once published.

In its Command Paper on the Windsor Framework, the UK Government stated that legislation will be needed to further implement its arrangements, including reinstating provisions of the UK Internal Market Act 2020 which dropped during the Bill's original passage in 2020. Could provide to the Committee further information on any plans or legislative proposals you are aware of to implement the Windsor Framework, and confirmation of what, if any, intergovernmental discussions have taken place in this regard?

Officials are involved in plans developing the legislation for the pet travel scheme, which is a lifetime scheme, akin to the pet passport allowing pets to move freely between GB and NI. Pets must be microchipped and owners must declare at time of booking that they are not traveling onward to Ireland. No discussions have taken place on reinstating provisions of the UK Internal Market Act 2020.

Regards,

A handwritten signature in cursive script that reads "Lesley Griffiths". The signature is written in black ink and is positioned above the printed name and title.

**Lesley Griffiths AS/MS
Y Gweinidog Materion Gwledig a Gogledd Cymru, a'r Trefnydd
Minister for Rural Affairs and North Wales, and Trefnydd**

Lesley Griffiths MS

Minister for Rural Affairs and North Wales, and Trefnydd

18 September 2023

Dear Lesley,

Regulations to implement the Windsor Framework

Thank you for your letter of 21 July 2023 in response to my letter of 7 July, and for your subsequent letters in respect of the following regulations which have been laid in the UK Parliament:

- the draft Windsor Framework (Retail Movement Scheme: Public Health, Marketing and Organic Product Standards and Miscellaneous Provisions) Regulations 2023;
- the Windsor Framework (Retail Movement Scheme) Regulations 2023;
- the draft Windsor Framework (Enforcement etc.) Regulations 2023;
- the Windsor Framework (Plant Health) Regulations 2023; and
- the Windsor Framework (Financial Assistance) (Marking of Retail Goods) Regulations 2023.

At its meeting of 11 September 2023, my Committee noted these letters and associated written statements, in which you confirmed that you had given your consent for the regulations to include provision in relation to Wales, and outlined your reasons for doing so.

I would be grateful if you could provide a response to my Committee's questions in respect of the regulations, which are included in the annex to this letter, by 28 September 2023.

Yours sincerely,

Huw Irranca-Davies

Huw Irranca-Davies

Chair



Annex

1. Regulation 6 of the Windsor Framework (Enforcement etc.) Regulations 2023 amends the Welsh language text of the Official Controls (Plant Health and Genetically Modified Organisms) (Wales) Regulations 2020. To what extent was the Welsh Government involved in the drafting of this regulation?
2. You stated the following in your written statement in respect of the Windsor Framework (Retail Movement Scheme) Regulations 2023:

"Functions are conferred on the Secretary of State and a programme of governance will enable Welsh Government officials to ensure these functions are exercised in a manner that reflects Welsh interests. In addition, a Memorandum of Understanding will set out an agreement process to operate for any future possible changes to the [Retail Movement] Scheme."

Could you provide to the Committee further information about the programme of governance and, when finalised, a copy of the Memorandum of Understanding to which you refer?

3. In its Command Paper on the Windsor Framework, the UK Government stated that legislation will be needed to further implement its arrangements, including reinstating provisions of the UK Internal Market Act 2020 which dropped during the Bill's original passage in 2020. Could provide to the Committee further information on any plans or legislative proposals you are aware of to implement the Windsor Framework, and confirmation of what, if any, intergovernmental discussions have taken place in this regard?



Llywodraeth Cymru
Welsh Government

Huw Irranca-Davies MS
Chair, Legislation, Justice and Constitution Committee
Senedd Cymru
Cardiff Bay
CF99 1NA

27 September 2023

Dear Huw,

Further to my recent letter advising you of the Finance: Interministerial Standing Committee Meeting (F:ISC) on 20 September in London, I would like to briefly report on the discussions. A communique was also published following the meeting: [Finance: Interministerial Standing Committee – 20 September 2023 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/news/finance-interministerial-standing-committee-20-september-2023)

Joining me in attendance were The Rt Hon John Glen MP, Chief Secretary to the Treasury, and Shona Robison MSP, Deputy First Minister of Scotland and Cabinet Secretary for Finance. Officials from the Northern Ireland Executive also attended virtually, to observe.

Further to an action from the previous meeting, all Ministers agreed the revised F:ISC Terms of Reference and Operating Protocols which officials reviewed over the summer: [Terms of Reference for the Finance Interministerial Standing Committee - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/123456/finance-interministerial-standing-committee-terms-of-reference-and-operating-protocols-2023.pdf)

The first part of the meeting focused on economic and fiscal priorities. A conversation took place on funding pressures, including Reinforced Autoclaved Aerated Concrete (RAAC). I outlined the need for further clarity of spending decisions taken in England and the implications these have for our budget settlement, in particular in relation to NHS pay. I also made the case for more flexibility, including pressing for the changes to borrowing and reserve limits made to the Scottish Government Fiscal Framework to be automatically applied to Wales.

During a discussion on the upcoming UK Government Autumn Statement, I stressed the implications that the late timing has for the Welsh Government draft budget, particularly in terms of the short timescale for Senedd scrutiny. I requested a meeting closer to the Statement to discuss any developments and priorities. I noted that it would be helpful to understand the outcome of the UK Government's Productivity Review and any implications that this might have for our budget settlement.

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:
0300 0604400

Bae Caerdydd • Cardiff Bay
Caerdydd • Cardiff
CF99 1SN

Correspondence.Rebecca.Evans@gov.wales
Gohebiaeth.Rebecca.Evans@llyw.cymru

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.

The second part of the meeting focused on energy security. I mentioned the Future Energy Grids for Wales report, which is helpful in detailing the urgent case for investment in the network and grid infrastructure. We discussed improvements to the Contracts for Difference funding package, which provides support for emerging renewable technologies. I also raised the need for UK Government investment in port infrastructure to support Floating Offshore Wind deployment in Wales.

The Scottish Government will host the next meeting, in January.

Yours sincerely,

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

Rebecca Evans AS/MS

Y Gweinidog Cyllid a Llywodraeth Leol
Minister for Finance and Local Government

Agenda Item 4.5

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



Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref: JJ/PO/318/2023

Huw Irranca-Davies MS
Chair
Legislation, Justice and Constitution Committee
Welsh Parliament
Cardiff Bay
Cardiff
CF99 1SN

27 September 2023

Dear Huw,

Thank you for your letter of 15 September in respect of the Fluorinated Greenhouse Gases (Amendment) Regulations 2023.

I welcome the feedback of the Legislation, Justice and Constitution Committee (LJC Committee) on this matter and have responded to your questions in the attached annex to this letter.

Yours sincerely,

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

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:
0300 0604400

Bae Caerdydd • Cardiff Bay
Caerdydd • Cardiff
CF99 1SN

Gohebiaeth.Julie.James@llyw.cymru
Correspondence.Julie.James@gov.Wales

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

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

Annex

1(i). Please would you confirm and provide details of the consent process which has been followed in respect of the Regulations.

The UK Government has committed to not using powers set out in the legislation to make provisions that could be made by a devolved Government without their consent. As you are aware from my letter to the LJC Committee of 1 September, these Regulations make provisions that could be made by Welsh Ministers in exercise of their own powers. Specifically, the enabling powers under Section 14(2) of the REUL Act allow a National Authority (as defined in the Act) to legislate either individually or jointly to revoke any secondary retained EU law and replace it with a provision as it considers to be appropriate. The consent of the Welsh Ministers was sought on this basis.

In this instance, the Welsh Ministers were given a very tight timeframe to consider consent, in the context of UK Government plans to lay the Regulations. My officials worked with their counterparts in UK Government to understand consequences and implications of withholding consent, or not consenting in time, as well as the various scenarios which might follow. If Welsh Ministers had refused consent, or not confirmed their decision in the requested timescales, the Regulations would not have been laid before the UK Parliament.

Consequently, reference values for 2024-26 would have been calculated based on 2021 data, in accordance with the legislation, and the amount of quota available to businesses significantly reduced. This severe, premature and unexpected phasedown could have resulted in potential supply issues for critical sectors, with insufficient time for alternatives to be deployed.

1(ii). Please would you confirm that the Welsh Ministers were consulted on the terms of the Regulations as part of the relevant common framework structures, as is suggested in the draft Explanatory Memorandum to the Regulations

I can confirm that Welsh Ministers were consulted on the terms of the Regulations through the Ozone-Depleting Substances and Fluorinated Greenhouse Gases UK Common Framework. The detail in the draft Explanatory Memorandum provides an accurate explanation of the process followed.

2(i). Please would you confirm our understanding that the Regulations do not result in the revocation or replacement of REUL or its assimilation into the domestic statute book.

As you rightly set out in your letter, these Regulations were made under section 14(2) of the REUL Act. Reference, in my letter of 1 September, to the Regulations being made under paragraph 5(5) of Schedule 5, was to the parliamentary process through which the Regulations were proposed to be scrutinised and agreed. Regulations made under section 14(2) of the REUL Act are subject to these requirements.

I can confirm the Regulations amend Article 16(3) of the retained EU F-Gas Regulation ((EU) No 517/2014 on fluorinated greenhouse gases. This does not result in the complete replacement of the original EU Regulation. That Regulation continues to be regarded as retained EU law until the end of 2023 at which point such law will be known as 'assimilated law' (see, section 5 of the REUL Act 2023). Assimilated law will be stripped of certain features of EU law which influence how such law is interpreted and applied by domestic

courts. These features include the principle of EU law supremacy, consistent interpretation, direct effect and directly effective rights, and general principles of EU law (see, sections 2 - 4 of the REUL Act 2023).

2(ii). Before making a decision to consent to the Regulations, did the Welsh Government undertake any assessment of the specific power in the REUL Act being used to make the Regulations?

An assessment was made of the nature of the proposed enabling powers contained in section 14(2) of the REUL Act. Consideration was given to the possibility of making a Wales-only SI. However, as set out in my previous letters, it was considered appropriate for the substance of the amendments made by the UK SI to apply to Wales as there was no policy divergence between the Welsh and UK Government (and Scottish Government) on this matter.

The REUL Act did not come into force until 29th June, after which time consideration was given to the applicability of the enabling powers contained therein. Subsequently, there was insufficient time to prepare and lay a Welsh SI and have it in force in Wales by 31 October. Consequently, failure to make a Welsh SI in that scenario would have potentially resulted in the GB systems for quota allocation becoming inoperable.

2(iii). Our understanding is that paragraph 5(5) of Schedule 5 to the REUL Act gives a UK Minister the option of using the draft affirmative or made negative procedure. Before making a decision to consent to the Regulations, did the Welsh Government undertake any assessment of the choice of scrutiny procedure being followed by the UK Government?

The precise route with which UK Parliament makes regulations is a matter for UK Government and UK Ministers. However, I can confirm that both draft affirmative and made negative procedures were considered as part of routine discussions held under the common framework arrangements.

The affirmative resolution procedure was proposed by the UK Government as the preferred option due to timescale requirements for the Regulations needing to come into force by 31 October, and as the safer route for avoiding any potential future delays. Officials supported the draft affirmative procedure as it provides greater scrutiny through parliamentary debates.

2(iv). You will be aware that the powers in section 14 of the REUL Act are constrained to revocation or replacement of the law that a relevant national authority considers does not increase the regulatory burden in a particular subject area. Before making a decision to consent to the Regulations, did the Welsh Government's consideration of the Regulations include an assessment of how they comply with this constraint and if there is any potential increase to the regulatory burden? If so, would you share it with the Committee?

As set out in my letter of 1 September, these Regulations are solely intended to correct a technical error made by a previous amending instrument (SI 2020/1616). This relates to the date from which data can be used to recalculate the quantities of hydrofluorocarbons that can be lawfully placed on the GB market from 2024. The amendment realigns the GBs phase-down of hydrofluorocarbons with previous commitments made under the Montreal protocol and current policy ambitions.

As set out in the Explanatory Memorandum to the Regulations, the agreed intention when leaving the EU was to retain the substance of the F-gas Regulation following Exit, including

the process to calculate HFC reference values, quota and the pace of phasedown set out in the EU F-gas Regulation. The technical amendment made by the Regulations realigns the GB with that policy intent.

Julie James MS
Minister for Climate Change

15 September 2023

Dear Julie,

The Fluorinated Greenhouse Gases (Amendment) Regulations 2023

Thank you for your letter of 1 September 2023 in respect of your intention to consent to the UK Government laying The Fluorinated Greenhouse Gases (Amendment) Regulations 2023, which were laid before the UK Parliament on 4 September.

At our meeting of 11 September 2023, we considered your letter and detail contained therein. There are a number of matters which we would like to pursue with you further.

I would be grateful if you could provide a response to our questions, which are included in the annex to this letter, by 28 September 2023.

Yours sincerely,



Huw Irranca-Davies
Chair

Annex

1. You state that you received a letter from the Rt Hon. Lord Benyon, Minister of State for Biosecurity, Marine and Rural Affairs, asking for your consent to the Regulations. The Regulations are being made using powers in the *Retained EU Law (Revocation and Reform) Act 2023* (the REUL Act). You will be aware that the REUL Act does not contain a provision requiring the consent of the Welsh Ministers to be sought before a UK Minister exercises a delegated power in a devolved area under that Act.
 - i. Please would you confirm and provide details of the consent process which has been followed in respect of the Regulations.
 - ii. Please would you confirm that the Welsh Ministers were consulted on the terms of the Regulations as part of the relevant common framework structures, as is suggested in the draft Explanatory Memorandum to the Regulations.
2. While your letter states that the Regulations are being made under paragraph 5(5) of Schedule 5 to the REUL Act, our understanding is that that paragraph sets out the parliamentary procedure for regulations made under various powers in the REUL Act. We believe the Regulations are being made using the section 14(2) 'revoke and replace' power in the REUL Act. The Regulations do not appear to result in the revocation or replacement of REUL or its assimilation into the domestic statute book. In your letter you state that the Regulations correct a technical error made in a previous amending instrument.
 - i. Please would you confirm our understanding that the Regulations do not result in the revocation or replacement of REUL or its assimilation into the domestic statute book.
 - ii. Before making a decision to consent to the Regulations, did the Welsh Government undertake any assessment of the specific power in the REUL Act being used to make the Regulations?
 - iii. Our understanding is that paragraph 5(5) of Schedule 5 to the REUL Act gives a UK Minister the option of using the draft affirmative or made negative procedure. Before making a decision to consent to the Regulations, did the Welsh Government undertake any assessment of the choice of scrutiny procedure being followed by the UK Government?
 - iv. You will be aware that the powers in section 14 of the REUL Act are constrained to revocation or replacement of the law that a relevant national authority considers does not increase the regulatory burden in a particular subject area. Before making a decision to consent to the Regulations, did the Welsh Government's consideration of the Regulations

include an assessment of how they comply with this constraint and if there is any potential increase to the regulatory burden? If so, would you share it with the Committee?



Lesley Griffiths AS/MS
Y Gweinidog Materion Gwledig a Gogledd Cymru, a'r Trefnydd
Minister for Rural Affairs and North Wales, and Trefnydd

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

SeneddLJC@senedd.wales

28th September 2023

Dear Huw,

The Official Controls (Plant Health) (Prior Notification) and Phytosanitary Conditions (Amendment) Regulations 2023.

I wish to inform the Committee of the intention to consent to the UK Government making and laying The Official Controls (Plant Health) (Prior Notification) and Phytosanitary Conditions (Amendment) Regulations 2023 ("The Regulations") by 26 October 2023.

I received a letter from Lord Benyon, Minister for Biosecurity, Marine and Rural Affairs, requesting consent to the Regulations. The Regulations will be made by the Secretary of State for Environment, Food and Rural Affairs, in exercise of the powers conferred by Articles 5(3), 30(1), 40(3), 41(3) and 105(6) to, Regulation (EU) 2016/2031 of the European Parliament and of the Council on protective measures against pests of plants. Article 2a (2) of the Regulation (EU) 2016/2031 provides that such Regulations can be made by the Secretary of State with the consent of the Welsh Ministers.

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:
0300 0604400

Bae Caerdydd • Cardiff Bay
Caerdydd • Cardiff
CF99 1SN

Gohebiaeth.Julie.James@llyw.cymru
Correspondence.Julie.James@gov.Wales

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

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

The purpose of the Regulations is to update aspects of the Phytosanitary Conditions Regulations (PCR) to introduce the following changes:

- Deregulate specific GB quarantine pests (QPs) which have been assessed by the Plant Health Risk Group (PHRG) as not meeting the criteria to be a QP.
- The addition of new GB QPs which have been assessed by the PHRG as meeting the criteria to be a QP.
- The addition of new GB provisional quarantine pests (PQPs) which have been assessed by the PHRG as meeting the criteria to be a QP on the basis of a provisional assessment.
- Update import requirements to take account of changes in the material traded.
- Introduce a change missed in a previous SI.
- Formalise an easement in order to make import requirements work in practice.
- Include a derogation which was carried over as retained EU law but which has now expired and needs to be included in GB legislation.

In addition, the Regulations will introduce an amendment to enable provisions within the Borders Target Operating Model (TOM). This provision will amend the Official Control Regulations (OCR) to provide an exception of certain fruit and vegetables to the pre-notification requirements of the OCR.

The Statutory Instrument (SI) is subject to the negative procedure and is due to be laid before UK Parliament on 26 October 2023. Urgent measures in the Regulations will come into force on 17 November and 24 November 2023, with non-urgent measures coming into force on 2 May 2024.

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 Regulations to be laid by UK Government. The Regulations relate to a devolved area, however, they impact on imports of plant and plant products GB-wide. Many of the changes in the Regulations relate to the importation of plants and plant products. Most of these goods which enter Wales come through English ports and would be subject to their importation legislation. Introducing separate regulations in Wales and England may cause additional burden on the Animal and Plant Health Agency (APHA), business, traders and growers. Regulating on a GB-wide basis ensures a coherent and consistent statute book with the regulations being accessible in a single instrument with no risk of legislative divergence in Great Britain. Additionally, doing Wales-only Regulations for some provisions within this SI would likely have implications for the task of reforming and consolidating plant health legislation following assimilation of the REUL Bill at the end of 2023, as well having implications for notifying the World Trade Organisation (WTO) of the changes.

I would like to reassure this Committee it is normally the policy of the Welsh Government to legislate for Wales in matters of devolved competence. Therefore, I am giving my consent to these Regulations. There is no policy divergence between the Welsh and UK Government in this matter.

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

Yours sincerely,

A handwritten signature in black ink that reads "Lesley Griffiths". The signature is written in a cursive style with a large, sweeping 'L' and 'G'.

Lesley Griffiths AS/MS
Y Gweinidog Materion Gwledig a Gogledd Cymru, a'r Trefnydd
Minister for Rural Affairs and North Wales, and Trefnydd

Agenda Item 5.1

This document provides a translation of correspondence received from the Welsh Language Commissioner.

Efa Gruffudd Jones
Comisiynydd y Gymraeg
Welsh Language Commissioner

01/01



**Comisiynydd y
Gymraeg
Welsh Language
Commissioner**

Huw Irranca Davies MS
Chair
Legislation, Justice and Constitution Committee
Welsh Parliament
Cardiff Bay
Cardiff
CF99 1SN

15/09/2023

Dear Chair,

Since taking up my post as Welsh Language Commissioner in early 2023 I have been meeting people across Wales, in the form of individuals, community groups and different organisations, to discuss the situation of the Welsh language. I have deepened my understanding of the work and powers of the Commissioner and seen how the standards regime has taken root and seen the significant increase in Welsh language provision by public bodies throughout Wales as a result of this. There is still a great deal to be done, however, to ensure that Welsh speakers feel confident to use the Welsh language every day.

Although the Welsh language is not a specific focus of the work of the Committee you chair, the areas you will scrutinize specifically affect opportunities for people to use the Welsh language. With that in mind I would be delighted to meet you to discuss my priorities as Commissioner and the relevance of the Welsh language to your areas of work. Could you please contact Cerian Davies, cerian.davies@cyg-wlc.cymru to arrange a convenient time for us to speak.

Yours sincerely

Efa Gruffudd Jones

Comisiynydd y Gymraeg

Comisiynydd y Gymraeg
Siambrau'r Farchnad
5-7 Heol Eglwys Fair
Caerdydd CF10 1AT

0345 6033 221
post@comisiynyddygyymraeg.cymru
Croesewir gohebiaeth yn y Gymraeg a'r Saesneg

Welsh Language Commissioner
Market Chambers
5-7 St Mary Street
Cardiff CF10 1AT

0345 6033 221
post@welshlanguagecommissioner.wales
Correspondence welcomed in Welsh and English

Rebecca Evans MS,
Minister for Finance and Local Government

22 September 2023

Dear Rebecca,

Evidence papers supporting the 2024-25 Draft Budget

Many thanks for your [letter](#) of 8 September.

I am grateful for the constructive manner in which you have engaged with the Finance Committee on ways that ministerial written evidence on the Welsh Government's Draft Budget proposals can be improved, with the aim of addressing the issues identified in my [letter](#) of 23 June.

I welcome your intention to confirm when Ministers will provide their evidence papers to Senedd Committees ahead of the 2024-25 budget round. I am also grateful that Senedd Committees will be offered a technical briefing on the Draft Budget.

In terms of your request for a clear indication from the Finance Committee on what would be considered essential for inclusion in ministerial evidence papers, it would not be appropriate for me to provide a single list of proposals without consulting Committee Chairs first.

Whilst I see benefits in developing a high level template for evidence papers, and although I am supportive of co-operation between committees to avoid duplication and overlap in its areas of focus during budget scrutiny, a consistent



approach may be difficult to achieve in practice given that Committees will naturally have different priorities and areas of focus.

I would also want to guard against the development of a template that may foster a prescriptive approach to the provision of written evidence, which may end up diluting the information made available to individual Committees as they seek to hold ministerial spending decisions to account.

The difficulties faced by Ministers in providing specific details for Committees relating to each MEG during the 2024-25 budget is a case in point. Although I recognise the challenges posed by this year's budget timetable, this should not restrict Committees from requesting detailed information relating to individual portfolios as this is crucial to informing public evidence sessions with Ministers, particularly when time to consult with stakeholders is limited.

I am therefore willing to explore ways in which a template could be developed, although I also acknowledge that developing consensus on this issue may take time and that it is unlikely that any changes will be agreed for the forthcoming budget round.

I am copying this response to all Senedd Committees with an interest in budget scrutiny to facilitate further discussions, and will raise this matter at the next meeting of the Chair's Forum on 23 October.

Yours sincerely



Peredur Owen Griffiths MS
Chair of the Finance Committee

Croesewir gohebiaeth yn Gymraeg neu Saesneg.

We welcome correspondence in Welsh or English.



Document is Restricted