

Agenda – Legislation, Justice and Constitution Committee

Meeting Venue:	For further information contact:
Video conference via Zoom	P Gareth Williams
Meeting date: 15 January 2024	Committee Clerk
Meeting time: 13.30	0300 200 6565
	SeneddLJC@senedd.wales

Remote

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

- 2 **Instruments that raise no reporting issues under Standing Order 21.2 or 21.3**
(13.30 – 13.35) (Pages 1 – 2)

Attached Documents:
LJC(6)–02–24 – Paper 1 – Draft report
Made Negative Resolution Instruments
 - 2.1 **SL(6)428 – The Regulated Services (Registration) (Wales) (Amendment) Regulations 2023**

 - 2.2 **SL(6)429 – The National Health Service (Charges to Overseas Visitors) (Amendment) (No. 3) (Wales) Regulations 2023**



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

(13.35 – 13.40)

Made Negative Resolution Instruments

3.1 SL(6)430 – The Apprenticeships (Specification of Apprenticeship Standards for Wales) (Modification) (Revocation) Order 2023

(Pages 3 – 6)

[Order](#)

[Explanatory Memorandum](#)

Attached Documents:

LJC(6)–02–24 – Paper 2 – Draft report

LJC(6)–02–24 – Paper 3 – Letter from the Minister for Economy, 8 December 2023

3.2 SL(6)431 – The Education (Student Finance) (Miscellaneous Amendments) (No. 3) (Wales) Regulations 2023

(Pages 7 – 11)

[Regulations](#)

[Explanatory Memorandum](#)

Attached Documents:

LJC(6)–02–24 – Paper 4 – Draft report

3.3 SL(6)433 – The Non-Domestic Rating (Improvement Relief) (Wales) Regulations 2023

(Pages 12 – 13)

[Regulations](#)

[Explanatory Memorandum](#)

Attached Documents:

LJC(6)–02–24 – Paper 5 – Draft report

3.4 SL(6)434 – The Local Authority Social Services Annual Reports (Prescribed Form) (Wales) (Amendment and Transitional Provision) Regulations 2023

(Pages 14 – 16)

[Regulations](#)

[Explanatory Memorandum](#)

Attached Documents:

LJC(6)-02-24 – Paper 6 – Draft report

Affirmative Resolution Instruments

3.5 SL(6)432 – The Wine (Amendment) (Wales) Regulations 2024

(Pages 17 – 19)

[Regulations](#)

[Explanatory Memorandum](#)

Attached Documents:

LJC(6)-02-24 – Paper 7 – Draft report

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

(13.40 – 13.45)

Made Negative Resolution Instruments

4.1 SL(6)419 – The Water Resources (Control of Agricultural Pollution) (Wales) (Amendment) (No. 3) Regulations 2023

(Pages 20 – 24)

Attached Documents:

LJC(6)-02-24 – Paper 8 – Report

LJC(6)-02-24 – Paper 9 – Welsh Government response

4.2 SL(6)436 – The Water Resources (Control of Agricultural Pollution) (Wales) (Amendment) (No. 4) Regulations 2023

(Pages 25 – 29)

Attached Documents:

LJC(6)-02-24 – Paper 10 – Report

LJC(6)-02-24 – Paper 11 – Welsh Government response

4.3 SL(6)427 – The Building Control Profession (Charges) (Wales) Regulations 2023

(Pages 30 – 33)

Attached Documents:

LJC(6)-02-24 – Paper 12 – Report

LJC(6)-02-24 – Paper 13 – Welsh Government response

5 Instruments that raise issues to be reported to the Senedd under Standing Order 21.7 – previously considered

(13.45 – 13.50)

6 Inter-Institutional Relations Agreement

(13.50 – 13.55)

6.1 Written Statement and correspondence from the Minister for Rural Affairs, North Wales, and Trefnydd: The Official Controls (Extension of Transitional Periods) (Miscellaneous Amendments) Regulations 2024

(Pages 34 – 37)

Attached Documents:

LJC(6)-02-24 – Paper 14 – Written Statement by the Minister for Rural Affairs and North Wales, and Trefnydd, 10 January 2024

LJC(6)-02-24 – Paper 15 – Letter from the Minister for Rural Affairs, North Wales, and Trefnydd, 10 January 2024

7 Papers to note

(13.55 – 14.00)

7.1 Correspondence from the Minister for Finance and Local Government: Local Government Finance (Wales) Bill

(Page 38)

Attached Documents:

LJC(6)-02-24 – Paper 16 – Letter from the Minister for Finance and Local Government, 9 January 2024

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

(14.00)

9 Elections and Elected Bodies (Wales) Bill: Draft report

(14.00 – 14.25)

(Pages 39 – 47)

Attached Documents:

LJC(6)-02-24 – Paper 17 – Draft report

LJC(6)-02-24 – Paper 18 – Letter from the Counsel General and Minister for the Constitution, 19 December 2023

LJC(6)-02-24 – Paper 19 – Letter to the Counsel General and Minister for the Constitution, 28 November 2023

10 International agreements: Draft report

(14.25 – 14.35)

(Pages 48 – 53)

Attached Documents:

LJC(6)-02-24 – Paper 20 – Draft report

11 Monitoring report

(14.35 – 14.45)

(Pages 54 – 74)

Attached Documents:

LJC(6)-02-24 – Paper 21 – Monitoring report

12 Supplementary Legislative Consent Memorandum on the Data Protection and Digital Information Bill

(14.45 – 15.00)

(Pages 75 – 87)

Attached Documents:

LJC(6)-02-24 – Paper 22 – Legal Advice Note

13 Welsh Government Draft Budget 2024–25: Consideration of proposed spending

(15.00 – 15.15)

(Pages 88 – 96)

[Welsh Government: Draft Budget 2024 – 2025](#)

Attached Documents:

LJC(6)-02-24 – Paper 23 – Research Briefing

14 Inquiry into UK–EU governance: Update

(15.15 – 15.25)

Statutory Instruments with Clear Reports 15 January 2024

SL(6)428 – The Regulated Services (Registration) (Wales) (Amendment) Regulations 2023

Procedure: Made Negative

The Regulated Services (Registration) (Wales) Regulations 2017 (**the 2017 Regulations**) make provision about the form and content of applications for registration, and applications for variation of a registration, under Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016 (**the 2016 Act**).

“Special school residential services” were prescribed as a regulated service for the purposes of Part 1 of the 2016 Act by the Regulated Services (Special School Residential Services) (Wales) Regulations 2023.

These Regulations amend the 2017 Regulations so that the 2017 Regulations apply to special school residential services.

Parent Act: Regulation and Inspection of Social Care (Wales) Act 2016

Date Made: 06 December 2023

Date Laid: 08 December 2023

Coming into force date: 31 December 2023



Statutory Instruments with Clear Reports

15 January 2024

SL(6)429 – The National Health Service (Charges to Overseas Visitors) (Amendment) (No. 3) (Wales) Regulations 2023

Procedure: Made Negative

These Regulations amend the National Health Service (Charges to Overseas Visitors) Regulations 1989 (S.I. 1989/306) (“the principal Regulations”), which provide for the making and recovery of charges for relevant services provided under the National Health Service (Wales) Act 2006 to certain persons not ordinarily resident in the United Kingdom. Regulation 2 adds Iceland and Liechtenstein to the list of countries or territories in respect of which the United Kingdom Government has entered into a reciprocal agreement in Schedule 2 to the principal Regulations.

Parent Act: National Health Service (Wales) Act 2006

Date Made: 06 December 2023

Date Laid: 08 December 2023

Coming into force date: 01 January 2024



SL(6)430 – The Apprenticeships (Specification of Apprenticeship Standards for Wales) (Modification) (Revocation) Order 2023

Background and Purpose

The Specification of Apprenticeship Standards for Wales (the “SASW”) specifies the requirements that must be met for recognised Welsh apprenticeship frameworks to be issued. The SASW was modified by the Apprenticeships (Specification of Apprenticeship Standards for Wales) (Modification) Order 2023 (the “**Modification Order**”).

This Order revokes the Modification Order as a result of 13 technical reporting points identified in the [Committee’s report](#) on the Modification Order.

This Order was made on 7 December 2023 and came into force on 9 December 2023.

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.**

We note the breach of the 21-day convention (i.e. the convention that 21 days should pass between the date a “made negative” instrument is laid before the Senedd and the date the instrument comes into force), and the following explanation for the breach provided by Vaughan Gething MS, Minister for Economy, in a letter to the Llywydd dated 8 December 2023:

“...The purpose of the [Modification] Order was to make changes to the [SASW] to support the Welsh Government’s policy goals in respect of apprenticeships.”



...The SASW specifies the requirements that must be met for recognised Welsh apprenticeship frameworks to be issued under section 19(1) of the Apprenticeships, Skills, Children and Learning Act 2009.

... Upon receipt of a report from the Legislation, Justice and Constitution Committee it became apparent that there were technical defects in the [Modification] Order that would prevent it from working as intended. It is therefore necessary to revoke the Modification Order before it comes into force on the 11 December."

Welsh Government response

A Welsh Government response is not required.

Legal Advisers

Legislation, Justice and Constitution Committee

10 January 2024



Senedd Cymru

Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad

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Welsh Parliament

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Legislation, Justice and Constitution Committee



Ein cyf/Our ref VG/00424/23

Llywodraeth Cymru
Welsh Government

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

8 December 2023

Dear Elin,

The Apprenticeships (Specification of Apprenticeship Standards for Wales) (Modification) (Revocation) Order 2023

In accordance with section 11A(4) of the Statutory Instruments Act 1946 I am notifying you that this statutory instrument will come into force on 09 December 2023, less than 21 days after it has been laid. A copy of the instrument and the Explanatory Memorandum that accompanies it are attached for your information.

On 17th November 2023 the Minister for the Economy made the Apprenticeships (Specification of Apprenticeship Standards for Wales) (Modification) Order 2023 ("the Modification Order"). The purpose of the Order was to make changes to the *Specification of Apprenticeship Standards for Wales* ("the SASW") to support the Welsh Government's policy goals in respect of apprenticeships. The Order was laid at the Senedd on 20th November 2023.

The SASW specifies the requirements that must be met for recognised Welsh apprenticeship frameworks to be issued under section 19(1) of the Apprenticeships, Skills, Children and Learning Act 2009 ("the 2009 Act"). All apprentice frameworks must meet the requirements specified in the modified SASW to be a recognised Welsh framework issued under section 19(1) of the 2009 Act.

Upon receipt of a report from the Legislation, Justice and Constitution Committee it became apparent that there were technical defects in the Order that would prevent it from working as intended. It is therefore necessary to revoke the Modification Order before it comes into force on the 11 December.

If the 21 day convention is adhered to, the Apprenticeships (Specification of Apprenticeship Standards for Wales) (Modification) Order 2023 would come into force on 11 December with technical defects in SASW that would prevent the modifications working as intended.

Not adhering to the 21 day convention allows the Apprenticeships (Specification of Apprenticeship Standards for Wales) (Modification) Order 2023 to be revoked and a new Order will be produced in the new year to implement the Welsh Government's policy intentions in respect of the SASW.

Bae Caerdydd • Cardiff Bay
Caerdydd • Cardiff
CF99 1SN

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

Gohebiaeth.Vaughan.Gething@llyw.cymru
Correspondence.Vaughan.Gething@gov.wales

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

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

I am copying this letter to the Minister for Rural Affairs, North Wales and Trefnydd, Huw Irranca-Davies MS, Chair of the Legislation, Justice and Constitution Committee, Siwan Davies, Director of Senedd Business, Bethan Davies, Head of Chamber and Committee Services and Julian Luke, Head of Policy and Legislation Committee Service.

Yours sincerely

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

Vaughan Gething AS/MS

Gweinidog yr Economi

Minister for Economy

SL(6)431 – The Education (Student Finance) (Miscellaneous Amendments) (No. 3) (Wales) Regulations 2023

Background and Purpose

These Regulations amend various existing Regulations relating to student finance.

These Regulations are split into nine Parts:

- Part 1 makes provision about the coming into force and application of these Regulations;
- Part 2 amends the Education (Fees and Awards) (Wales) Regulations 2007 (“the 2007 Regulations”);
- Part 3 amends the Education (European University Institute) (Wales) Regulations 2014 (“the 2014 Regulations”);
- Part 4 amends the Higher Education (Qualifying Courses, Qualifying Persons and Supplementary Provision) (Wales) Regulations 2015 (“the 2015 Regulations”);
- Part 5 amends the Education (Student Support) (Wales) Regulations 2017 (“the 2017 Regulations”);
- Part 6 amends the Education (Student Support) (Wales) Regulations 2018 (“the 2018 Regulations”);
- Part 7 amends the Education (Postgraduate Doctoral Degree Loans) (Wales) Regulations 2018 (“the Doctoral Degree Loan Regulations”);
- Part 8 amends the Education (Student Support) (Postgraduate Master’s Degrees) (Wales) Regulations 2019 (“the 2019 Regulations”); and
- Part 9 makes savings in respect of the 2014 Regulations and the 2018 Regulations.

The amendments made by these Regulations:

- update the categories of eligible students in the 2014 Regulations, the 2017 Regulations, the 2018 Regulations, the Doctoral Degree Loan Regulations and the 2019 Regulations and make corresponding changes to the 2007 Regulations and the 2015 Regulations, to include certain family members of persons who are granted leave to enter or remain in the United Kingdom under the Afghan or Ukraine related immigration schemes;
- update the definition of a “person with leave to enter or remain as a relevant Afghan citizen” in the 2014 Regulations as a result of changes to the immigration rules.
- omit obsolete references to Scottish Regulations in the 2017 Regulations and the 2018 Regulations;



- require distance learning students to be in Wales on the first day of the first academic year to qualify for a grant for deoendants, unless an exception applies, under the 2018 Regulations; and
- provide for early termination of eligibility under the Doctoral Degree Loan Regulations and the 2019 Regulations, where a student ceases to have certain types of leave to enter, or remain in, the United Kingdom.

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

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

In regulation 5(b), in the new definition of “person with leave to enter or remain as a relevant Afghan citizen”, in paragraph (a), there is a reference to “paragraph 276BA2 of the immigration rules”. However, “paragraph 276BA2” is shown as “deleted” in the immigration rules on the UK Government’s website. It is unclear if this reference require updating in the definition or if it is referring to Afghan citizens who have already been given indefinite leave to enter the United Kingdom under that paragraph. There are also other references to “paragraph 276BA2” in the amendments found in regulations 9(a) and 16(b).

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

In regulations 19(b), 21(b) and 22(b), the amendments appear to be incorrectly drafted as the words “is allowed to stay in the United Kingdom” will be missing from the new text as amended.

For example, as a result of the amendment found in regulation 19(b) of these Regulations, the new text of regulation 4(10F)(b) of the Education (Student Support) (Wales) Regulations 2017 will read as follows:

“...the period for which [the person granted leave to enter or remain] as a protected Ukrainian national has expired and no further leave to enter or remain has been granted...”



However, it does appear that the words “for which” require the additional words “is allowed to stay in the United Kingdom” to complete the meaning of the sentence, particularly when compared with other amendments made by these Regulations (e.g., regulations 12(b) and 63). If those words were included, the amended text would read as follows:

*“...the period for which [the person granted leave to enter or remain] as a protected Ukrainian national [**is allowed to stay in the United Kingdom**] has expired and no further leave to enter or remain has been granted...”*

Therefore, these amendments require further explanation as to whether these additional words should also have been included in the final text as amended by regulations 19(b), 21(b) and 22(b) of these Regulations.

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

In regulation 36(c)(i) and (ii), the locations of the existing text for the amendments are incorrectly described as “**sub**-paragraph (aa)” and “**sub**-paragraph (ab)” respectively but they should be described as “**paragraph** (aa)” and “**paragraph** (ab)”.

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

In regulation 55(a) and (b), the locations of the existing text for the amendments are incorrectly described as “**sub**-paragraph (b)” but should be described as “**paragraph** (b)”.

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

In regulation 56, the new definitions are described as being inserted “at the appropriate place in alphabetical order” in Table 16 of Schedule 7 to the Education (Student Support) (Wales) Regulations 2018. However, the new definitions haven’t been listed in alphabetical order in either the English or Welsh texts of regulation 56. The second definition ““leave application date” (for the purpose of determining if a person is a protected partner or a child of a protected partner)” should appear before the first definition in the list of both language texts if they are to be alphabetically ordered when inserted in Table 16 of Schedule 7. In addition, the formatting of the list of table entries is confusing as a single horizontal line appears after the first definition in the English and Welsh texts, and there are also additional lines in the middle of the same definition at the bottom and top of pages 25 and 26 in the Welsh text.



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

In regulation 56, in the Welsh text, there appears to be an historical error which is maintained in the final new definition of “leave application date” found in the list for “Schedule 2, paragraph 3”. The definition is translated as “dyddiad y cais i gael caniatâd **i aros**” unlike the other definitions in the list which are translated as “dyddiad y cais i gael caniatâd i ddod **i mewn neu i aros**”. It is true that “dyddiad y cais i gael caniatâd i aros” is the definition that has been used in the Welsh text of paragraph 3(2)(b), (3)(b) and (5) of Schedule 2 to the Education (Student Support) (Wales) Regulations 2018. But the meaning of “leave application date” in paragraph 3(5) of Schedule 2 to those Regulations is given as “the date on which the person with leave **to enter or remain** made the application that led to that person being granted leave **to enter or remain** in the United Kingdom”. Therefore, the existing translation of that term is incorrect because it means “leave **to remain** application date” rather than “leave **to enter or remain** application date”, and that historical error is maintained by the Welsh definition listed for “Schedule 2, paragraph 3” by regulation 56 of these Regulations. The Welsh text should state “dyddiad y cais i gael caniatâd i ddod i mewn neu i aros” as used for the other entries listed in regulation 56.

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

In regulation 80(3), in the Welsh text, the definition “current Afghan scheme student” has been translated and defined as “myfyriwr **presennol** sydd ar y cynllun **Afghanistan**” for the purposes of that regulation. However, this isn’t the term that has actually been used in the Welsh text of regulation 80(1) which is “myfyriwr **cyfredol** sydd ar y cynllun **Affganistan**” (the term that was previously defined and used consistently in the Welsh text of regulation 79). It also means that the Welsh definition found in italics and brackets immediately after the definition of “current Afghan scheme student” in the English text of regulation 80(3) is incorrect.

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

In regulation 80(3), in the English text, both the definitions of “relevant course” and “relevant student” do not include the corresponding Welsh definition in italics and brackets afterwards.

Merits Scrutiny

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



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

We note there has been no formal consultation on these Regulations. In particular, we note the following paragraph 5.1 of the Explanatory Memorandum:

“A consultation has not been carried out as some of the amendments are required to correct and update law arising from changes to Immigration Rules and to remove redundant regulatory provision. Other amendments which extend eligibility to student support ... the Welsh Government’s policy on being a ‘Nation of Sanctuary’”.

Welsh Government response

A Welsh Government response is required in respect of reporting points 1-8.

Legal Advisers

Legislation, Justice and Constitution Committee

10 January 2024



Agenda Item 3.3

SL(6)433 – The Non-Domestic Rating (Improvement Relief) (Wales) Regulations 2023

Background and Purpose

These Regulations have effect for the purposes of determining eligibility for, and calculating the amount of, improvement relief from non-domestic rating liability. They specify the conditions that must be satisfied to be eligible for improvement relief; define the meaning of “qualifying improvement works” for the purpose of determining eligibility for improvement relief; set the amount of “G” which determines the amounts of relief to be given to particular hereditaments whose chargeable amounts are calculated in accordance with specific formulae; and make provision requiring the appropriate valuation officer to certify rateable values for the purposes of the application of these Regulations.

The Explanatory Memorandum to the Regulations states that they are intended to incentivise investment in property improvements by providing ratepayers with a 12-month period of relief from the effect on their non-domestic rates liability of increases in rateable value that would otherwise occur.

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

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

The Committee notes that these Regulations relate to Schedules 4ZA and 5A (“the Schedules”) to the Local Government Finance Act 1988 (“the 1988 Act”) but that the Schedules are not yet effective. The Schedules have been inserted into the 1988 Act by the Non-Domestic Rating Act 2023 (“the 2023 Act”). Under section 19(2) of the 2023 Act, the Schedules will have effect in relation to financial years beginning on or after 1 April 2024.



These Regulations come into force on 1 April 2024 to tie in with when the Schedules come into effect.

Welsh Government response

A Welsh Government response is not required.

Legal Advisers

Legislation, Justice and Constitution Committee

21 December 2023



Senedd Cymru

Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad

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Welsh Parliament

Legislation, Justice and Constitution Committee

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Agenda Item 3.4

SL(6)434 – The Local Authority Social Services Annual Reports (Prescribed Form) (Wales) (Amendment and Transitional Provision) Regulations 2023

Background and Purpose

The Local Authority Social Services Annual Reports (Prescribed Form) (Wales) Regulations 2017 (“the 2017 Regulations”) prescribe the specific information that must be included in the annual reports of local authorities in respect of their social services functions, and set out the headings under which the required information is to be provided.

These Regulations amend the 2017 Regulations to update the information that must be included in annual reports and headings under which the information required is to be provided. This is being done to ensure alignment with the requirements of the revised Code of Practice (the revised Part 8 Code) that has been issued in relation to the performance and improvement of social services in Wales.

These Regulations also contain a transitional provision which clarifies that the amendments made to the 2017 Regulations will apply to annual reports prepared from and including the 2024/25 financial year onwards.

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(vi) – that its drafting appears to be defective or it fails to fulfil statutory requirements

Regulation 4 makes transitional arrangements in respect of the amendments made by these Regulations. As pointed out in the Explanatory Memorandum:

“Power to make transitional provision is provided under section 196(2)(c) of the 2014 Act.”



However, section 196(2)(c) of the Social Services and Well-being (Wales) Act 2014 is not cited as an enabling provision in the preamble to these Regulations.

Merits Scrutiny

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

Welsh Government response

Technical Scrutiny point 1: The Government acknowledges that regulation 4 makes transitional arrangements in respect of the amendments made by these Regulations, but that section 196(2)(c) of the Social Services and Well-being (Wales) Act 2014 is not cited as an enabling provision in the preamble.

However, we would like to share the following observations with the Legislation, Justice and Constitution Committee.

- 1) The specific regulation within the instrument which relies upon section 196(2)(c) confers a benefit on local authorities ("LAs"). This is regulation 4, which merely seeks to provide LAs with clarity on how to apply the Regulations in circumstances where they come into force on 1 April 2024, during a period within which they are still delivering reports for the previous reporting year.
- 2) The Government does not believe that this alters the principal effect of the instrument, which remains intra vires. The Government relies upon the principles set out in *Inco Europe Ltd v First Choice Distribution* [2000] 1 WLR 586 in support of its view. Furthermore, the Welsh Ministers have the power to make the regulation and it is clear from the operative provision of the S.I. that section 196(2)(c) was intended to be specified in the preamble, hence its reference in the Explanatory Memorandum. The principle set out in the *Inco* case, therefore, that the courts can intervene to correct what is clearly a drafting error is relevant to this situation.
- 3) Even if the effect of the omission of citation of section 196(2)(c) in the preamble of the Regulations is to undermine the legal effect of regulation 4, given its purpose is to simply provide clarification to local authorities on the reporting requirements for the relevant period as outlined at 1) above, this would be an interpretation of the Regulations open for LAs to make in any event.

In light of these observations the Government does not consider that any action to amend the Regulations is warranted.

Legal Advisers

Legislation, Justice and Constitution Committee

3 January 2024



SL(6)432 – The Wine (Amendment) (Wales) Regulations 2024

Background and Purpose

These Regulations make amendments to assimilated direct legislation relating to the marketing of wine and oenological practices used to produce and conserve wine and other wine products. "Oenological" means 'of wine and wine making'. These Regulations apply in Wales.

These Regulations amend Article 53 of Commission Delegated Regulation (EU) 2019/33 of 17 October 2018 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards applications for protection of designations of origin, geographical indications and traditional terms in the wine sector, the objection procedure, restrictions of use, amendments to product specifications, cancellation of protection, and labelling and presentation (EUR 2019/33) ("Regulation (EU) 2019/33"). The amendment inserts a provision in Regulation (EU) 2019/33 prohibiting the marketing of a product using the term "ice wine", "icewine" or "ice-wine" and similar terms (whether in English or in a different language), unless the product is wine made exclusively from grapes naturally frozen on the vine.

These Regulations also amend Commission Delegated Regulation (EU) 2019/934 of 12 March 2019 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards wine-growing areas where the alcoholic strength may be increased, authorised oenological practices and restrictions applicable to the production and conservation of grapevine products, the minimum percentage of alcohol for by-products and their disposal, and publication of OIV files (EUR 2019/934) ("Regulation (EU) 2019/934").

Regulation (EU) 2019/934 authorises specified oenological practices. It supplements Article 80(1) of Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products (EUR 2013/1308) ("Regulation (EU) No 1308/2013"). Article 80(1) of Regulation (EU) No 1308/2013 prohibits the use of unauthorised oenological practices in the production and conservation of wine and other wine products. The amendments made by these Regulations to Regulation (EU) 2019/934 make changes to the oenological practices that may be used in the production and conservation of wine and other wine products.

Procedure

Draft Affirmative.

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



Technical Scrutiny

The following 2 points are identified for reporting under Standing Order 21.2 in respect of this instrument.

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

In the second paragraph of the preamble, the title of Regulation (EC) No 178/2002 appears to be incomplete. The words 'of 28 January 2002' are missing after 'Council'.

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

In Part 3 of the Schedule to these Regulations there is reference to 'File 3.4.23 (2023)', however, in the OIV Code of Oenological Practices the reference found in the title to file 3.4.23 is '(OENO 581A-2021)'. The Welsh Government is asked to confirm whether or not '(2023)' is correct.

Merits Scrutiny

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

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

The Explanatory Memorandum explains the following:

This statutory instrument has two distinct purposes.

(1) As a result of the UK joining the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP), the 4 devolved governments of the UK must introduce rules by statutory instrument to prohibit the marketing of wine as "ice wine" and using similar descriptions unless the product is wine made exclusively from grapes naturally frozen on the vine. These statutory instruments must be in force by 15 July 2024 when the UK formally joins CPTPP.

(2) It will also make changes to the oenological practices, processes and restrictions that may be used in the production and conservation of wine and other wine products. These changes are extensive. (NB "oenological" means 'of wine and wine making').

This statutory instrument applies only in relation to Wales. Defra is making a parallel instrument which applies in England. It is understood that the Scottish Government is making its own instrument to apply in Scotland.



The Explanatory Memorandum also notes the following, in relation to the carrying out of a regulatory impact assessment:

The Regulations introduce amendments which does not alter the policy (or its impact) in any significant way; the SI relates to minor technical amendments being made to retained EU legislation, to provide flexibilities to businesses. The impact to businesses is anticipated to be nil.

This is in line with the policy set out in the Welsh Ministers' code of practice for carrying out regulatory impact assessments for subordinate legislation.

As it is not explicitly stated in the Explanatory Memorandum, the Welsh Government is asked to confirm whether or not a regulatory impact assessment has been carried out.

The Welsh Government is also asked to explain how the 'extensive' changes to the oenological practices, processes and restrictions that may be used in the production and conservation of wine and other wine products are considered to be minor technical amendments.

Welsh Government response

A Welsh Government response is required to all reporting points.

Legal Advisers

Legislation, Justice and Constitution Committee

20 December 2023



Senedd Cymru

Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad

—

Welsh Parliament

Legislation, Justice and Constitution Committee

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Agenda Item 4.1

SL(6)419 – The Water Resources (Control of Agricultural Pollution) (Wales) (Amendment) (No. 3) Regulations 2023

Background and Purpose

These Regulations amend the Water Resources (Control of Agricultural Pollution) (Wales) Regulations 2021 (S.I. 2021/77 (W. 20)) (“the 2021 Regulations”), and are due to come into force on 1 January 2024.

These Regulations implement the second stage of a two-stage process for introducing an enhanced nutrient management regime for the calendar year 2024 for holdings or part of holdings not previously situated within a Nitrate Vulnerable Zone (“NVZ”) and sown with at least 80% grass (defined in these Regulations as “qualifying grassland holdings”).

Regulation 3 amends regulation 2 (transitional measures for holdings not previously in a nitrate vulnerable zone) of the 2021 Regulations. It changes the implementation date for regulation 4 (application of livestock manure – total nitrogen limit for the whole holding) for holdings or parts of holdings not previously situated within a NVZ as shown on the NVZ index map, where 80% or more of the agricultural area is sown with grass (“qualifying grassland holdings”) from 1 January 2024 to 1 January 2025. This means that the total nitrogen limit in livestock manure for the whole holding (170kg multiplied by the area of the holding in hectares) in regulation 4 of the 2021 Regulations does not apply to qualifying grassland holdings until 1 January 2025.

Regulation 4 amends regulation 3 (interpretation) of the 2021 Regulations by inserting definitions of the terms “enhanced nutrient management plan”, “precision spreading equipment”, “qualifying grassland holding” and “relevant period”. It also substitutes a definition of “NRW” for “NRBW”.

Regulation 5 inserts new regulations 4A and 4B into the 2021 Regulations. Regulation 4A (application of grazing and non-grazing livestock manure on qualifying grassland holdings during the relevant period – total nitrogen limits for whole holding and additional requirements) establishes, for the calendar year 2024 (the “relevant period”), the whole holding total nitrogen limits for both grazing and non-grazing livestock manure for qualifying grassland holdings. Regulation 4A(1) provides that occupiers of qualifying grassland holdings must not apply, during the relevant period, a total amount of nitrogen in grazing livestock manure to the whole holding in excess of 250kg multiplied by the area of the holding in hectares and must not apply a total amount of nitrogen in nongrazing livestock manure to the whole holding in excess of 170kg multiplied by the area of the holding in hectares.

Regulation 4A(2) provides that where an occupier of a qualifying grassland holding intends to apply to the



holding, during the relevant period, a total amount of nitrogen in grazing livestock manure which exceeds 170kg multiplied by the area of the holding in hectares, they must comply with additional enhanced nutrient management requirements established under Schedule 1A (enhanced nutrient management requirements) and notify Natural Resources Wales (“NRW”). Regulation 4B (notice requirements) sets out the notice requirements that the occupier of a qualifying grassland holding must comply with when notifying NRW.

Regulation 6 makes minor amendments to regulation 14 (spreading organic manure near surface water, boreholes, springs or wells) of the 2021 Regulations to assist with clarity.

Regulation 7 replaces references to “NRBW” with references to “NRW” wherever they occur in the Regulations. This is in consequence of replacing the definition of “NRBW” with “NRW” under regulation 3.

Regulation 8 inserts a new Schedule 1A (enhanced nutrient management requirements) into the 2021 Regulations which sets out the additional enhanced nutrient management requirements to be met by an occupier of a qualifying grassland holding if the occupier intends, during the relevant period, to apply to the holding a total amount of nitrogen in grazing livestock manure which exceeds 170kg multiplied by the area of the holding in hectares.

The additional enhanced nutrient management requirements set out in these Regulations will apply to occupiers of qualifying grassland holdings in additions to the requirements which already apply to such occupiers by virtue of Parts 2 to 7 of the 2021 Regulations. Also, any occupier of a holding failing to comply with these additional requirements during the calendar year 2024 will be guilty of an offence and liable on summary conviction, or on conviction on indictment, to a fine, as is provided for under regulation 46 of the 2021 Regulations.

Procedure

Negative

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

Technical Scrutiny

Three 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 Schedule, in the new Schedule 1A, in paragraph 1, there is a difference between the English and Welsh texts. In the English text, it refers to “the occupier of a qualifying grassland



holding”, but this has been translated as meaning “the holder of a qualifying grassland holding”. Elsewhere in the existing Regulations and in the new amendments, the Welsh text has correctly used “meddiannydd” (“occupier”) rather than “deiliad” (“holder”) as the translation of “occupier”.

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

In the Schedule, in the new Schedule 1A, the structure of paragraph 11 is incorrect as it opens with “11-(1)”. This creates an expectation in the reader that the sub-paragraph (1) will be followed by a sub-paragraph (2). But there is no sub-paragraph (2) so it should be structured as “11” rather than “11-(1)”. An example of a correctly structured provision is seen later in paragraph 20.

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

In the Schedule, in the new Schedule 1A, in paragraph 12(2), there is a reference which is incorrectly described as “paragraph (1)(a) or (b)”. But the reference should be correctly described as “sub-paragraph (1)(a) or (b)” (see the relevant guidance about composite references in *Writing Laws for Wales* 6.16).

Merits Scrutiny

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

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

We note the following in part 5 of the Explanatory Memorandum in relation to consultation on these Regulations:

“23. The Welsh Government consulted formally on proposals to introduce a licensing scheme for farm businesses to work to an annual nitrogen holding limit, from grazing livestock manures, of 250kg/ha, subject to crop need and other legal considerations. The consultation ran for 12 weeks from 25 November 2022 to 17 February 2023.

24. On 10 October 2023, we published a summary of responses to the formal consultation. This, along with the consultation document can be found at: <https://gov.wales/nutrient-management-managing-application-livestock-manures-sustainably>

25. As the Regulations provide a time-limited amendment similar to the proposals previously consulted upon and do not reflect a change in the Welsh Government’s policy, a further formal public consultation did not take place.”

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



We note that these Regulations are to be revoked by the Water Resources (Control of Agricultural Pollution) (Wales) (Amendment) (No. 4) Regulations 2023, which come into force on 31 December 2023. We further note the following explanation in a letter from Lesley Griffiths AS/MS Minister for Rural Affairs and North Wales, and Trefnydd to the Llywydd dated 15 December 2023:

“The reason for not adhering to the 21-day convention in this case is that if the Water Resources (Control of Agricultural Pollution) (Wales) (Amendment) (No. 4) Regulations 2023 do not come into force on or before 31 December 2023, then the Water Resources (Control of Agricultural Pollution) (Wales) (Amendment) (No. 3) Regulations 2023 will come into force on 1 January 2024 without maximising legal clarity, accessibility, and certainty for end users regarding the combined application of manures from both grazing and non-grazing livestock.”

Welsh Government response

A Welsh Government response is required in relation to reporting points 1, 2 and 3.

Committee Consideration

The Committee considered the instrument at its meeting on 8 January 2024 and reports to the Senedd in line with the reporting points above.



Government Response: *The Water Resources (Control of Agricultural Pollution) (Wales) (Amendment) (No. 3) Regulations 2023*

Technical Scrutiny Points 1-3: The Water Resources (Control of Agricultural Pollution) (Wales) (Amendment) (No. 3) Regulations 2023 have been revoked and replaced by the Water Resources (Control of Agricultural Pollution) (Wales) (Amendment) (No. 4) Regulations 2023.

However, these same reporting points have been considered in the Government's response to the Committee's report on the Water Resources (Control of Agricultural Pollution) (Wales) (Amendment) (No. 4) Regulations 2023.

SL(6)436 – The Water Resources (Control of Agricultural Pollution) (Wales) (Amendment) (No. 4) Regulations 2023

Background and Purpose

These Regulations amend the Water Resources (Control of Agricultural Pollution) (Wales) Regulations 2021 (S.I. 2021/77 (W. 20)) (“the 2021 Regulations”), and are due to come into force on 31 December 2023.

These Regulations implement the second stage of a two-stage process for introducing an enhanced nutrient management regime for the calendar year 2024 for holdings or part of holdings not previously situated within a Nitrate Vulnerable Zone (“NVZ”) and sown with at least 80% grass (defined in these Regulations as “qualifying grassland holdings”).

Regulation 3 amends regulation 2 (transitional measures for holdings not previously in a nitrate vulnerable zone) of the 2021 Regulations. It changes the implementation date for regulation 4 (application of livestock manure – total nitrogen limit for the whole holding) for holdings or parts of holdings not previously situated within a NVZ as shown on the NVZ index map, where 80% or more of the agricultural area is sown with grass (“qualifying grassland holdings”) from 1 January 2024 to 1 January 2025. This means that the total nitrogen limit in livestock manure for the whole holding (170kg multiplied by the area of the holding in hectares) in regulation 4 of the 2021 Regulations does not apply to qualifying grassland holdings until 1 January 2025.

Regulation 4 amends regulation 3 (interpretation) of the 2021 Regulations by inserting definitions of the terms “enhanced nutrient management plan”, “precision spreading equipment”, “qualifying grassland holding” and “relevant period”. It also substitutes a definition of “NRW” for “NRBW”.

Regulation 5 inserts new regulations 4A and 4B into the 2021 Regulations. Regulation 4A (application of grazing and non-grazing livestock manure on qualifying grassland holdings during the relevant period) requires the occupier of a qualifying grassland holding to ensure that for the calendar year 2024 (“the relevant period”) the area of the holding (in hectares) is greater than or equal to the sum of the total amount of nitrogen in grazing livestock manure applied to the holding divided by 250, plus the total amount of nitrogen in non-grazing livestock manure applied to the holding divided by 170. The purpose of this calculation is to limit the total amount of nitrogen in livestock manure that an occupier of a qualifying grassland holding is permitted to apply to the holding, whether directly by an animal or by spreading, during the relevant period. It ensures that where an occupier of a qualifying grassland holding is only applying grazing livestock manure to the holding, they must not apply more than 250kg of nitrogen in grazing livestock manure per hectare during the relevant



period. It also ensures that where an occupier of a qualifying grassland holding is only applying non-grazing livestock manure to the holding, they must not apply more than 170kg of nitrogen in non-grazing livestock manure per hectare during the relevant period. Where an occupier of a qualifying grassland holding is applying both grazing and non-grazing livestock manures to the holding during the relevant period, the calculation also makes provision for the application of both to be adjusted on a pro-rata basis.

Regulation 4A(2) provides that where an occupier of a qualifying grassland holding intends to apply to the holding, during the relevant period, a total amount of nitrogen in grazing livestock manure which exceeds 170kg multiplied by the area of the holding in hectares, they must comply with additional enhanced nutrient management requirements established under Schedule 1A (enhanced nutrient management requirements) and notify Natural Resources Wales ("NRW"). Regulation 4B (notice requirements) sets out the notice requirements that the occupier of a qualifying grassland holding must comply with when notifying NRW.

Regulation 6 makes minor amendments to regulation 14 (spreading organic manure near surface water, boreholes, springs or wells) of the 2021 Regulations to assist with clarity.

Regulation 7 replaces references to "NRBW" with references to "NRW" wherever they occur in the Regulations. This is in consequence of replacing the definition of "NRBW" with "NRW" under regulation 3.

Regulation 8 inserts a new Schedule 1A (enhanced nutrient management requirements) into the 2021 Regulations which sets out the additional enhanced nutrient management requirements to be met by an occupier of a qualifying grassland holding if the occupier intends, during the relevant period, to apply to the holding a total amount of nitrogen in grazing livestock manure which exceeds 170kg multiplied by the area of the holding in hectares.

Regulation 9 revokes the Water Resources (Control of Agricultural Pollution) (Wales) (Amendment) (No. 3) Regulations 2023, which were due to come into force on 1 January 2024.

The additional enhanced nutrient management requirements set out in these Regulations will apply to occupiers of qualifying grassland holdings in additions to the requirements which already apply to such occupiers by virtue of Parts 2 to 7 of the 2021 Regulations. Also, any occupier of a holding failing to comply with these additional requirements during the calendar year 2024 will be guilty of an offence and liable on summary conviction, or on conviction on indictment, to a fine, as is provided for under regulation 46 of the 2021 Regulations.

Procedure

Negative

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



Technical Scrutiny

Three 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 Schedule, in the new Schedule 1A, in paragraph 1, there is a difference between the English and Welsh texts. In the English text, it refers to “the occupier of a qualifying grassland holding”, but this has been translated as meaning “the holder of a qualifying grassland holding”. Elsewhere in the existing Regulations and in the new amendments, the Welsh text has correctly used “meddiannydd” (“occupier”) rather than “deiliad” (“holder”) as the translation of “occupier”.

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

In the Schedule, in the new Schedule 1A, the structure of paragraph 10 is incorrect as it opens with “10-(1)”. This creates an expectation in the reader that the sub-paragraph (1) will be followed by a sub-paragraph (2). But there is no sub-paragraph (2) so it should be structured as “10” rather than “10-(1)”. An example of a correctly structured provision is seen later in paragraph 20.

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

In the Schedule, in the new Schedule 1A, in paragraph 11(2), there is a reference which is incorrectly described as “paragraph (1)(a) or (b)”. But the reference should be correctly described as “sub-paragraph (1)(a) or (b)” (see the relevant guidance about composite references in *Writing Laws for Wales* 6.16).

Merits Scrutiny

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

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

We note the following in part 5 of the Explanatory Memorandum in relation to consultation on these Regulations:

“26. The Welsh Government consulted formally on proposals to introduce a licensing scheme for farm businesses to work to an annual nitrogen holding limit, from grazing livestock manures, of 250kg/ha, subject to crop need and other legal considerations. The consultation ran for 12 weeks from 25 November 2022 to 17 February 2023.”



27. On 10 October 2023, we published a summary of responses to the formal consultation. This, along with the consultation document can be found at: <https://gov.wales/nutrient-management-managing-application-livestock-manures-sustainably>

28. As the Regulations provide a time-limited amendment similar to the proposals previously consulted upon and do not reflect a change in the Welsh Government's policy, a further formal public consultation did not take place."

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

We note the breach of the 21-day convention (i.e. the convention that 21 days should pass between the date a "made negative" instrument is laid before the Senedd and the date the instrument comes into force), and the explanation for the breach provided by Lesley Griffiths AS/MS Minister for Rural Affairs and North Wales, and Trefnydd in a [letter](#) to the Llywydd dated 15 December 2023.

In particular, we note the following explanation:

"The reason for not adhering to the 21-day convention in this case is that if the Water Resources (Control of Agricultural Pollution) (Wales) (Amendment) (No. 4) Regulations 2023 do not come into force on or before 31 December 2023, then the Water Resources (Control of Agricultural Pollution) (Wales) (Amendment) (No. 3) Regulations 2023 will come into force on 1 January 2024 without maximising legal clarity, accessibility, and certainty for end users regarding the combined application of manures from both grazing and non-grazing livestock."

Welsh Government response

A Welsh Government response is required in relation to reporting points 1, 2 and 3.

Committee Consideration

The Committee considered the instrument at its meeting on 8 January 2024 and reports to the Senedd in line with the reporting points above.



Government Response: *The Water Resources (Control of Agricultural Pollution) (Wales) (Amendment) (No. 4) Regulations 2023*

Technical Scrutiny Points 1-3: The Welsh Government thanks the Committee for drawing these reporting points to our attention. We are liaising with the SI Registrar on the possibility of producing a Correction Slip to deal with these points at the earliest opportunity.

Agenda Item 4.3

SL(6)427 – The Building Control Profession (Charges) (Wales) Regulations 2023

Background and Purpose

Part 2A of the Building Act 1984 (**the 1984 Act**) provides for the regulation of the building control profession and the oversight of those exercising building control functions. Part 2A aims to improve competence levels and accountability in the building control sector by creating a unified professional and regulatory structure for building control.

The 1984 Act also includes a regulation-making power for the Welsh Ministers to recover charges for, and in connection with, the performance of their functions under the 1984 Act. These Regulations are made under that power, allowing the Welsh Ministers to recover charges for functions performed under the 1984 Act (**chargeable functions**), such as: determining applications for registration as a registered building inspector or a building control approver; investigating professional misconduct; responding to appeals.

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

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

Regulation 3(2) sets out a list of chargeable functions. Regulation 3(2)(c) to (e) refers to “action” taken in respect of certain functions, while regulation 3(2)(f) to (g) refers to “any action” taken in respect of certain other functions.

It is unclear whether “action” and “any action” are intended to have different meanings. If they are intended to be different, what is the difference? If they are not intended to be different, why are different terms used?

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

Regulation 6(1) says that a person must pay certain charges if the Welsh Ministers have “reasonable grounds” to believe the person contravenes Part 2A of the Building Act 1984. Therefore, regulation 6(1) expressly requires the grounds to be reasonable.

However, elsewhere in the Regulations, there is no express requirement to be reasonable. For example:

- In regulation 3(2)(c), a chargeable function includes “action” taken by the Welsh Ministers under section 58H of the Building Act 1984. Regulation 3(2)(c) does not say “reasonable action”.
- In regulation 4(2), there is reference to the “costs” incurred by the Welsh Ministers. Regulation 4(2) does not say “reasonable costs”.

As a matter of public law, the Welsh Ministers must always act reasonably, therefore it is unclear why regulation 6(1) needs to refer to the Welsh Ministers being reasonable.

We would welcome clarification from the Welsh Government as to its approach to including “reasonable” in legislative provisions such as those outlined above.

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

In the English regulation 8(2)(a), a request for payment of charges must include:

“a statement of the work done and the costs incurred by the Welsh Ministers **in the performance of the chargeable function**” (our emphasis).

However, the words emphasised are missing in the Welsh regulation 8(2)(a).

Merits Scrutiny

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

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

The Regulations refer to the following documents:

- a charging scheme (regulation 4),
- a code of conduct (regulation 6(4)(a)),
- professional conduct rules (regulation 6(4)(b)),
- operational standards rules (regulation 6(4)(b)).

We would be grateful if the Welsh Government could confirm the current status of these documents, including details of where they will be available and confirmation that each document has been finalised and is easily accessible from the time the Regulations came into force on 1 January 2024.

Welsh Government response

A Welsh Government response is required to each reporting point.

Committee Consideration

The Committee considered the instrument at its meeting on 8 January 2024 and reports to the Senedd in line with the reporting points above.

Government Response: *The Building Control Profession (Charges) (Wales) Regulations 2023*

Technical Scrutiny point 1: “Action” has been used where specific sections are referred to, whilst “any action” has been used where the reference is broader e.g., reference to Part 2A more generally. The “any” merely reflects the broader nature of the functions in regulation 2(f) and (g).

Technical Scrutiny point 2: The Welsh Ministers must of course act reasonably, the inclusion of “reasonable” in regulation 6(1) is considered helpful from a clarity of law point of view i.e., the reader can be left in no doubt that the Welsh Ministers’ belief must be based on reasonable grounds.

Technical Scrutiny point 3: Thank you for noting the omission. The missing wording seeks to add clarity to what is meant by “a statement of the work done and costs incurred by the Welsh Ministers” but does not in itself impact on what information must be provided to the payee and as such the Welsh Government does not consider that this impacts on the operation of the provision.

We will insert the missing wording into the Welsh regulation when the Regulations are next updated, we do not have a timeframe for this currently.

Merit Scrutiny point 4: The Code of Conduct, Professional Conduct Rules and Operational Standards Rules have been published online and are available at: www.gov.wales/building-control-profession-standards-codes-and-rules

Please note that these documents are currently published as draft versions. Final versions will be published ahead of registration for building inspectors and building control approvers, to which these regulations relate, becoming mandatory in April 2024.

The charging scheme has not yet been published. It will be published online as a final version ahead of the registers for building inspectors and building control approvers opening in Wales. This is planned to take place in January 2024.



WRITTEN STATEMENT BY THE WELSH GOVERNMENT

TITLE	The Official Controls (Extension of Transitional Periods) (Miscellaneous Amendments) Regulations 2024
DATE	10 January 2024
BY	Lesley Griffiths AS/MS

Members of the Senedd will wish to be aware that I have given consent to the Minister of State for Biosecurity, Marine, and Rural Affairs to exercise a subordinate legislation-making power in a devolved area in relation to Wales.

The above titled Statutory Instrument (SI) was laid before the UK Parliament by the Secretary of State on 9 January 2024 in exercise of powers conferred by:

1. paragraph 11A of Schedule 2 to the Trade in Animals and Related Products Regulations 2011;
2. Articles 144(6) of, and paragraphs 2 and 3 of Annex 6 to, Regulation (EU) 2017/625 of the European Parliament and of the Council on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products;

The SI will be the first piece of legislation to implement the first milestone of the Border Target Operating Model (TOM) from 31 January 2024. The purpose of the SI is to introduce health certification on imports of medium risk animal products, plants, plant products, and high-risk food and feed of non-animal origin from the European Union. It will also remove the pre-notification exemption for goods from the island of Ireland for medium risk animal products, plants, and plant products. Additionally, it will amend the Transitional Staging Period (TSP) end date, from 31 January 2024 to 29th April 2024 so that the second stage of the TOM can begin from 30th April 2024. We have not yet agreed a date for physical checks to begin on imports from Ireland, so I anticipate that a further TSP extension will be required from the end of April until a date to be agreed.

The Regulations were laid before the UK Parliament on 9 January 2024 and will come into force on 30 January 2024.

Impact the instrument may have on the Senedd's legislative competence and/or the Welsh Ministers' executive competence:

The 2024 Regulations result from the agreement on the Border Target Operating Model as published in August 2023. The 2024 Regulations do not commit Welsh Ministers to adopting any future UK Government position on biosecurity.

The Regulations do not diminish or undermine the powers of Welsh Ministers in any way, and they do not create, amend or remove any functions conferred on the Welsh Ministers.

I would like to reassure the Senedd it is normally the policy of the Welsh Government to legislate for Wales in matters of devolved competence. However, in certain circumstances there are benefits in working collaboratively with the UK Government where there is a clear rationale for doing so. On this occasion, I have given my consent to these Regulations for reasons of efficiency and expediency in future policy change and adherence to international obligations, cross-UK coordination, and consistency.

The purpose of the instrument

The purpose of the 2024 Regulations is to protect biosecurity, ensure food safety and support trade, by introducing the first milestone of Border Target Operating Model agreed by all administrations in Great Britain.

The Regulations and accompanying Explanatory Memorandum, setting out the detail of the provenance, purpose and effect of the 2024 Regulations are available here:

<https://www.legislation.gov.uk/uksi/2024/20/made>

Why consent has been given

Consent has been given for the UK Government to make this instrument as a result of the agreement on the Border Target Operating Model between the three administrations in Great Britain to introduce a coherent and consistent sanitary and phytosanitary regime for goods imported into Great Britain to protect biosecurity and ensure food safety standards are maintained.



Huw Irranca-Davies MS
Chair
Legislation, Justice and Constitution Committee
Senedd Cymru
Cardiff Bay
CF99 1SN
SeneddLJC@senedd.wales

10 January 2024

Dear Huw

The Official Controls (Extension of Transitional Periods) (Miscellaneous Amendments) Regulations 2024

I am writing to inform the Committee that I have given my consent to the Minister of State for Biosecurity, Animal Health and Welfare to lay the Official Controls (Extension of Transitional Periods) (Miscellaneous Amendments) Regulations 2024

I have laid a Written Statement which can be found at:
<https://senedd.wales/media/oemk4plv/ws-ld16248-e.pdf>

These Regulations have been made using powers in the

1. paragraph 11A of Schedule 2 to the Trade in Animals and Related Products Regulations 2011;
2. Articles 144(6) of, and paragraphs 2 and 3 of Annex 6 to the Official Controls Regulations (EU) 2017/625 and

Consent has been given for the UK Government to make these Regulations following the publication of the Border Target Operating Model (TOM). This statutory instrument will be the first piece of legislation to implement the first milestone of the TOM from 31 January 2024. The purpose of the SI is to introduce health certification on imports of medium risk animal products, plants, plant products, and high-risk food and feed of non-animal origin from the European Union. This change includes an amendment to the Trade in Animals and Related Products (Wales) Regulations 2011. It will also remove the pre-notification exemption for goods from the island of Ireland for medium risk animal products, plants, and plant products. Additionally, it will amend the Transitional Staging Period (TSP) end date, from 31 January 2024 to 29th April 2024 so the second stage of the TOM can begin from 30th April 2024.

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.

We have not yet agreed a date for physical checks to begin on imports from Ireland, so I anticipate that a further TSP extension will be required from the end of April until a date to be agreed.

The Statutory Instrument is subject to the negative procedure and was laid before Parliament on 9 January 2024 and will come into force on 30 January 2024.

I would like to reassure this Committee that while it is normally the policy of the Welsh Government to legislate for Wales in matters of devolved competence, in certain circumstances there are benefits in working collaboratively with the UK Government where there is a clear rationale for doing so. The change to the Trade in Animals and Related Products (Wales) Regulations 2011 mirrors that made by the Secretary of State to the equivalent Scottish and English Regulations, to create a single, accessible and bilingual amendment. On this occasion, therefore, I have given my consent to these Regulations for reasons of efficiency and expediency, and cross-UK coordination and consistency.

I regret it was not possible to give the Committee advance notice as the statutory instrument was received during recess.

I am writing in similar terms to Paul Davies MS, Chair of the Economy, Trade and Rural Affairs 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 flourish at the end.

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



Llywodraeth Cymru
Welsh Government

Eich cyf/Our ref:

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

9 January 2024

Dear Huw,

Local Government Finance (Wales) Bill

Following a review of the transcript for the Local Government Finance (Wales) Bill evidence session which was held by the Committee on 11 December 2023, it has come to our attention that two matters ought to be clarified.

The first matter relates to the statement recorded in paragraph 79 of the transcript. It was said that "the new paragraph 8C would be a power to amend some of the reliefs and exemptions". The reference to "exemptions" was incorrect as the power in the new paragraph 8C of Schedule 4ZA relates only to reliefs. The new paragraph 8C is found in section 5 (powers to confer, vary and withdraw reliefs) of the Bill.

The second matter relates to the statement recorded in paragraph 84 of the transcript. It was said that the King's consent would be sought in relation to "reliefs and exemptions, section 5". Section 5 of the Bill only relates to reliefs, so exemptions should not have been referred to in this case either.

Yours sincerely,

Rebecca Evans AS/MS
Y Gweinidog Cyllid a Llywodraeth Leol
Minister for Finance and Local Government

Bae Caerdydd • Cardiff Bay
Caerdydd • Cardiff
CF99 1SN

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

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.

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Ein cyf/Our ref qA1762325

Llywodraeth Cymru
Welsh Government

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

19 December 2023

Dear Huw,

Thank you for your letter of 28 November requesting more information on the Elections and Elected Bodies (Wales) Bill, following my appearance at the Legislation, Justice and Constitution Committee on 20 November. I have provided the detail below.

1. You stated that some of the regulation-making powers in the Bill are more curtailed, particularly in areas where they relate to the creation of offences. Could you explain whether your consideration of a justice impact assessment during the Bill's development resulted in any changes to its provisions?

The Justice Impact Assessment for the Bill considered two areas where offences were created or impacted upon. This included the new offence which was part of provisions regulating how third parties may incur controlled expenditure during a regulated period and the re-drafting of the undue influence offence to clarify and modernise the language. The Justice Impact Assessment was shared with the Ministry of Justice which concurred with our assessment that the impact of both changes would have no or negligible impact on the justice system. No changes to the policy were considered necessary. Any regulations developed as a consequence of the regulation making powers included in the Bill would be subject to a separate Justice Impact Assessment and consultation with the Ministry of Justice, where those regulations are anticipated to impact on the justice system.

2. You stated that, while it is your intention that the Electoral Management Board will maintain the Welsh elections information platform, you have not specified as such on the face of the Bill as it may become apparent that a more appropriate body should undertake this function. Could you provide an example of such a body?

We consider that the EMB is likely to be the natural host for the platform, however, the EMB has not yet been established and so we should bear in mind the possibility of the EMB not

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

Bae Caerdydd • Cardiff Bay
Caerdydd • Cardiff
CF99 1SN

Gohebiaeth.Mick.Antoniw@llyw.cymru
Correspondence.Mick.Antoniw@gov.Wales

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

being able to host the platform, or of a better alternative being identified. Given the host will be specified in the regulations made under section 27, hosting will inevitably be for the Senedd to take into account when it considers those regulations.

The Bill has been drafted to make clear that the Welsh Ministers would be responsible for ensuring the sustainability of any platform. There is scope for the host of the platform to be revisited in the future, taking into account the fast-moving technological environment, the opportunity to learn lessons from experience, and the views of the EMB itself once established. The provisions therefore provide flexibility for the future, in particular lessons from evaluations of elections, while ensuring that a platform is provided.

3. Section 5(4) provides for pilot regulations to mirror the registration without application provisions in section 3; however, the coming into force of section 3 is not triggered by a requirement to pilot it. Could you clarify whether you considered making the ability to bring section 3 into force be conditional (for example, no earlier than the conclusion of at least one relevant pilot) and if so, why considered not doing so?

While I believe piloting automatic registration will result in the best possible system for the elector, I do not believe that the Bill should include a provision which specifically prevents the commencement of section 3 before the pilots have been completed. I have made a commitment to pilot automatic registration before commencing section 3 and will ensure that these pilots go ahead with a full and proper evaluation before rolling out the system. Therefore, such a restriction would not only be unnecessary given my commitment, but it would be predicated on the completion of a process rather than a thorough evaluation that will inform the implementation of automatic registration.

4. It appears that the Welsh Ministers can use the power under section 5 to trial the amended registration provisions introduced by section 3(2); however, there is subsequent power in section 8 to change the power in section 5(3). Could you clarify in what circumstances do you envisage such a power being used?

The power under section 8(1) enables the Welsh Ministers to make regulations to add to the list of relevant electoral matters in section 5(3), or amend or remove matters previously added through regulations. This power is to allow issues not currently considered by the Welsh Government or the Senedd to be possibly piloted in the future, subject to the scrutiny and evaluation processes set out in the Bill. Regulations may only be made under section 8(1) following the approval of the Senedd. However, this power cannot be used to change the voting system for returning Senedd Members, members of a principal council, or members of a community council.

5. Could you clarify why, by virtue of section 26 of the Bill, are you making provision to change the existing regulation-making power in section 1 of the Local Government (Wales) Measure 2011 to a direction-making power?

Section 1 of the Measure currently requires the questions and format of the survey to be set out in regulations. In reality, this has meant that any changes to the survey, either in terms of presentation or the questions included, has entailed using Welsh Ministers' regulation-making powers. This has attracted criticism about the flexibility to amend the surveys in a timely fashion and the disproportionate legislative approach which has had to be adopted in each case.

The approach proposed through the Bill is to remove this requirement and enable a more flexible and agile approach to the consideration and decisions about the survey contents

and format. This approach has been welcomed by partners, especially as the scope of the survey set out in the Measure will remain as at present.

The Bill provides for future surveys to comprise two parts. The first part will be a core set of questions which will apply to all local authorities in Wales, allowing important comparisons to be made from responses across all parts of Wales. The second part would be at the discretion of returning officers, which can reflect the local context and priorities.

6. Could you clarify which functions you envisage will be conferred on persons or categories of persons by regulations made under section 27(4), and could you clarify why those functions are not included on the face of the Bill?

The detailed rules underpinning the Welsh elections information platform will be set out in regulations made under section 27. Although the Government's intention is that the Welsh Ministers should be ultimately responsible for ensuring the platform is established, the involvement of other stakeholders will be crucial in ensuring the platform operates fully. The purpose of section 27(4) reflects that situation: in addition to being used to specify the operational host of the platform, it may also be necessary embed elements of the platform into existing elements of the electoral process. The balance between what is on the face of the Bill and will be in regulations ensures flexibility to take account of the fast-moving legal and technological context, with the appropriate scrutiny in place. The balanced approach has been specifically welcomed by civil society organisations.

7. Could you clarify which functions you envisage will be conferred on persons by regulations made under section 29(8), and could you clarify why those functions are not included on the face of the Bill?

Section 29 of the Bill provides for financial assistance schemes to be made available to groups of people prescribed in regulations who are seeking to stand for elected office. One such scheme (section 29(2)) will be for disabled people, building on the pilot Access to Elected Office Fund. Section 29(1) enables other such schemes to be put in place by Welsh Ministers when evidence identifies barriers of additional costs that are experienced by individuals of a particular group of underrepresented persons which prevent them from standing for elected office.

Section 29(8) provides for Welsh Ministers to set out the detailed arrangements for each separate financial assistance scheme including those who are to administer the scheme, the components of the scheme and the reporting arrangements required for the purpose of audit. As individual schemes will target different barriers to participation it is appropriate the details are set out in regulations rather than on the face of the Bill. This will enable greater flexibility to ensure the details of each scheme underpins its purpose and enables actions to be taken to address the barriers identified.

8. The regulation-making power in section 41 is subject to the negative procedure. Given that the power can be used to amend primary legislation, please can you explain why it is not subject to the affirmative resolution?

While officials have worked closely with the Local Democracy and Boundary Commission for Wales (the Commission) to ensure the timescales for conducting reviews as introduced in the Bill are realistic, this provision provides Welsh Ministers with the flexibility required to amend the review period (if necessary) in light of the Commission's experiences in completing electoral arrangement reviews after the Bill receives Royal Assent.

The ability of Welsh Ministers to use this narrow provision to amend primary legislation is limited to amending the review period. This power to make regulations does not substantively affect the provisions of the Local Government Democracy (Wales) Act 2013, and the subject-matter of the power is a relatively minor detail in the overall legislative scheme for conducting electoral arrangement reviews. There is already precedent for Welsh Ministers to alter the review period applying to the Commission by making regulations which are subject to the negative procedure – see sections 138(6) and 174(6) of the Local Government and Elections (Wales) Act 2021 – and we therefore consider the use of the negative procedure to be appropriate and proportionate.

9. There appears to be a new regulation-making power contained in section 51 of the Bill which does not appear in the table of delegated powers in the EM. Please can you describe the power, how it will be used and the reasons for the procedure chosen?

I apologise for the omission. Section 51 enables Welsh Ministers to amend the review period for the conduct of community electoral arrangement reviews. It is a similar provision to that set out in section 41 of the Bill and ensures consistency of approach between the different types of review.

Amending the review period and re-setting the start date of a review period is a technical detail which may be necessary in the event of a disruption to a review programme. Examples of situations which could trigger the use of this power include a public health emergency, a change in the date for local government elections or to provide greater synergy between the review periods for both principal area and community electoral arrangements.

The ability of the Welsh Ministers to use this narrow provision to amend primary legislation is limited to amending the review period. This power to make regulations does not substantially affect the provisions of the Local Government Democracy (Wales) Act 2013, and the subject-matter of the power is a relatively minor detail in the overall legislative scheme for conducting community electoral arrangement reviews. There is already precedent for Welsh Ministers to alter the review period applying to the Commission by making regulations which are subject to the negative procedure – see sections 138(6) and 174(6) of the Local Government and Elections (Wales) Act 2021.

The intention is that the negative procedure will also apply to changes to the review period, as it applies to the Commission, in regulations made by the Welsh Ministers under section 41 of the Bill. Accordingly, we consider that the use of the negative procedure to make changes to the review period for community electoral arrangement reviews under section 51 of the Bill is also appropriate and proportionate, as to do otherwise would create an anomaly where the review period for the Commission could be revised using the negative procedure and that for principal councils would be required to use the affirmative procedure. The effect of that would be to require a more detailed regulatory making procedure to change the review period for community electoral arrangement reviews than would be required for principal area electoral arrangement reviews.

10. You also stated that you intend to improve the accessibility of the law in respect of devolved elections. Could you therefore clarify why provisions in respect of disqualification from being a Member of the Senedd are included within this Bill, instead of within the Senedd Cymru (Members and Elections) Bill?

In the course of developing and preparing the Senedd Cymru (Members and Elections) Bill, the Welsh Government, and their Co-operation Agreement partners in Plaid Cymru, considered a number of policies that related to the Special Purpose Committee's original

recommendations, but which were not themselves specific recommendations of the committee. This included the disqualification related to residency. The disqualification provisions in the Elections and Elected Bodies (Wales) Bill are part of a package of reforms which were consulted on as part of a white paper (Consultation on the electoral administration and reform White Paper). Such reforms also have specific implications for Local Authorities and Town and Community Councils. This did not include a disqualification related to residency.

Accordingly, it was considered more appropriate for these disqualifications to be addressed separately, through the two Bills. Both Bills achieve their individual policies by way of amendment to the existing disqualification regime in the Government of Wales Act 2006. This will mean that, if the Bills are enacted, there will still be a single disqualification regime ensuring that the legislation remains accessible.

During the discussion, I was also asked to confirm the position in relation to the method and process of counting at a Welsh election, from a manual to an electronic count. I can confirm that this can be undertaken through secondary legislation. For Welsh Local Government Elections this is enabled through section 36A of the Representation of the People Act 1983. For Senedd Elections this is enabled through sections 13 and 157 of the Government of Wales Act 2006.

I hope that this letter has sufficiently responded to your queries, and I look forward to receiving the Committee's report on the Bill in due course.

Yours sincerely,

A handwritten signature in blue ink, reading "Mick Antoniw". The signature is written in a cursive style with a horizontal line underneath the name.

Mick Antoniw AS/MS

Y Cwnsler Cyffredinol a Gweinidog y Cyfansoddiad
Counsel General and Minister for the Constitution

Mick Antoniw MS
Counsel General and Minister for the Constitution

28 November 2023

Dear Mick,

Elections and Elected Bodies (Wales) Bill

Thank you for attending the meeting of the Committee on 20 November to give evidence in respect of the Elections and Elected Bodies (Wales) Bill. To assist our scrutiny of the Bill, we would be grateful if you could provide further detail about some matters.

1. You stated that some of the regulation-making powers in the Bill are more curtailed, particularly in areas where they relate to the creation of offences. Could you explain whether your consideration of a justice impact assessment during the Bill's development resulted in any changes to its provisions?
2. You stated that, while it is your intention that the Electoral Management Board will maintain the Welsh elections information platform, you have not specified as such on the face of the Bill as it may become apparent that a more appropriate body should undertake this function. Could you provide an example of such a body?
3. Section 5(4) provides for pilot regulations to mirror the registration without application provisions in section 3; however, the coming into force of section 3 is not triggered by a requirement to pilot it. Could you clarify whether you considered making the ability to bring section 3 into force be conditional (for example, no earlier than the conclusion of at least one relevant pilot) and if so, why considered not doing so?
4. It appears that the Welsh Ministers can use the power under section 5 to trial the amended registration provisions introduced by section 3(2); however, there is a

subsequent power in section 8 to change the power in section 5(3). Could you clarify in what circumstances do you envisage such a power being used?

5. Could you clarify why, by virtue of section 26 of the Bill, are you making provision to change the existing regulation-making power in section 1 of the Local Government (Wales) Measure 2011 to a direction-making power?
6. Could you clarify which functions you envisage will be conferred on persons or categories of persons by regulations made under section 27(4), and could you clarify why those functions are not included on the face of the Bill?
7. Could you clarify which functions you envisage will be conferred on persons by regulations made under section 29(8), and could you clarify why those functions are not included on the face of the Bill?
8. The regulation-making power in section 41 is subject to the negative procedure. Given that the power can be used to amend primary legislation, please can you explain why it is not subject to the affirmative resolution?
9. There appears to be a new regulation-making power contained in section 51 of the Bill which does not appear in the table of delegated powers in the EM. Please can you describe the power, how it will be used and the reasons for the procedure chosen?
10. You also stated that you intend to improve the accessibility of the law in respect of devolved elections. Could you therefore clarify why provisions in respect of disqualification from being a Member of the Senedd are included within this Bill, instead of within the Senedd Cymru (Members and Elections) Bill?

During the session you also agreed to provide a note outlining the Welsh Ministers' existing powers to make secondary legislation to provide for the electronic counting of votes in devolved elections.

I would be grateful to receive your response by 19 December 2023.

I am copying this letter to the Chair of the Local Government and Housing Committee.

Yours sincerely,



Huw Irranca-Davies
Chair

Agenda Item 10

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

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Agenda Item 11

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Agenda Item 13

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

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