

# Agenda – Legislation, Justice and Constitution Committee

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Meeting Venue:	For further information contact:
Video conference via Zoom	P Gareth Williams
Meeting date: 4 March 2024	Committee Clerk
Meeting time: 13.30	0300 200 6565
	<a href="mailto:SeneddLJC@senedd.wales">SeneddLJC@senedd.wales</a>

## Remote

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### 1 Introductions, apologies, substitutions and declarations of interest

(13.30)

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

(13.30 – 13.35)

#### Made Negative Resolution Instruments

#### 2.1 SL(6)454 – The National Health Service Joint Commissioning Committee (Wales) Regulations 2024

(Pages 1 – 3)

[Regulations](#)

[Explanatory Memorandum](#)

Attached Documents:

LJC(6)–08–24 – Paper 1 – Draft report

#### 2.2 SL(6)455 – The Education (Student Finance) (Fee Limit and Loan Amounts) (Miscellaneous Amendments) (Wales) Regulations 2024

(Pages 4 – 9)

[Regulations](#)

[Explanatory Memorandum](#)



**Senedd Cymru  
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Attached Documents:

LJC(6)-08-24 – Paper 2 – Draft report

LJC(6)-08-24 – Paper 3 – Written Statement by the Minister for Education and Welsh Language, 6 February 2024

**Affirmative Resolution Instruments**

**2.3 SL(6)456 – The Packaging Waste (Data Collection and Reporting) (Wales) (Amendment) Regulations 2024**

(Pages 10 – 14)

[Regulations](#)

[Explanatory Memorandum](#)

Attached Documents:

LJC(6)-08-24 – Paper 4 – Draft report

**2.4 SL(6)457 – The Special School Residential Services (Service Providers and Responsible Individuals) (Wales) Regulations 2024**

(Pages 15 – 18)

[Regulations](#)

[Explanatory Memorandum](#)

Attached Documents:

LJC(6)-08-24 – Paper 5 – Draft report

**2.5 SL(6)458 – The Landfill Disposals Tax (Tax Rates) (Amendment) and Tax Collection and Management (Wales) Act 2016 (Miscellaneous Amendments) (Wales) Regulations 2024**

(Pages 19 – 21)

[Regulations](#)

[Explanatory Memorandum](#)

Attached Documents:

LJC(6)-08-24 – Paper 6 – Draft report

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

(13.35 – 13.40)

## **Made Negative Resolution Instruments**

### **3.1 SL(6)440 – The Agricultural Holdings (Units of Production) (Wales) Order 2024**

(Pages 22 – 27)

#### Attached Documents:

LJC(6)–08–24 – Paper 7 – Report

LJC(6)–08–24 – Paper 8 – Letter from the Minister for Rural Affairs and North Wales, and Trefnydd, 27 February 2024

LJC(6)–08–24 – Paper 9 – Letter to the Minister for Rural Affairs and North Wales, and Trefnydd, 7 February 2024

### **3.2 SL(6)453 – The Official Controls (Import of High-Risk Food and Feed of Non-Animal Origin) (Amendment of Commission Implementing Regulation (EU) 2019/1793) (Wales) Regulations 2024**

(Pages 28 – 30)

#### Attached Documents:

LJC(6)–08–24 – Paper 10 – Report

LJC(6)–08–24 – Paper 11 – Welsh Government response

## **4 Inter-Institutional Relations Agreement**

(13.40 – 13.45)

### **4.1 Correspondence from the Welsh Government: Inter-Ministerial Group meetings**

(Pages 31 – 32)

#### Attached Documents:

LJC(6)–08–24 – Paper 12 – Correspondence from the Counsel General and Minister for the Constitution: Inter-Ministerial Standing Committee, 26 February 2024

**4.2 Written Statement and correspondence from the Minister for Rural Affairs and North Wales, and Trefnydd: The Official Controls (Fees and Charges) (Amendment) Regulations 2024**

(Pages 33 – 37)

Attached Documents:

LJC(6)-08-24 – Paper 13 – Written Statement by the Minister for Rural Affairs and North Wales, and Trefnydd, 27 February 2024

LJC(6)-08-24 – Paper 14 – Letter from the Minister for Rural Affairs and North Wales, and Trefnydd, 27 February 2024

**4.3 Correspondence from the Minister for Finance and Local Government: The Procurement Act 2023 (Commencement No. 2) Regulations 2024**

(Page 38)

Attached Documents:

LJC(6)-08-24 – Paper 15 – Letter from the Minister for Finance and Local Government, 27 February 2024

**4.4 Correspondence from the Minister for Rural Affairs and North Wales, and Trefnydd: The Environment and Rural Affairs (Revocation and Consequential Provision) Regulations 2024**

(Pages 39 – 40)

Attached Documents:

LJC(6)-08-24 – Paper 16 – Correspondence from the Minister for Rural Affairs and North Wales, and Trefnydd, 29 February 2024

**5 Papers to note**

(13.45 – 13.50)

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

(13.50)

- 7 Legislative Consent Memorandum on the Animal Welfare (Livestock Exports) Bill: Draft report**  
(13.50 – 14.05) (Pages 41 – 49)
- Attached Documents:  
LJC(6)-08-24 – Paper 17 – Draft report
- 8 Legislative Consent Memoranda on the Leasehold and Freehold Reform Bill: Draft report**  
(14.05 – 14.20) (To Follow)
- Attached Documents:  
LJC(6)-08-24 – Paper 18 – Draft report
- 9 Supplementary Legislative Consent Memorandum on the Automated Vehicles Bill**  
(14.20 – 14.30) (Pages 50 – 54)
- Attached Documents:  
LJC(6)-08-24 – Paper 19 – Legal Advice Note
- 10 House of Lords Constitution Committee Inquiry – The Governance of the Union: Consultation, Co-operation and Legislative Consent: Discussion**  
(14.30 – 14.35)
- [The Governance of the Union: Consultation, Co-operation and Legislative Consent – Call for Evidence](#)

## **SL(6)454 – The National Health Service Joint Commissioning Committee (Wales) Regulations 2024**

### **Background and Purpose**

The National Health Service Joint Commissioning Committee (Wales) Regulations 2024 (“these Regulations”) make provision for the constitution and membership of the NHS Wales Joint Commissioning Committee (“the joint committee”) including its procedures and administrative arrangements.

The joint committee will supersede the Welsh Health Specialised Services Committee and the Emergency Ambulance Services Committee.

The National Health Service Joint Commissioning Committee (Wales) Directions 2024, which were made on 6 February 2024, provide that the Local Health Boards in Wales will work jointly to exercise functions relating to the planning and securing of certain services. For the purpose of jointly exercising those functions, the Local Health Boards will establish the joint committee to be operational on 1 April 2024.

Part 2 of these Regulations makes provision for—

- (a) the composition and membership of the joint committee (regulation 3),
- (b) the appointment of the chair and non-officer members to the joint committee (regulation 4 and Schedule 1),
- (c) eligibility requirements for members of the joint committee (regulation 5 and Schedule 2),
- (d) tenure of office, termination of appointment and suspension of members of the joint committee (regulations 6 to 9), and
- (e) the appointment and powers of the vice-chair of the joint committee (regulations 10 to 12).

Part 3 of these Regulations makes provision for standing orders concerning the regulation of meetings and proceedings of the joint committee.

Part 4 of these Regulations revokes two sets of Regulations.

These Regulations come into force on 1 April 2024.

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

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

In regulation 2, the term “non-officer member” has been defined for these Regulations. However, the same term has been defined differently in paragraph 4(6) of Schedule 2 to these Regulations, for the purposes of paragraph 4(5)(a) of that Schedule. Therefore, the definition of “non-officer member” in regulation 2 should explain to the reader that it does not apply to paragraph 4(5)(a) of Schedule 2.

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

In regulation 2, in the definition of “health service body”, a number of bodies are listed but their meaning has not been defined for these Regulations other than “Local Health Board”. The bodies listed without a defined meaning are NHS England, the National Institute of Health and Care Excellence, the Health Research Authority, Special Health Authority, NHS Trust and NHS Foundation Trust.

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

In Schedule 2, in paragraph 2, in sub-paragraph (2), the opening words state “For the purposes of this sub-paragraph...”. However, the intention appears to be to define the meaning of the date of conviction for sub-paragraph (1) in paragraph 2 of Schedule 2. Therefore, it should state “For the purposes of sub-paragraph (1) ...” so that the meaning of date of conviction applies to sub-paragraph (1) of paragraph 2 in Schedule 2 (see paragraph 6(2) of Schedule 2 to these Regulations for a correctly drafted example).

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

In Schedule 2, in paragraphs 4(5)(a) and (d), and 5(b), the term “Integrated Care Board” has been used but its meaning has not been defined for the purposes of those paragraphs in that Schedule.

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

In Schedule 2, in paragraph 6(1)(a), it refers to “a Local Health Board established under section 11 of the Act”. However, the term “Local Health Board” has already been defined as meaning



“a Local Health Board in Wales established in accordance with section 11(2) of the Act” in regulation 2 of these Regulations. Therefore, the additional words in paragraph 6(1) of Schedule 2 are unnecessary, but also differ slightly from the definition found in regulation 2.

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

In paragraph 6(1)(b) and (c) of Schedule 2, the terms “NHS trust” and “Special Health Authority” are given a meaning for that paragraph as having been established under sections 18 and 22 respectively of the National Health Service (Wales) Act 2006 (“the Act”). However, these terms are also used elsewhere in these Regulations but have not been defined in regulation 2. Therefore, they have not been given a meaning for the other provisions of these Regulations.

## Merits Scrutiny

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

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

In regulation 2, in the definition of “the joint committee”, the National Health Service Joint Commissioning Committee (Wales) Directions 2024 are referenced but do not appear to have been published on the Welsh Government’s website. The unavailability of these Directions may inhibit the public’s access to relevant law in this field. In addition, there should be a footnote with the “WG” number for these Directions.

## Welsh Government response

A Welsh Government response is required in relation to the reporting points.

### Legal Advisers

**Legislation, Justice and Constitution Committee**

**26 February 2024**



# Agenda Item 2.2

## **SL(6)455 – The Education (Student Finance) (Fee Limit and Loan Amounts) (Miscellaneous Amendments) (Wales) Regulations 2024**

### Background and Purpose

These Regulations amend—

- (a) the Higher Education (Amounts) (Wales) Regulations 2015 (“the **2015 Regulations**”),
- (b) the Education (Student Support) (Wales) Regulations 2017 (“the **2017 Regulations**”), and
- (c) the Education (Student Support) (Wales) Regulations 2018 (“the **2018 Regulations**”).

The 2015 Regulations prescribe the maximum tuition fees that institutions with a fee and access plan are able to charge for full-time undergraduate courses (and lower maximum amounts in respect of certain courses). Regulations 3 to 6 amend the 2015 Regulations to increase those amounts for academic years beginning on or after 1 August 2024.

The Explanatory Memorandum contains the following summary of the revised tuition fee caps:

	<b>Existing</b>	<b>New</b>
Full-time undergraduate	£9,000	£9,250
The final year of certain courses	£4,500	£4,625
Academic year(s) which are work placements/sandwich	£1,800	£1,850
Academic year(s) of courses provided in conjunction with an overseas institution	£1,350	£1,385

The 2017 Regulations provide for financial support for eligible students taking designated higher education courses which begin before 1 August 2018. Regulation 7 makes corrections to the 2017 Regulations.

The 2018 Regulations provide for financial support for eligible students taking designated higher education courses which begin on or after 1 August 2018. Regulation 8 amends the 2018 Regulations to increase the maximum amount of tuition fee loan available to certain categories of students undertaking courses at ordinary providers in Wales, corresponding to the increased maximum tuition fees referred to above.



## 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 2 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 7 of these Regulations amends regulations 16(1), 19(1) and 20(1) of the 2017 Regulations. Those regulations make provision for certain students to qualify for fee grants or loans in connection with their attendance on designated courses provided by the bodies listed in regulation 5(1)(e) of the 2017 Regulations. Regulation 7 amends the references to those providers to also include the bodies listed in regulation 5(1)(ea) of the 2017 Regulations.

The amendments made by regulation 7 are described in the explanatory note to the Regulations as “corrections”. No further reference to these amendments appears in the Explanatory Memorandum and the reason for making these amendments is not immediately clear.

The Welsh Government is therefore asked to explain the purpose of the amendments to the 2017 Regulations made by regulation 7.

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

Regulation 8 amends the 2018 Regulations to increase the maximum amount of tuition fee loan available to certain categories of students undertaking courses in Wales.

The amendments made by regulation 8 are expressed to relate to an academic year “*Beginning on or after 1 **September** 2024*”. However, the explanatory note to these Regulations states that the increases are “*in respect of academic years beginning on or after 1 **August** 2024*”.

The Welsh Government is asked to clarify the period to which the relevant increased loan amounts apply.



## 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.**

No consultation was undertaken in respect of these Regulations. In the Explanatory Memorandum, the Welsh Government states that,

*“Increasing the value of these tuition fee caps is a direct response to the ongoing inflationary pressures experienced by regulated providers. These have now become too urgent to ignore, especially so when the Welsh Government’s budget is under exceptional pressure and other options limited. In order that these new fee limits are put in place as soon as possible, so allowing providers to begin increasing their fees and reduce the financial pressures on them, it was decided to introduce for the 2024/25 academic year which begins on 1 August 2024. The limited time available to legislate for this change given the timing of the launch of the Student Finance Wales undergraduate application service in March 2024 did not allow for consultation to be undertaken.”*

## Welsh Government response

A Welsh Government response to the technical reporting points is required.

### **Legal Advisers**

**Legislation, Justice and Constitution Committee**

**28 February 2024**



Senedd Cymru

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

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Welsh Parliament

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**Legislation, Justice and Constitution Committee**



Llywodraeth Cymru  
Welsh Government

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

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**TITLE** Tuition fee limits and financial support for higher education students in the 2024/25 academic year

**DATE** 06 February 2024

**BY** Jeremy Miles MS, Minister for Education and Welsh Language

The Welsh Government has been consistent in our approach that supporting students with day to day living costs is our key priority in ensuring that everyone, no matter their background, can access university. We are proud that we continue to offer, by far, the highest level of student maintenance support in the UK. The support provided to each undergraduate student increased substantially in the 2023/24 academic year to reflect the challenges students faced during the cost-of-living crisis. Despite significant budget constraints this year, I can confirm that support will once again increase for all eligible undergraduate students in the 2024/25 academic year.

Maintenance support for eligible undergraduate students from Wales will increase by 3.7%. This increased rate of support will be available to new students. It will also be available to those continuing on a course which began on or after 1 August 2018. In addition, a range of other grants and allowances will also be increased for 2024/25, as they are every year. Everyone, no matter their background, should be able to afford a higher education.

The Welsh Government has had to make difficult choices in all areas this year against the backdrop of continued inflationary and budget pressure. Higher education is no different. My intention throughout the latest draft budget round is to do everything we can to protect the maintenance support we provide to undergraduates. However, other difficult decisions have been made to support this.

We have resisted calls to raise the tuition fee cap in the past, but sustained inflationary pressure on higher education providers in Wales means an increase is now unavoidable. The tuition fee cap – the maximum that regulated providers can charge to certain students on certain full-time undergraduate courses – will increase from £9,000 to £9,250. The tuition fee cap will be increased only to the same level already charged by higher education providers in England, Northern Ireland and Scotland.

Welsh domiciled students who are studying in England, Northern Ireland or Scotland are already paying this fee level and will therefore see no change.

This change will provide additional funding for Universities and other providers in Wales, helping to safeguard provision and investment in the student experience. The increased tuition fee cap will apply to any eligible student studying in Wales, not just Welsh students.

I recognise that students may be disappointed by this. I will increase the tuition fee loan to up to £9,250 for students ordinarily resident in Wales who study in Wales (and for certain others who study here). This continues the longstanding policy of no student having to pay their tuition fees upfront.

The fee limit changes will not result in an increase to the monthly repayment which students will make. Nor does it affect our policy of partial cancellation of debt of up to £1,500 when a student begins repaying their loans. This is unique to Welsh students, no matter where they study.

This increase of 2.8% in the tuition fee cap is the first since 2011. Prices (as measured by CPIH) increased by 29% between 2011 and 2022. Maintenance support for Welsh undergraduate students has grown by 39% since the introduction of the Diamond reforms in 2018.

Decisions on the tuition fee to be charged to students are a matter for higher education providers. The Welsh Government does not set fees, only the maximum which may be charged in certain circumstances. Students should speak to their University or other provider about their fees.

Tuition fees for part-time undergraduate study and for postgraduate study are not regulated. No changes will be made.

We have taken the difficult decision that grants currently available to postgraduate Master's students will now be replaced fully by repayable student loans. This will apply to new students in 2024/25. However, the Welsh Government will once again increase the maximum value of support available to new Master's students in the 2024/25 academic year in line with a measure of inflation. The overall amount of support will increase by 0.9%. The available loan is significantly more generous than that provided in England. The loan available to support doctoral study will also increase by this amount.

The decision has also been taken to reprioritise our funding for postgraduate incentive bursaries to protect core education funding, subject to confirmation to the Higher Education Funding Council for Wales later this year. We continue to provide maintenance grant and tuition fee loan support for those aged over 60 years wishing to undertake undergraduate study for the first time.

The Welsh Government has protected funding for those undertaking a course of higher education for the first time. [Main Page](#) support for undergraduate study will

increase once again. We continue to offer a greater level of support to postgraduate Master's students than that available in England in recognition of the living costs that students face. The increase in the tuition fee will assist Universities and other providers of higher education in Wales in continuing to provide an outstanding education to their students. These changes balance the day-to-day needs of students from Wales with our aim to ensure that all who may benefit from a higher education can do so, and will ensure that support remains affordable in the very difficult financial situation which the Welsh Government faces.

# Agenda Item 2.3

## **SL(6)456 – The Packaging Waste (Data Collection and Reporting) (Wales) (Amendment) Regulations 2024**

### **Background and Purpose**

These Regulations amend the Packaging Waste (Data Collection and Reporting) (Wales) Regulations 2023 (“the principal Regulations”). The purpose of these Regulations is to clarify the division of responsibilities between brand owners, packers/fillers, importers and first UK owners and distributors, and to place a requirement upon Natural Resources Wales to produce guidance in respect of household packaging and to publish a list of large producers. These Regulations also provide a number of miscellaneous amendments including clarification of sentences and amendment of typographical errors.

### **Procedure**

Affirmative

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

### **Technical Scrutiny**

The following 12 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 5(b) inserts a definition of “group of companies” in regulation 2(1) of the principal Regulations, which is the interpretation provision for terms that have a meaning throughout those Regulations. This definition is only used in regulation 11 of the principal Regulations and regulation 11(9) states that the definitions are for the purposes of that regulation. Other terms which have been defined within a provision and only used within that provision have not been signposted in this way.

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

In regulation 5(c)(i) and (ii) ‘sub-paragraph’ should be ‘paragraph’ as they are the first divisions within the definition of “importer”, as opposed to divisions of paragraph (1) of regulation 2 of the principal Regulations.



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

In regulation 8, in new regulation 7(3)(b)(i) and (ii) the references to “the requirement in paragraph (i)” and “the requirement in paragraph (ii)” do not adequately identify the location of those paragraphs in the principal Regulations. They should refer to paragraph (2)(b)(i) and paragraph (2)(b)(ii), respectively to give the reader certainty.

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

In regulation 8, in new regulation 7(6), a list is provided of institutions and persons that are to be treated as public institutions for the purposes of regulation 7 and regulation 7A. There is no signpost to this list in regulation 7A, which could lead to the reader being unaware of how to interpret ‘public institutions’ when reading regulation 7A alone.

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

In regulation 8, in new regulation 7(6), at sub-paragraph (a) in the list of institutions and persons that are to be treated as public institutions “a school, university, or other educational establishment” is included. Can the Welsh Government provide examples of institutions that would come under “other educational establishment” and explain whether it considers it is clear enough for those potential establishments to be identified for the purposes of regulation 7 and regulation 7A of the principal Regulations.

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

In regulation 8, in the new regulation 7(8), the terms “household bin” and “public bin” are defined for both regulation 7 and new regulation 7A of the principal Regulations. The reader may not be aware of terms that have been defined in a preceding regulation (see Writing Laws for Wales: A guide to legislative drafting 4.8(4), in respect of prospective definitions). We ask whether the terms should have been included as general definitions in regulation 2(1) of the principal Regulations, as has been done with other defined terms used in more than one regulation.

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

In regulation 8, in new regulation 7(8)(b), in the definition of “public bin”, there is a difference between the Welsh and English texts. In paragraph (ii) of the definition, the English text states “collect waste material” which does not appear to make sense without any additional words, but the Welsh text has translated the meaning as “designed to collect waste material”. In this regard, the phrase “designed to collect waste material” is used in the definition of “household bin” in the English text of new regulation 7(8)(a). Therefore, it appears that the Welsh text is



correct in the definition of “public bin” and that the words “designed to” are missing from the English text of the new regulation 7(8)(b).

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

In regulation 9, in new regulation 7A(2), in sub-paragraph (d), in the Welsh text, “consumers” has been translated as “defnyddiwr”. However, the term “consumer” has been defined in the Welsh text of regulation 2(1) of the principal Regulations as “treuliwr”. Elsewhere in the principal Regulations, “defnyddiwr” has been used as the translation of “user” to distinguish that term from “consumer” (“treuliwr”). Therefore, the Welsh text has failed to use the correct defined term for “consumer” in the translation of this provision.

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

Regulation 10(b) amends paragraph (2) of regulation 8 of the principal Regulations. There remains a reference to “paragraph (4)” in that paragraph, which is omitted by regulation 10(d) of these Regulations.

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

- (i) In regulation 17, in new regulation 17A(1), it states “Where information in a report submitted by a producer (“LP”) under regulation 17...”. However, it should state by “a large producer (“LP”)” because only a “large producer (“LP”)” is subject to the obligations found in regulation 17. Both “producer” and “large producer” are defined terms found in regulation 2(1) of the principal Regulations, therefore there is a significant difference by using “producer” rather than “large producer” in the new regulation 17A(1).
- (ii) This also occurs in regulation 19, in the new regulation 22A where “large producer” is correctly used in paragraph (1), but “producer” is subsequently used in paragraph (2) of that new regulation.

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

In regulation 20(e), it states “in paragraph 17, in paragraphs (a) and (b)” but it should state “in sub-paragraphs (a) and (b)”.

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

Regulation 20(g) amends paragraph 20 of Schedule 1 to the principal Regulations. Sub-paragraph (i) of regulation 20(g) states ‘at the end of the opening words’, however there are no opening words to paragraph 20(a). We believe that the words ‘sub-paragraph (a)’ should be removed from the wording preceding paragraph (i) as the amendment appears to be



relevant to the opening words of paragraph 20, and not sub-paragraph (a). Further, not all the amendments in regulation 20(g) are made to text in sub-paragraph (a) of paragraph 20 of Schedule 1 to the principal Regulations.

## Merits Scrutiny

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

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

These Regulations have been laid under section 2(8) of the Pollution Prevention and Control Act 1999 and are therefore subject to the affirmative procedure. Section 2(9) of that Act lists the regulations to which subsection (8) applies. We ask that the Welsh Government confirms which paragraph of subsection (9) it considers is relevant to these Regulations.

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

In relation to consultation, the following is noted at paragraph 16 of the Explanatory Memorandum:

*There has been ongoing targeted engagement with key stakeholders following the introduction of the principal Regulations, which has helped to identify the amendments in these Regulations.*

We note that the Explanatory Memorandum does not make reference to the consultation undertaken in relation to these Regulations in accordance with section 2(4) of the Pollution Prevention and Control Act 1999, which is referred to in the preamble to the Regulations.

### **15. 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.**

It is noted that a regulatory impact assessment has not been undertaken in relation to these Regulations. The following is stated at paragraph 17 of the Explanatory Memorandum:

*The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. It was not considered necessary to carry out an RIA as to the likely costs and benefits of complying with these Regulations on the basis that the EPR scheme RIA contained a full analysis of the impacts of the EPR reforms, and the amendments being made are minimal.*

### **16. 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.**

It is noted that the Minister for Climate Change, in a [letter](#) to this Committee dated 16 February 2024, gave notification that these Regulations fall under the scope of the Resources and Waste Common Framework.



## Welsh Government response

A Welsh Government response is required to reporting points 1 to 14.

**Legal Advisers**

**Legislation, Justice and Constitution Committee**

**28 February 2024**



Senedd Cymru

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

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**Legislation, Justice and Constitution Committee**

## **SL(6)457 – The Special Schools Residential Services (Service Providers and Responsible Individuals) (Wales) Regulations 2024**

### **Background and Purpose**

The Special Schools Residential Services (Service Providers and Responsible Individuals) (Wales) Regulations 2024 (“the Regulations”) set the quality standards against which special school residential services will be regulated and inspected against under the Regulation and Inspection of Social Care (Wales) Act 2016 (“the 2016 Act”). The Regulations will replace the National Minimum Standards for Residential Special Schools made under section 23(1) of the Care Standards Act 2000.

The Regulations also make provision regarding special school residential services in relation to:

- annual returns;
- requirements on responsible individuals in relation to compliance, quality, and oversight of the service, and ensuring the effective management of the service;
- requirements on service providers in relation to governance, suitability of the service, information about the service, environment, staffing, staff training and safeguarding;
- notification in the event of the death or liquidation of a service provider; and
- offences and penalty notices.

### **Procedure**

Affirmative.

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

### **Technical Scrutiny**

The following nine 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.**

The term “care and support” is used throughout the Regulations. “Care”, “support” and “care and support” are given specific meanings by section 4 of the 2016 Act, but the Regulations do not give a specific meaning to the term. The Legislation (Wales) Act 2019 applies to these Regulations so terms that are defined in the 2016 Act do not bear the same meaning in the Regulations. Clarification is requested as to whether the term “care and support” is intended



to have the same meaning as in the 2016 Act, and if so, why this is not specified in the Regulations.

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

The regulations use the phrase “contract for services” in regulations 1 and 31 but this term is not defined. It would be helpful to have further information regarding what this term covers and how it is to be distinguished from a “contract of employment” which is used in regulations 30 and 31 and which is also undefined.

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

Regulation 1(3) defines a DBS certificate as the certificate referred to in paragraphs 2 and 3 of Schedule 1. The words “the certificate” indicate a single certificate but paragraphs 2 and 3 refer to different certificates. It is not clear whether both certificates are covered by the definition, in which case the plural word should be used, or whether the certificates should be defined separately.

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

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

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

In regulation 1(3), “personal outcomes” is defined for a child as the outcomes that the child wishes to achieve, or the outcomes that any persons with parental responsibility wish to achieve in relation to the child. It is conceivable that the wishes of the child and/or the one or more persons with parental responsibility may not be the same, therefore it would assist to have an explanation regarding how the child’s personal outcomes would be determined in such circumstances.

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

Regulation 47 deals with supplies, but this word is not defined and there is no further information as to what “supplies” comprise of. It would assist the reader to have more information as to what “supplies” includes.

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



Regulation 79(3)(b) provides for a modification to section 21(2) of the 2016 Act. The introductory wording of the modification in regulation 79(3)(b) does not make sense. It appears that it is intended to say “as if after paragraph (a) there were inserted”, or words to that effect.

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

In regulation 82(a), in the Welsh text, the amendment is incorrect because it fails to correctly identify the text of the definition of “the Fostering Services Regulations” in regulation 2 of the Regulated Services (Penalty Notices) (Wales) Regulations 2019.

In the Welsh text, the amendment states that the new definition of “the Special School Residential Services Regulations” should be inserted in regulation 2 after “ystyr “y Rheoliadau Gwasanaethau Maethu” (“the Adoption Services Regulations”) yw Rheoliadau Gwasanaethau Maethu Rheoleiddiedig (Darparwyr Gwasanaethau ac Unigolion Cyfrifol) (Cymru) 2019;”.

However, the English words in brackets and italics should state “(“the Fostering Services Regulations”)” as found in the existing Welsh text of the definition of “the Fostering Services Regulations” in regulation 2 of the 2019 Regulations, rather than “(“the Adoption Services Regulations”)”.

In addition, it would be more customary to describe the location of the amendment by stating, “after the definition of “the Fostering Services Regulations” insert...” rather than by quoting the entire text of that definition.

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

Paragraphs 17 and 35 of Schedule 3 to the Regulations require notification to be made of “any occurrence of category 3 or 4 pressure damage or unstageable pressure damage”. No further information is provided as to the categorisation of pressure damage or what constitutes unstageable pressure damage. Such information would assist the reader in understanding the notification requirements.

## Merits Scrutiny

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

## Welsh Government response

A Welsh Government response is required.

### Legal Advisers

**Legislation, Justice and Constitution Committee**

**28 February 2024**



## **SL(6)458 – The Landfill Disposals Tax (Tax Rates) (Amendment) and Tax Collection and Management (Wales) Act 2016 (Miscellaneous Amendments) (Wales) Regulations 2024**

### **Background and Purpose**

The Landfill Disposals Tax (Wales) Act 2017 (the “**LDTA**”) establishes and sets out the framework and operational arrangements for landfill disposals tax (“**LDT**”), which replaced UK landfill tax in Wales.

These Regulations prescribe the standard rate, lower rate and unauthorised disposals rate for LDT, which will apply to taxable disposals made on or after 1 April 2024.

The rates from 1 April 2024 are as follows:

- The standard rate is **£103.70** per tonne (increased from £102.10 per tonne),
- The lower rate is **£3.30** per tonne (increased from £3.25 per tonne), and
- The unauthorised disposals rate is **£155.55** per tonne (increased from £153.15 per tonne).

Taxable disposals made on or after 1 April 2023 but before 1 April 2024 will remain subject to rates set by the Landfill Disposals Tax (Tax Rates) (Wales) (Amendment) Regulations 2022.

The Tax Collection and Management (Wales) Act 2016 (the “**TCMA**”) makes provision for the collection and management of devolved Welsh taxes. Regulation 5 of these Regulations amends Table A1 in section 122(3) of the TCMA to substitute an incorrect cross-reference to provisions in the LDTA.

### **Procedure**

Draft Affirmative.

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

### **Technical Scrutiny**

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

### **Merits Scrutiny**

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



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

Section 25 of the TCMA provides that the Welsh Revenue Authority (the “**WRA**”) must pay amounts collected in the exercise of its functions into the Welsh Consolidated Fund. The WRA is responsible for the collection and management of LDT. These Regulations prescribe the three rates of LDT in Wales.

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

Section 122 of the TCMA makes a person liable to a penalty for late payment of devolved tax. Penalties for late payment in respect of LDT charged on unauthorised disposals are provided for by reference to item 10 of Table A1 in section 122(3), which describes such charges as an

*“Amount charged by a charging notice issued under **section 48 or 49** of LDTA.”*  
**[Emphasis added].**

Section 48 of the LDTA contains the power to issue a preliminary notice (which states why the WRA thinks a taxpayer is liable to pay LDT at the unauthorised disposals rate). It does not contain the power to issue a charging notice. Taxpayers issued with a preliminary notice under section 48 may make representations to the WRA as to why LDT is not due before the WRA decides whether tax should be charged. Section 49 contains the power for the WRA to issue a charging notice following the preliminary notice. Section 50 allows the WRA to issue a charging notice without first issuing a preliminary notice in circumstances where the WRA thinks that there is likely to be a loss of tax if it proceeds under sections 48 and 49.

Regulation 5 of these Regulations corrects the reference to section 48 or 49 of the LDTA in item 10 of Table A1 so that it instead refers to charging notices issued under **section 49 or 50** of the LDTA.

The Explanatory Memorandum to these Regulations (at paragraph 4.15) states that:

*“This error appears to have occurred when a new section was added into the LDT Bill at Stage 3 (becoming section 25) with all subsequent sections of the Bill being renumbered. The need to update item 10 in Table A1 to reflect the renumbering of the sections was overlooked. If the error is not corrected, the WRA will not be able to charge a late payment penalty for tax charged pursuant to charging notices issued under section 50 of the LDTA...”*

The Welsh Government is therefore asked to confirm whether:



1. it has identified any other provisions in the LDTA which may require amendment as a result of the insertion of section 25 of the LDTA at Stage 3 of the LDT Bill;
2. the WRA has imposed any late payment penalties on taxpayers in connection with notices issued under section 50 of the LDTA;
3. any sums recovered by the WRA in respect of such penalties have been paid into the Welsh Consolidated Fund;
4. it has concluded that any such penalties were unlawfully imposed as a result of the identified error in section 122 of the TCMA; and, if so,
5. it has taken, or is proposing to take, any steps in connection with those penalties.

## Welsh Government response

**Merit Scrutiny point 2:** The Welsh Government has not identified any other provisions in the LDTA which require amendment as a result of the insertion of section 25 of the LDTA at Stage 3 of the LDT Bill.

The WRA has not yet issued any notices under section 50 of the LDTA and will not do so before this amendment to the TCMA takes effect. Therefore no late payment penalties have been or will be imposed in connection to notices issued under section 50 of the LDTA prior to this amendment.

### Legal Advisers

**Legislation, Justice and Constitution Committee**

**23 February 2024**



# Agenda Item 3.1

## **SL(6)440 – The Agricultural Holdings (Units of Production) (Wales) Order 2024**

### **Background and Purpose**

Certain agricultural tenancies carry succession rights. In these cases, under the Agricultural Holdings Act 1986, a close relative of the deceased or retiring tenant can apply to the Agricultural Land Tribunal ('ALT') for a direction as to whether the relative is entitled to succeed to a tenancy. One of the tests in establishing a right of succession involves satisfying the ALT that the applicant does not already occupy a "commercial unit of agricultural land" elsewhere. If this were the case, the close relative would not be eligible for automatic succession.

This Order sets out figures for agricultural incomes which are associated with various farming activities and are used in determining whether or not the land in question is a "commercial unit of agricultural land" during the relevant period.

The current Order in force is the Agricultural Holdings (Units of Production) (Wales) Order 2023, which covers the period from 12 September 2022 to 11 September 2023. This Order covers the period from 12 September 2023 to 11 September 2024.

### **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**

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

#### **1. Standing Order 21.2(x) that there appears to have been unjustifiable delay in publishing it or laying it before the Senedd.**

Paragraphs 3 to 6 of the Explanatory Memorandum sets out the following matters of special interest to this Committee:

*"3. The Welsh Ministers are required under the 1986 Act, to prescribe by Order, such units of production relating to agricultural land as is considered appropriate, for a twelve-month period specified in the order. The current Order in force is the Agricultural Holdings (Units of Production) (Wales) Order 2023 which covers the period from 12 September 2022 to 11 September 2023. Given the ALT cannot decide relevant succession cases without the relevant*



figures, there must be a UPO to cover the 12 month period from 12 September 2023 to 11 September 2024.

4. *Units of Production Orders historically always contain an element of retrospectivity due to the availability of the base statistics from DEFRA which then have to be manipulated by Welsh Government to produce the relevant Welsh figures. These figures did not become available until 13 September 2023. (Emphasis added).*
5. *Cases which have progressed to the ALT from 12 September 2023 have been put on hold until such a time as the Order is made. There are currently six applications which would be affected by a new Order.*
6. *The legislation will need to apply retrospectively from 12 September 2023 to the coming into force date of the Order. This is expressly permitted by Schedule 6, Paragraph 4b of the Agricultural Holdings Act 1986 which provides the Minister shall by order for any period of 12 months specified in the order determine in relation to any prescribed units of production the amount which is to be regarded as the net annual income from that unit in that period."*

The Committee notes that several succession cases brought forward by individuals across Wales have effectively been put on hold since September 2023 as they have had to wait for the new figures provided by this Order to resolve their claims. The Committee acknowledges that before the Order is drafted, the Welsh Government must wait for the relevant data from DEFRA. However, this data was received on 13 September 2023. It is not clear why, by the time this Order comes into effect, that a further five months have elapsed during which time individuals have been unable to progress their succession cases.

## Merits Scrutiny

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

## Welsh Government response

A Welsh Government response is required.

## Committee Consideration

The Committee considered the instrument at its meeting on 29 January 2024 and reports to the Senedd in line with the reporting point above.



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

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

SeneddLJC@senedd.wales

27<sup>th</sup> February 2024

Dear Huw,

Thank you for your letter of 7 February, regarding The Agricultural Holdings (Units of Production) (Wales) Order 2024.

I note the Committee's comments regarding the timing of the making and laying of this Order.

I can confirm none of the six applications which were submitted requesting a Net Annual Income Assessment were adversely affected by the timeframe of the making and coming into force of the Order.

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

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

For two of the applications, due to the timing of the requests for a Net Annual Income Assessment by the Agricultural Land Tribunal, the previous Order was still valid. The remaining four were considered by the appointed Judge. It was then agreed by both parties that a Net Annual Income Assessment was not required at that time.

Yours sincerely,

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

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

Lesley Griffiths MS

Minister for Rural Affairs and North Wales, and Trefnydd

7 February 2024

Dear Lesley,

## The Agricultural Holdings (Units of Production) (Wales) Order 2024

At our meeting on 29 January 2024, we considered The Agricultural Holdings (Units of Production) (Wales) Order 2024 (the Order).

You will be aware that our report on the Order contained one technical point, which highlighted that several succession cases brought forward by individuals across Wales have been put on hold since September 2023 as they have had to wait for the new figures provided by the Order to resolve their claims.

We acknowledged that, before the Order was drafted, the Welsh Government was waiting on relevant data from DEFRA. However, as set out in the Explanatory Memorandum (EM) to the Order, this data was received by the Welsh Government on 13 September 2023. It is not clear why, by the time the Order comes into effect, a further five months will have elapsed during which time individuals have been unable to progress their succession cases.

At our meeting on 5 February 2024 we considered the Welsh Government response to our report on the Order. The response to our technical reporting point stated:

*"The Government has noted the LJC Committee's concerns, however availability of the data in relation to England, which informs the development of the legislation, was not available from Defra until 13 September 2023. Welsh Government officials then used this data to produce the relevant Welsh figures, completing this process on 18 October 2023. The Order then must go through the usual legal scrutiny which can take up to 12 weeks. The Order was made on 08 January and laid on 10 January 2024, as soon as the Senedd returned after Christmas recess."*

You may appreciate my Committee's concern that the response we have received is a basic outline of the timetabling involved in the making of the Order, whereas our concern raised in our report sought to clarify the effect the delays may have had on the people whose claims have been put on hold. In the EM to the Order, the Minister notes that, as of 10 January 2024, there were six applications which would be affected by a new Order.

With regards to the timetable described in the Welsh Government response, we are unclear why the "usual legal scrutiny" took almost 11 weeks. Furthermore, we would also respectfully challenge part of the Welsh Government's response which implies that Government was having to wait for the Senedd to return from a recess period before laying the Order. The Minister will know that business may be laid during a recess period.

We would welcome further clarification on how the Welsh Government sought to address any effect the delays to making the Order may have had on the six applications which will have been put on hold, and whether that number remains accurate.

I would be grateful to receive a response by Thursday 22 February 2024.

I am copying this letter to the Economy, Trade and Rural Affairs Committee.

Yours sincerely,

A handwritten signature in black ink that reads "Huw Irranca-Davies". The signature is written in a cursive style and is underlined with a single horizontal stroke.

Huw Irranca-Davies  
Chair

# Agenda Item 3.2

## **SL(6)453 – The Official Controls (Import of High-Risk Food and Feed of Non-Animal Origin) (Amendment of Commission Implementing Regulation (EU) 2019/1793) (Wales) Regulations 2024**

### **Background and Purpose**

Retained Regulation 2019/1793<sup>1</sup> requires the Welsh Ministers to review, in relation to Wales, the lists set out in Annexes 1 and 2 of retained Regulation 2019/1793 on a regular basis not exceeding a period of six months, in order to take into account new information related to risks and non-compliance.

That review has been undertaken by the Food Standards Agency (FSA) and Food Standard Scotland to ensure that higher risk commodities remain subject to enhanced controls on entry to Great Britain (GB) through Border Control Posts (BCPs). Such controls include documentary, identity and physical examinations including sampling at designated border control posts.

The Annexes to retained Regulation 2019/1793 contain lists of food and feed commodities which are either subjected to a temporary increase in official control, subject to emergency measures or subject to suspension of entry to GB. Following the review, these Regulations make changes to the Annexes which can broadly be summarised as follows:

- 2 commodities have been removed from the scope of the controls;
- 4 commodities will be subjected to a reduced level of controls;
- 3 commodities will be subjected to an increased level of control;
- 20 new commodities will be subjected to controls for the first time; and
- 10 new commodities have had their CN Codes amended.

The instrument also amends Articles 4 and 10 of, and inserts a new Annex 3a into, retained Regulation 2019/1793 to specify the prescribed sampling and analysis method for control of the presence of *Listeria* in food.

These Regulations apply in relation to Wales and corresponding regulations will be made in England and Scotland, meaning legislation will be in place to ensure that GB consumers are

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<sup>1</sup> Retained Commission Implementing Regulation (EU) 2019/1793 on the temporary increase of official controls and emergency measures governing the entry into the Union of certain goods from certain third countries.



protected from the highest risk food and feed not of animal origin through controls on entry at the GB border.

High risk commodities can only be imported through already established BCPs in GB. There are currently no BCPs in Wales so these commodities, as it stands, cannot be directly imported into Wales from third countries.

In line with the UK's international obligations, a notification of the proposed amendments was sent to the World Trade Organisation. Two comments were received. The Turkish government requested clarification on hazelnuts and the United States of America government requested further evidence relating to groundnut paste.

## 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

One 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**

In Schedule 2 to these Regulations, in the new Annex 2 to retained Regulation 2019/1793, in Table 1, in the entry for Sudan (SD), in the second column, in the Welsh text, the English words "Groundnut flours and meals" have been translated into Welsh as "*Blawd a phrydau bwyd cnadaear*". However, these words should not have been translated into Welsh because retained Regulation 2019/1793 was not made in Welsh (as it is not an official language of the European Union). Therefore, those words should appear in English in both language versions of this entry for Sudan in the new Annex 2, as set out in Schedule 2 to the Regulations.

## Merits Scrutiny

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

## Welsh Government response

A Welsh Government response is required.

## Committee Consideration

The Committee considered the instrument at its meeting on 19 February 2024 and reports to the Senedd in line with the reporting point above.



**Government Response: The Official Controls (Import of High-Risk Food and Feed of Non-Animal Origin) (Amendment of Commission Implementing Regulation (EU) 2019/1793) (Wales) Regulations 2024**

Technical Scrutiny point 1: The Government acknowledges the point. The Government considers that the error is minor and does not cause any confusion as to the scope of the relevant entry in Annex 2 to Commission Implementing Regulation (EU) 2019/1793.

A review of Regulation 2019/1793 is currently in progress. A further statutory instrument is planned that will substitute an updated Annex 2 to that Regulation; that instrument is anticipated to be made in the fourth quarter of 2024.

For the reasons set out above, the Government has made the decision to leave the instrument in its existing form.

Mick Antoniw AS/MS  
Y Cwnsler Cyffredinol a Gweinidog y Cyfansoddiad  
Counsel General and Minister for the Constitution

## Agenda Item 4.1



Llywodraeth Cymru  
Welsh Government

Ein cyf/Our ref: CG/PO/54/2024

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

26 February 2024

### Inter-Institutional Relations Agreement: Inter-Ministerial Standing Committee

I am writing in accordance with the inter-institutional relations agreement to notify you that the sixth meeting of the Inter-Ministerial Standing Committee (IMSC), which was due to place on 20 February 2024, has been postponed.

I will notify you once a new date has been confirmed.

I have copied this letter to the Llywydd, and to the Chairs of the Finance Committee, the Economy, Trade and Rural Affairs Committee, the Equality and Social Justice Committee, and the Culture, Communications, Welsh Language, Sport, and International Relations Committee.

**Mick Antoniw AS/MS**  
Y Cwnsler Cyffredinol a Gweinidog y Cyfansoddiad  
Counsel General and Minister for the Constitution

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

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

**WRITTEN STATEMENT  
BY  
THE WELSH GOVERNMENT**

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<b>TITLE</b>	<b>The Official Controls (Fees and Charges) (Amendment) Regulations 2024</b>
<b>DATE</b>	<b>27 February 2024</b>
<b>BY</b>	<b>Lesley Griffiths Minister for Rural Affairs and North Wales, and Trefnydd</b>

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

Agreement was sought by the Minister of State for Biosecurity, Animal Health and Welfare, Lord Douglas-Miller to make a Statutory Instrument (SI) titled the Official Controls (Fees and Charges) (Amendment) Regulations 2024 (“the 2024 Regulations”) to apply in relation to the United Kingdom.

The above titled SI was made by the Minister of State, in exercise of the powers conferred under section 14(2) and (3) of the Retained EU Law (Revocation and Reform) Act 2023. The SI relates to the delivery of the UK and Devolved Governments policy as expressed in the BTOM, specifically in relation to charging under the new SPS border official controls regime.

On 28 April 2022, the UK Government announced a pause to the introduction of further import controls on SPS goods from the EU to Great Britain, and its intention to develop a Borders Target Operating Model (BTOM) setting out a new regime of border import controls. The intended changes to the SPS border official controls regime were published in the BTOM in August 2023. This new regime will apply equally to EU and goods from the rest of the world, with a proportionate risk-based and technologically advanced approach to controls.

The 2024 Regulations will implement milestones of the BTOM. The 2024 Regulations facilitate amendments needed to enable charges and fees for official controls on SPS goods in a way which reflects the new regime.

The 2024 Regulations laid before the UK Parliament on 26 February 2024 to come into force on 30 April 2024.

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

The 2024 Regulations do not commit Welsh Ministers to adopting any future UK Government position on biosecurity. The 2024 Regulations do not diminish or undermine the powers of Welsh Ministers in any way.

The 2024 Regulations (Regulation 2) makes provision to extend the circumstances in which a fee or charge for official controls may be reduced or waived altogether and enables competent authorities to pool costs and charging arrangements for the purposes of flat-rate fees and charges levied. In Wales the competent authority is 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 2024 Regulations**

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

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

[The Official Controls \(Fees and Charges\) \(Amendment\) Regulations 2024 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

**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.

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

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[SeneddLJC@senedd.wales](mailto:SeneddLJC@senedd.wales)

27 February 2024

## The Official Controls (Fees and Charges) (Amendment) Regulations 2024.

Dear Huw

I refer to my letter to you of 21 February 2024. I am writing to inform the Committee I have given my consent to the Minister of State to lay the Official Controls (Fees and Charges) (Amendment) Regulations 2024 in relation to Wales. I have laid a Written Statement which can be found at:

<https://eur01.safelinks.protection.outlook.com/?url=https%3A%2F%2Fsenedd.wales%2Fmedia%2Fqc0ktt3n%2Fws-ld16362->

Consent has been given for the UK Government to make these Regulations in order to implement to implement the milestones of the Borders Target Operating Model (BTOM). The Regulations intersect with devolved policy and will apply to Wales. The Statutory Instrument (SI) is subject to the affirmative procedure and was laid before Parliament on 26 February 2024 with a commencement date of 30<sup>th</sup> April 2024.

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

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

I have written similarly to Paul Davies MS, the 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 of the name.

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

# Agenda Item 4.3

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



Llywodraeth Cymru  
Welsh Government

Huw Irranca-Davies MS  
Chair, Legislation, Justice and Constitution Committee  
Senedd Cymru  
[SeneddLJC@senedd.wales](mailto:SeneddLJC@senedd.wales)

27 February 2024

Dear Huw,

I am writing to inform the Committee of the intention to consent to the UK Government making the Procurement Act 2023 (Commencement No.2) Regulations 2024.

I received a letter from the Parliamentary Secretary to the Cabinet Office, Alex Burghart MP on 13 February 2024, asking for consent to these Regulations.

In order to implement the new procurement regime under the Procurement Act 2023 (the Act), Commencement Regulations need to be laid under section 127 of the Act to bring certain provisions into force. UK Government will make these Commencement Regulations in accordance with section 127(3) of the Act and therefore require the consent of the Welsh Ministers.

The Welsh Ministers intend to consent to these Commencement Regulations to allow substantive regulations to be laid before the Senedd.

There will be further Commencement Regulations which will commence further provisions in the Procurement Act 2023 and will set up the transitional provisions which will determine the relationship between the current and new procurement regimes. Those Commencement Regulations will also require the consent of the Welsh Ministers. Where consent is given to commencement of further provisions in the Act, I will continue to inform the Senedd and your committee through the written statement process.

Yours sincerely,

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

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

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[Correspondence.Rebecca.Evans@gov.wales](mailto:Correspondence.Rebecca.Evans@gov.wales)  
[Gohebiaeth.Rebecca.Evans@llyw.cymru](mailto:Gohebiaeth.Rebecca.Evans@llyw.cymru)

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

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

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

[SeneddLJC@senedd.wales](mailto:SeneddLJC@senedd.wales)

29<sup>th</sup> February 2024

Dear Huw,

### **The Environment and Rural Affairs (Revocation and Consequential Provision) Regulations 2024**

I wish to inform the Committee of the intention to consent to the UK Government making and laying The Environment and Rural Affairs (Revocation and Consequential Provision) Regulations 2024 (“the Regulations”). The Regulations will be made using powers in Section 14 of The Retained EU Law (REUL) (Revocation and Reform) Act (“the REUL Act”).

The Regulations will revoke legislation identified as redundant following the UK’s exit from the EU, which was not included in Schedule 1 of the REUL Act. Revocation of these instruments will have no policy effect in Wales and will reduce unnecessary complexity in the statute book.

Although the Welsh Government’s general principle is that the law relating to devolved matters should be made and amended in Wales, on this occasion, it is considered appropriate for the UK Government to legislate on a GB-wide basis. This approach would ensure redundant legislation is revoked equally across the nations to which they applied.

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[Correspondence.Lesley.Griffiths@gov.wales](mailto:Correspondence.Lesley.Griffiths@gov.wales)

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

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

The Regulations will be laid before the UK Parliament on 11 March.

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

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

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# Agenda Item 9

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

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