

Agenda – Legislation, Justice and Constitution Committee

Meeting Venue:	For further information contact:
Video conference via Zoom	P Gareth Williams
Meeting date: 16 September 2024	Committee Clerk
Meeting time: 13.30	0300 200 6565
	SeneddLJC@senedd.wales

Remote

Public meeting

(13.30 – 13.50)

1 Introduction, 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)507 – The Agricultural Tenancies (Requests for Landlord's Consent or
Variation of Terms) (Wales) Regulations 2024**

(Pages 1 – 4)

[Regulations](#)

[Explanatory Memorandum](#)

Attached Documents:

LJC(6)-25-24 – Paper 1 – Draft report

**2.2 SL(6)508 – The Agricultural Holdings (Requests for Landlord's Consent or
Variation of Terms and the Suitability Test) (Wales) Regulations 2024**

(Pages 5 – 8)



[Regulations](#)

[Explanatory Memorandum](#)

Attached Documents:

LJC(6)-25-24 – Paper 2 – Draft report

2.3 SL(6)510 – The Education (Student Finance) (Miscellaneous Amendments) (Wales) Regulations 2024

(Pages 9 – 11)

[Regulations](#)

[Explanatory Memorandum](#)

Attached Documents:

LJC(6)-25-24 – Paper 3 – Draft report

2.4 SL(6)512 – The Government of Maintained Schools (Training Requirements for Governors) (Wales) (Amendment) Regulations 2024

(Pages 12 – 14)

[Regulations](#)

[Explanatory Memorandum](#)

Attached Documents:

LJC(6)-25-24 – Paper 4 – 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)

3.1 SL(6)493 – The Procurement (Wales) Regulations 2024

(Pages 15 – 18)

Attached Documents:

LJC(6)-25-24 – Paper 5 – Letter from the Cabinet Secretary for Finance, Constitution and Cabinet Office, 2 September 2024

LJC(6)-25-24 – Paper 6 – Letter to the Cabinet Secretary for Finance, Constitution and Cabinet Office, 16 July 2024

3.2 SL(6)501 – The Digital Government (Welsh Bodies) Regulations 2024

(Page 19)

Attached Documents:

LJC(6)-25-24 – Paper 7 – Letter from the Cabinet Secretary for Education, 13 August 2024

3.3 SL(6)503 – The Cockle Fishing Management and Permitting (Specified Area) (Wales) Order 2024

(Pages 20 – 30)

Attached Documents:

LJC(6)-25-24 – Paper 8 – Report

LJC(6)-25-24 – Paper 9 – Welsh Government response

3.4 SL(6)504 – The National Health Service (General Medical Services Contracts) (Prescription of Drugs Etc.) (Wales) (Amendment) Regulations 2024

(Pages 31 – 34)

Attached Documents:

LJC(6)-25-24 – Paper 10 – Report

LJC(6)-25-24 – 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

(Page 35)

Attached Documents:

LJC(6)-25-24 – Paper 12 – Letter from the Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs: The Inter-Ministerial Group for Environment, Food and Rural Affairs, 30 August 2024

4.2 Correspondence from the Cabinet Secretary for Finance, Constitution and Cabinet Office: The British-Irish Council Summit

(Page 36)

Attached Documents:

LJC(6)-25-24 – Paper 13 – Letter from the Cabinet Secretary for Finance, Constitution and Cabinet Office, 5 August 2024

4.3 Correspondence from the Cabinet Secretary for Climate Change and Rural Affairs: The Producer Responsibility Obligations (Packaging and Packaging Waste) Regulations 2024

(Pages 37 – 38)

Attached Documents:

LJC(6)-25-24 – Paper 14 – Letter from the Cabinet Secretary for Climate Change and Rural Affairs, 9 August 2024

4.4 Correspondence and Written Statement by the Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs: The Windsor Framework (Retail Movement Scheme: Plant and Animal Health) Regulations 2024

(Pages 39 – 44)

Attached Documents:

LJC(6)-25-24 – Paper 15 – Letter from the Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs, 13 August 2024

LJC(6)-25-24 – Paper 16 – Written Statement by the Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs, 12 August 2024

LJC(6)-25-24 – Paper 17 – Letter from the Cabinet Secretary for Climate Change and Rural Affairs, 16 July 2024

4.5 Correspondence from the Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs: Sea Fisheries (Amendment) (No 2) Regulations 2024

(Pages 45 – 46)

Attached Documents:

LJC(6)-25-24 – Paper 18 – Letter from the Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs, 22 August 2024

4.6 Correspondence from the Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs: Service Level Agreement between the

Welsh Ministers, the Rural Payments Agency and the British Cattle Movement Service

(Page 47)

Attached Documents:

LJC(6)-25-24 – Paper 19 – Letter from the Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs, 2 September 2024

5 Papers to note

(13.45 – 13.50)

5.1 Briefing by the Bevan Foundation: Immigration legal services in Wales

(Pages 48 – 52)

Attached Documents:

LJC(6)-25-24 – Paper 20 – Briefing by the Bevan Foundation

5.2 Written Statement by the Cabinet Secretary for Finance, Constitution and Cabinet Office: The UK Government's Legislative Programme

(Pages 53 – 54)

Attached Documents:

LJC(6)-25-24 – Paper 21 – Written Statement by the Cabinet Secretary for Finance, Constitution and Cabinet Office, 19 July 2024

5.3 Correspondence from the Cabinet Secretary for Climate Change and Rural Affairs: Statutory review of the Water Resources (Control of Agricultural Pollution) (Wales) Regulations 2021

(Pages 55 – 56)

Attached Documents:

LJC(6)-25-24 – Paper 22 – Letter from the Cabinet Secretary for Climate Change and Rural Affairs, 31 July 2024

5.4 Correspondence with the UK Government: Intergovernmental relations and the legislative consent convention

(Pages 57 – 63)

[The Government's Legislative Programme: Wales – Written Statement by the Secretary of State for Wales, 18 July 2024](#)

Attached Documents:

LJC(6)-25-24 – Paper 23 – Letter from the Secretary of State for Wales, 31 July 2024

LJC(6)-25-24 – Paper 24 – Letter to the UK Government, 16 July 2024

5.5 Correspondence from the Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs: The Trade in Animals and Related Products (Amendment and Legislative Functions) and Animal Health (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2022

(Pages 64 – 67)

Attached Documents:

LJC(6)-25-24 – Paper 25 – Letter from the Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs, 9 September 2024

LJC(6)-25-24 – Paper 26 – Letter to the Cabinet Secretary for Climate Change and Rural Affairs, 3 July 2024

5.6 Consultation and discussion paper by the Law Society Wales Office: From Caernarfon to Caerdydd: Reimagining Justice in Wales 2030

(Pages 68 – 87)

Attached Documents:

LJC(6)-25-24 – Paper 27 – Consultation and discussion paper by the Law Society Wales Office

5.7 Written Statement by the Cabinet Secretary for Finance, Constitution and Cabinet Office: The Second Bi-Annual Welsh Government REUL Act Update (January 2024 – June 2024)

(Page 88)

Attached Documents:

LJC(6)-25-24 – Paper 28 – Written Statement by the Cabinet Secretary for Finance, Constitution and Cabinet Office, 10 September 2024

5.8 Correspondence from the Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs: The Water (Special Measures) Bill

(Pages 89 – 90)

Attached Documents:

LJC(6)-25-24 – Paper 29 – Letter from the Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs, 11 September 2024

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

(13.50)

Private meeting

(13.50 – 14.30)

7 Legislative Consent Memorandum on the Passenger Railway Services (Public Ownership) Bill

(13.50 – 14.00)

(Pages 91 – 98)

Attached Documents:

LJC(6)-25-24 – Paper 30 – Legal Advice Note

8 Subordinate legislation laid in English only

(14.00 – 14.10)

(Pages 99 – 100)

Attached Documents:

LJC(6)-25-24 – Paper 31 – Draft letter

9 Trade and Co-operation Agreement consultation: Further consideration

(14.10 – 14.20)

10 Forward Work Programme

(14.20 – 14.30)

SL(6)507 – The Agricultural Tenancies (Requests for Landlord’s Consent or Variation of Terms) (Wales) Regulations 2024

Background and Purpose

These Regulations make provision for the resolution of disputes in relation to landlord’s consent and variations to the terms of a contract of tenancy of a farm business tenancy under the Agricultural Tenancies Act 1995 (“the 1995 Act”).

Part 1 of the Regulations contains introductory provisions.

Part 2 of the Regulations allows a tenant to refer a request to arbitration where they need the landlord’s consent or the variation of terms of a farm business tenancy under the 1995 Act to enable the tenant to request or apply for relevant financial support under the Agriculture Wales Act 2023, or to meet a statutory duty.

Part 3 provides for a review of these Regulations by 13 June 2031, and at intervals not exceeding 5 years thereafter.

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 seven 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 2, the terms “farm business tenancy” and “statutory duty” are defined as having a meaning “In these Regulations”. But both of those terms are only used in regulation 3 of these Regulations. Therefore, the definitions of those terms should appear in regulation 3 as recommended by the Welsh Government’s drafting guidelines – see WLW 4.14(1).

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



In regulation 2, in the definition of “relevant financial support”, in paragraph (a), there is a reference to “section 8 of **the Agriculture (Wales) Act 2023**”. However, that Act has been defined as “the 2023 Act” in these Regulations. It also means that paragraph (a) is inconsistent with the following paragraphs in that definition where the defined term has been correctly used when referring to that Act.

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

In regulation 2, in the definition of “relevant financial support”, there is a difference between the English and Welsh text. In the English text, there is a conjunction “or” after paragraph (f) but there is no conjunction in the corresponding place in the Welsh text. The existence and choice of conjunction is significant as it indicates to the reader whether the paragraphs are cumulative or alternative – see WLW 2.9(7).

4. Standing Order 22.1 (vi) that its drafting appears to be defective or it fails to fulfil statutory requirements;

In regulation 2, in the definition of “relevant financial support”, in paragraph (g), the description in parentheses after the reference to section 22 of the 2023 Act states “(powers of Welsh Ministers to give financial **assistance** in exceptional market conditions)”. However, it should state “financial **support**” as noted in section 22 of that Act.

5. Standing Order 22.1 (vi) that its drafting appears to be defective or it fails to fulfil statutory requirements;

In regulation 2, in the definition of “statutory duty”, in paragraph (c), there is an incorrect, outdated use of terminology in the reference to a category of legislation known as “retained direct EU legislation”. This category of legislation should be referred to as “assimilated direct legislation” as noted in section 5 of the Retained EU Law (Revocation and Reform) Act 2023.

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

In regulation 3(8), there is a difference in the period of time given to the tenant to refer the request to arbitration or third party determination when compared with the corresponding provision in regulation 3(9) of the Agricultural Holdings (Requests for Landlord’s Consent or Variation of Terms and the Suitability Test) (Wales) Regulations 2024. These Regulations give the tenant a “period of 2 months”, but the other set of Regulations give the tenant a “period of 4 months”. It is unclear why there is a difference in the period of time given to the tenant by the corresponding provisions in the different sets of Regulations.

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

In regulation 4(2)(d), there is a difference in the drafting of the text when compared with the corresponding provision found in regulation 4(2)(d) of the Agricultural Holdings (Requests



for Landlord's Consent or Variation of Terms and the Suitability Test) (Wales) Regulations 2024. In these Regulations, it states "at which **the award** takes effect" but in the other set of Regulations it states, "at which **the award or determination** takes effect". It is unclear why there is a difference between the two sets of regulations, because an award or determination may be made in both sets of Regulations.

Merits Scrutiny

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

8. 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 title of these Regulations appear in the Explanatory Memorandum as "the Agricultural Tenancies (Requests for Landlord's Consent **and** Variation of Terms) (Wales) Regulations 2024" each time the title is used. We ask that the correct title of these Regulations is confirmed.

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.

These Regulations are subject to the negative procedure. It would have been helpful, in the preamble, to refer to section 36A(3) of the 1995 Act. This states that a statutory instrument containing regulations made under section 8A(7) is subject to annulment in pursuance of a resolution of Senedd Cymru.

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

Section 5 of the Explanatory Memorandum describes the consultation undertaken in advance of making these regulations:

The Agriculture (Wales) White Paper set out Welsh Government's proposals to introduce new dispute resolution provisions for 1986 Act tenancies, and asked whether the proposals should be extended to FBTs. No clear pattern emerged, with conditional support appearing to be more prevalent amongst a small subset.

Those in favour of extending the provisions to Farm Business Tenancies (FBT) felt market conditions limit tenants' power and influence to renegotiate agreements. Whereas those opposed noted the flexibility of the FBT framework has resulted in fewer disputes, and felt any further change could undermine the law of contract and confidence in the let sector.

On balance, Welsh Government decided to proceed with an amendment to the 1986 Act only. However, some stakeholders continued to make strong representations to Welsh Government as the Bill progressed through the Senedd. Subsequent discussions suggested existing provisions within the Act do not, in practice, offer a comprehensive



route to vary clauses in FBTs that extend beyond tenants' improvements, or which are the subject of a consent clause. As a result, some tenants may find their ability to vary restrictive clauses within their lease limited, particularly given their often weak negotiating position. This could then limit their ability to access financial support or comply with statutory obligations, thus risking financial loss and penalties.

Welsh Government conceded there could be a gap in provisions, albeit minimal, and amendment could remove ambiguity in the application of the current rules and be of benefit in a small number of cases without detrimental impacts elsewhere.

Welsh Government response

A Welsh Government response is required in respect of reporting points 1 to 9.

Legal Advisers

Legislation, Justice and Constitution Committee

10 September 2024



Senedd Cymru

Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad

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Welsh Parliament

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Legislation, Justice and Constitution Committee

SL(6)508 – The Agricultural Holdings (Requests for Landlord’s Consent or Variation of Terms and the Suitability Test) (Wales) Regulations 2024

Background and Purpose

These Regulations make provision about the resolution of disputes in relation to landlord’s consent and variations to the terms of a contract of tenancy of an agricultural holding under the Agricultural Holdings Act 1986 (“the 1986 Act”) and about applications to succeed to a tenancy of an agricultural holding under the 1986 Act.

Part 1 contains introductory provisions.

Part 2 provides for a tenant to refer a request to arbitration or, by agreement in writing with the landlord, third party determination where a landlord’s consent or a variation of the terms of a contract of tenancy of an agricultural holding under the 1986 Act is required either to enable a tenant to request or apply for relevant financial assistance under the Agriculture (Wales) Act 2023 as defined in regulation 2 or in order to meet a statutory duty.

Part 3 sets out the matters which the Agricultural Land Tribunal must have regard to when determining an application by a person as to whether they are suitable to succeed to a tenancy of an agricultural holding under Part 4 of the 1986 Act following the death or retirement of a tenant.

Part 4 provides for a review of these Regulations by 13 June 2031 and at intervals not exceeding 5 years thereafter.

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 9 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 2, in the definition of “relevant financial assistance”, in paragraph (a), there is a reference to “section 8 of the Agriculture (Wales) Act 2023”. However, that Act has been defined as “the 2023 Act” in these Regulations. It also means that paragraph (a) is inconsistent with the following paragraphs in that definition where the defined term has been correctly used when referring to that Act.

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

In regulation 2, in the definition of “relevant financial assistance”, in paragraph (f), there is a difference between the English and Welsh text. In the English text, the description in parentheses after the reference to section 19 of the 2023 Act is “(support for rural development)”. But in the Welsh text the meaning given by the corresponding words in parentheses is “(power to modify legislation relating to support for rural development)” which is the full heading of section 19 of that Act.

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

In regulation 2, the term “statutory duty” is defined as having a meaning “In these Regulations”. But this term is only used in regulation 3 of these Regulations. Therefore, the definition of this term should appear in regulation 3 as recommended by the Welsh Government’s drafting guidelines – see WLW 4.14(1).

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

In regulation 2, the term “third party determination” has been defined as having the meaning given in section 96(1) of the 1986 Act in these Regulations. However, the term “third party” is also used in these Regulations and is a defined term in section 96(1) of the 1986 Act. Therefore, it is unclear whether the intention is for the term “third party” to be given the same meaning in these Regulations as it has in section 96(1) of the 1986 Act.

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

In regulation 2, there is no definition of the term “the tenancy” although it is used throughout these Regulations.

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

In regulation 3 the term “the holding” is used, as this term is not defined, it is unclear whether it carries the same meaning as “agricultural holding”, which is used in regulation 3(1). In regulations 4 and 5 “the holding” and “a holding” are used, respectively, without an earlier reference to “agricultural holding” within the same regulations.



Further, regulation 5(1) refers to applications under provisions in sections 39 and 53 of the 1986 Act. For the purpose of section 39 “the holding” is defined in section 35(2) of the 1986 Act and for the purpose of section 53, “the holding” is defined in section 49(3) of the 1986 Act. It is unclear whether “a holding” is intended to carry the same meaning as defined in either sections 35(2) or 49(3) of the 1986 Act, in this regulation.

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

In regulation 3(9), there is a difference in the period of time given to the tenant to refer the request to arbitration or third party determination when compared with the corresponding provision in regulation 3(8) of the Agricultural Tenancies (Requests for Landlord’s Consent or Variation of Terms) (Wales) Regulations 2024. These Regulations give the tenant a “period of 4 months”, but the other set of Regulations give the tenant a “period of 2 months”. It is unclear why there is a difference in the period of time given to the tenant by the corresponding provisions in the different sets of Regulations.

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

In regulation 4(2)(d), there is a difference in the drafting of the text when compared with the corresponding provision found in regulation 4(2)(d) of the Agricultural Tenancies (Requests for Landlord’s Consent or Variation of Terms) (Wales) Regulations 2024. In these Regulations, it states “at which the award or determination takes effect” but in the other set of Regulations it states, “at which the award takes effect”. It is unclear why there is a difference because an award or determination may be made in both sets of Regulations.

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

Regulation 4(6) states “The award of an arbitrator or determination of a third party under this Part...”. This raises the question of whether an arbitrator can make a determination and whether a third party can make an award, and if they can, does regulation 4(6) apply to them? The other paragraphs of regulation 4 make reference to awards or determinations by the arbitrator or third party.

Merits Scrutiny

The following 3 points are identified for reporting under Standing Order 21.3 in respect of this instrument.

10. 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 title of these Regulations appear in the Explanatory Memorandum as “the Agricultural Holdings (Requests for Landlord’s Consent **and** Variation of Terms and the Suitability Test)



(Wales) Regulations 2024” each time the title is used. We ask that the correct title of these Regulations is confirmed.

11. 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 are subject to the negative procedure. It would have been helpful, in the preamble, to refer to section 94 of the 1986 Act in this regard.

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

Section 5 of the Explanatory Memorandum sets out the consultation undertaken in relation to the changes in these Regulations. We note that some time has passed since this consultation was undertaken in 2019, as part of a wider public consultation on agricultural tenancy reform.

Welsh Government response

A Welsh Government response is required in relation to reporting points 1 to 11.

Legal Advisers

Legislation, Justice and Constitution Committee

10 September 2024



Senedd Cymru

Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad

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Welsh Parliament

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Legislation, Justice and Constitution Committee

SL(6)510 – The Education (Student Finance) (Miscellaneous Amendments) (Wales) Regulations 2024

Background and Purpose

The Education (Student Finance) (Miscellaneous Amendments) (Wales) Regulations 2024 (“the Regulations”) amend various regulations which make provision about, and in connection with, eligibility requirements for student finance.

These Regulations amend student support and fee protection legislation to ensure continued eligibility for victims of domestic abuse or domestic violence, and bereaved partners, following changes to various provisions within the Immigration Rules by the Home Office.

The Regulations amend:

- the Education (Fees and Awards) (Wales) Regulations 2007;
- the Education (European University Institute) (Wales) Regulations 2014;
- the Higher Education (Qualifying Courses, Qualifying Persons and Supplementary Provision) (Wales) Regulations 2015;
- the Education (Student Support) (Wales) Regulations 2017;
- the Education (Student Support) (Wales) Regulations 2018;
- the Education (Postgraduate Doctoral Degree Loans) (Wales) Regulations 2018; and
- the Education (Student Support) (Postgraduate Master's Degrees) (Wales) Regulations 2019.

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 four 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 6(b), in the Welsh text, the substitution does not appear to achieve the intended effect of amending the text in regulation 6(10D)(b) of the Education (European University Institute) (Wales) Regulations 2014, to include the amended definition “person granted leave to enter or remain as a protected partner”. This is partly due to an historical error in the existing Welsh text of that regulation in the 2014 Regulations where “person **granted** leave” has been translated as meaning “person **with** leave”, and also an additional preposition in the phrase “or remain” so that it means “or **to** remain” in the new amendment.

The Welsh text of the opening words in regulation 6(10D)(b) of the 2014 Regulations as amended reads as follows: “(b) y cyfnod y caniateir i berson **sydd â chaniatâd i ddod i mewn neu i aros** fel partner a ddiogelir...”.

However, the amended definition in regulation 3(1) of the 2014 Regulations is “person **y rhoddwyd caniatâd iddo ddod i mewn neu aros** fel partner a ddiogelir” which should have been used with a soft mutation in the Welsh text of the opening words of regulation 6(10D)(b) of those Regulations.

The same problem occurs in the amendments made by regulation 12(b) to regulation 4(10C)(b) of the Education (Student Support) (Wales) Regulations 2017, and by regulation 35(a) to regulation 16(1)(b)(viii) of the Education (Student Support) (Postgraduate Master’s Degrees) (Wales) Regulations 2019.

Could the Welsh Government explain why the amended definition of “person granted leave to enter or remain as a protected partner” has not been used in the amended Welsh text of these provisions?

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

In regulation 9(a)(iii), the location for the insertion of the new paragraph (1) is incorrectly described as “before **sub-paragraph** (a)” in the existing definition of “person granted leave to remain as a protected partner” in paragraph 1(1) of the Schedule to the Higher Education (Qualifying Courses, Qualifying Persons and Supplementary Provision) (Wales) Regulations 2015. However, it should be correctly described as “before **paragraph** (a)” of that definition in that paragraph of the Schedule to the 2015 Regulations. In addition, it is also inconsistent with the correct descriptions used in corresponding amendments made to the same definition in other Statutory Instruments by regulations 3(a)(iii), 5(c), 11(c) and 31(c) of these Regulations.

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

In regulation 16(a) and (b), the location of the text for amendment is incorrectly described as “in **paragraph** (a)” and “in **paragraph** (b)” respectively of regulation 81(10C) in the Education (Student Support) (Wales) Regulations 2017. However, both provisions should be correctly identified as “in **sub-paragraph** (a)” and “in **sub-paragraph** (b)” of regulation 81(10C) in the



2017 Regulations. The same error occurs in regulation 18(a) and (b) in relation to the amendments made to regulation 110(12C) of the 2017 Regulations.

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

There appears to be an existing historical error in the index of definitions found in Table 16 of paragraph 1 in Schedule 7 to the Education (Student Support) (Wales) Regulations 2018 which is not corrected by the amendment made by regulation 29 of these Regulations. In Table 16, the new definition as a result of the amendment made by regulation 29 is "leave to enter or remain as a protected partner" and in the related entry in the second column of that Table it is noted as found in Schedule 2, paragraph 2ZB. However, the amended definition found in Schedule 2, paragraph 2ZB, sub-paragraph (3)(b) to the 2018 Regulations, is "**person granted** leave to enter or remain as a protected partner". This is also noted as the amended term in regulation 80(3) of, and Schedule 4, paragraph 14(4) and Schedule 5, paragraph 4(3) to, the 2018 Regulations. The other definitions for categories of persons which are listed in the index of definitions in Table 16 of Schedule 7 are noted in full.

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: We agree that there is a historical error and an error made by these Regulations that require correction and will look to make the necessary amendments in the next appropriate instrument. We anticipate that being in early 2025.

Technical Scrutiny points 2 & 3: We note the minor typographical errors identified and we are currently liaising with the S.I. Registrar about the possibility of correcting them by way of a correction slip.

Technical Scrutiny point 4: We agree that there is a historical error that requires correction and will look to make the necessary amendment in the next appropriate instrument. We anticipate that being in early 2025.

Legal Advisers

Legislation, Justice and Constitution Committee

8 August 2024



Agenda Item 2.4

SL(6)512 – The Government of Maintained Schools (Training Requirements for Governors) (Wales) (Amendment) Regulations 2024

Background and Purpose

These Regulations (the “**2024 Regulations**”) amend the *Government of Maintained Schools (Training Requirements for Governors) (Wales) Regulations 2013* (the “**2013 Regulations**”) which set out the training requirements for governors of maintained schools in Wales.

Specifically, the 2024 Regulations:

- update the training requirements for chairs of governing bodies, and the induction training for new governors;
- provide that governors and chairs of governors will not have to do the new training if they have completed the training previously required by the 2013 Regulations; and
- remove potential ambiguity in the 2013 Regulations by making it clear that local authorities must provide the relevant training free of charge.

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

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



It is noted that no formal public consultation has been undertaken on the 2024 Regulations. The Explanatory Memorandum (“**EM**”) states that such a consultation is not required under the enabling power, but that:

“the Welsh Government consulted with local authority and regional governor support officers (“the group”) on the updated content of the training documents between 16 February and 8 March 2024, including discussion at a governor support officers network on 22 February 2024.

Draft amendments to the training documents were shared with the group and comments were invited on the appropriateness of the changes.

Those local authority and regional officials with responsibility for providing training to school governors provided limited, but valuable feedback and suggestions to improve the quality and content of the new training documents.”

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.

It is noted that the Welsh Government undertook a Regulatory Impact Assessment (“**RIA**”) for the 2024 Regulations. The RIA is set out in paragraphs 16-28 of the EM.

It states that the need to review governor training requirements arose from recommendations by the Children’s Commissioner for Wales, the anti-racist organisation ‘DARPL’ and as a result of “several recent education reforms in Wales”. The RIA notes that the training requirements had not been refreshed since 2013. In relation to costs and benefits, the RIA states:

“There should be no significant cost or impact for local authorities to implement and deliver these changes, but it will require resource and time to ensure changes are made to training materials. This will involve an opportunity cost since the changes are expected to be made through current staff and budget. Local authorities have not raised any concerns with the Welsh Government with regards to delivering the new training requirements. [...]

Governor support officers who provide training to school governors were actively engaged with the drafting of the new training requirements. It is therefore likely they will already be preparing to amend their current induction training and training for chairs in readiness for the new school year when the 2024 Regulations come into force.

The new training requirements will not be more onerous or time-consuming for governors to undertake, so there will be no additional costs in this regard. [...]



Welsh Government response

A Welsh Government response is not required.

Legal Advisers

Legislation, Justice and Constitution Committee

29 August 2024



Senedd Cymru

Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad

—

Welsh Parliament **Pack Page 14**

Legislation, Justice and Constitution Committee



Rebecca Evans AS/MS
Ysgrifennydd y Cabinet dros Gyllid, y Cyfansoddiad
a Swyddfa'r Cabinet
Cabinet Secretary for Finance, Constitution & Cabinet Office

Llywodraeth Cymru
Welsh Government

Mike Hedges MS
Chair of the Legislation, Justice and
Constitution Committee

<mailto:SeneddLJC@senedd.wales>

2 September 2024

Dear Mike

The Procurement (Wales) Regulations 2024

Thank you for letter dated 16 July seeking further clarity on certain matters related to the Procurement (Wales) Regulations 2024 (“the Regulations”).

The questions in your letter seek clarity about the international obligations which apply in this situation as well as those which informed the decision to not update the names of central government authorities listed in the Regulations. You also asked whether Welsh Government considers it has the power to update the names.

In response to your first question, the international obligations that apply to this situation derive from the trade agreements listed in Schedule 9 to the Procurement Act 2023 (“the Act”). This list will continue to be updated via further regulations when new trade agreements are signed by the UK government.

In response to questions two, three, four and five, we believe we have the power under the Act to reflect name changes of central government authorities specified under paragraph 5(1) of Schedule 1 to the Act. The issue in this case was not the lack of power under the Act to do that, but concern about the impact of exercising this power on our compatibility with international obligations.

In some circumstances a change in the name of a contracting authority listed in a free trade agreement (FTA) could require notification, consultation, and, or compensatory adjustments, or might lead to a dispute about compliance with market access or other obligations. This could happen for instance where a change of name brings with it a reduction in the scope of the covered procurement carried out by the authority if that change in scope leads to a reduction in market access. For example, where an authority is renamed in legislation which also changes the authority’s functions so that the authority no longer

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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.

carries out the function it previously carried out, and access to procurement in relation to the function is not covered elsewhere by the FTA.

The UK is a party to many free trade agreements and some have procurement chapters containing obligations which go further than the UK's commitments in the World Trade Organisation's plurilateral Agreement on Government Procurement ("GPA"). Listing an authority in Schedule 2 to the Regulations confers certain domestic law rights in relation to goods, services and suppliers of other States. If an authority's name is changed in Schedule 2 and that authority is listed by its original name in an FTA, changing the name in Schedule 2 could affect the scope of the rights conferred by the Regulations in relation to goods, services and suppliers of the other Party to the FTA.

Because the Regulations contain a provision bringing successor entities within the ambit of the Regulations there was no legal doubt about whether The Senedd Commission or Social Care Wales would be covered by Schedule 2. In view of this, we chose to return to looking at the international obligations-related implications of updating names of Schedule 2 authorities at a later date in a further set of amending Regulations.

I can confirm this work is being progressed and Regulations to update the names will be laid in September 2024 with the intention that, subject to the will of the Senedd, they will be made in October to commence on 28 October 2024.

I trust the responses provided are helpful.

Yours sincerely,

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

Rebecca Evans AS/MS

Ysgrifennydd y Cabinet dros Gyllid, y Cyfansoddiad a Swyddfa'r Cabinet
Cabinet Secretary for Finance, Constitution & Cabinet Office

Rebecca Evans MS

Cabinet Secretary for Finance, Constitution and Cabinet Office

16 July 2024

Dear Rebecca

The Procurement (Wales) Regulations 2024

Further to my letter to you on 1 July 2024 in relation to the Procurement (Wales) Regulations 2024, I would like to acknowledge your contribution to the Plenary debate on the Regulations which took place on 2 July 2024.

During our meeting on Monday 8 July 2024, the Committee noted the statements you made as part of the Plenary debate. In particular, we noted that you expanded on comments previously expressed (in your letter to us on 27 June 2024) that the issue we have raised regarding the list of central Government bodies listed in Schedule 2 to the Regulations "is both technically and historically complex, and it's linked to our international obligations". You told the Senedd that "Whilst the Welsh Government has the powers to pass laws relating to the observation and implementation of international obligations, it's the UK Government that is responsible for agreeing trade deals for the whole of the United Kingdom, and, historically, this has meant that we've been unable to amend names such as those listed in Schedule 2, as we've lacked the powers to do so."

The Committee's consideration of the Regulations, including the responses we have received from you, has highlighted matters which are novel to us. We have some concerns that the making of these Regulations has brought to light potential wider issues with the Welsh Government's powers to observe and implement international obligations.

The Committee agreed to write to you again, to seek further clarity on a number of matters. Our purpose in doing so is to better understand the complexities of which you have spoken.

You have acknowledged that the Welsh Government and the Senedd have the powers to observe and implement international obligations. As such:

1. Can you clarify which specific international obligations the Welsh Government considers applies to this situation.
2. Can you confirm which international obligations the Welsh Government considers might be breached if the Welsh Government reflects the correct names of the bodies in the Regulations.
3. What specific restriction is there on the Welsh Ministers using their current powers to reflect the correct names of the bodies referenced in the Regulations?
4. Can you clarify the link between: (a) the UK Government being responsible for concluding trade agreements for the UK, and (b) the Welsh Government not having the power to reflect the correct names of bodies in Welsh Legislation.
5. Can you confirm whether the Welsh Government considers that its powers to implement and observe international obligations are not sufficient enough to reflect a name change of central Government bodies.

I would be grateful to receive a response to these further questions by 31 August 2024.

Yours sincerely,

A handwritten signature in black ink that reads "Mike Hedges". The signature is written in a cursive style and is underlined with a single horizontal line.

Mike Hedges
Chair

Lynne Neagle AS/MS
Ysgrifennydd y Cabinet dros Addysg
Cabinet Secretary for Education

Agenda item 3.2

Llywodraeth Cymru
Welsh Government

Mike Hedges MS
Chair
Legislation, Justice and Constitution Committee
Senedd Cymru
Cardiff Bay
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13 August 2024

Dear Mike

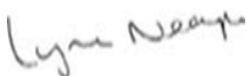
I am writing to you following the plenary debate on the draft Digital Government (Welsh Bodies) Regulations 2024 on 16 July 2024 to confirm the matters which were corrected prior to making.

The amendment referred to above is detailed below:

The Digital Government (Welsh Bodies) Regulations 2024

In the explanatory note, on the fourth line of the final paragraph, the text from "a regulatory impact assessment" until the end has been replaced with "it was not considered necessary to carry out a regulatory impact assessment as to the likely costs and benefits of complying with these Regulations."

Yours sincerely



Lynne Neagle AS/MS
Ysgrifennydd y Cabinet dros Addysg
Cabinet Secretary for Education

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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.

Agenda Item 3.3

SL(6)503 – The Cockle Fishing Management and Permitting (Specified Area) (Wales) Order 2024

Background and Purpose

This Order introduces management measures and a permitting regime for the management of the exploitation of cockles from cockle beds within the specified area in Wales.

The Order, which applies in relation to Wales, amends or revokes and replaces the Byelaws of the former North Western and North Wales Sea Fisheries Committee and the former South Wales Sea Fisheries Committee and provisions of the Cockles and Mussels (Specified Areas) (Wales) Order 2011 in so far as they regulate cockle fishing.

The Sea Fisheries Committees were abolished in relation to Wales on 1 April 2010 when the Sea Fisheries Regulation Act 1966 was repealed by section 187 of the Marine and Coastal Access Act 2009.

The Byelaws of the former North Western and North Wales Sea Fisheries Committee and former South Wales Sea Fisheries Committee have had effect since 1 April 2010 as if made by the Welsh Ministers in a statutory instrument by virtue of article 13(1) and (3) and Schedules 3 and 4 to the Marine and Coastal Access Act 2009 (Commencement No. 1, Consequential, Transitional and Savings Provisions) (England and Wales) Order 2010.

Part 1 of this Order (articles 1 and 2) deals with introductory matters.

Part 2 of this Order (articles 3 to 7) makes provision for the management of cockle beds within the specified area. Fishing for and taking cockles from cockle beds which are closed and without a permit is prohibited under article 3. Articles 5 to 7 provide for the assessment and the opening and closing of cockle beds within the specified area.

The specified area is described in Schedule 1.

Part 3 of this Order (articles 8 to 13 and Schedule 2) makes provision for a new cockle permitting regime setting out the requirement for a permit to fish and making provision about eligibility, the duration of a permit and fees. Article 9 and Schedule 2 provide for conditions to be attached to permits.

Part 4 of this Order (articles 14 to 18 and Schedule 3) makes provision for exemptions from the provisions of this Order, the re-deposit of cockles and for the revocation and amendment of various Byelaws of the former North Western and North Wales and the former South Wales Sea Fisheries Committees and the amendment of the Cockles and Mussels (Specified Area) (Wales) Order 2011.

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 seventeen 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 article 2, there is a difference between the English and Welsh text. In the Welsh text, there is an additional definition “manteisio ar” (“exploitation”) which is not found in the English text. The term is not used in this Order; therefore, the English text appears to be correct.

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

In article 2, in the English text, the definition of “cockles” is not listed according to alphabetical order as is the convention. It should appear after the definition of “cockle bed” in the English text of this Order.

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

In article 2, in the definition of “harvestable surplus”, there are several differences between the English and Welsh text as follows—

- a) in the English text, the corresponding Welsh definition that usually appears in brackets afterwards is incomplete because the word “cynaeafu” is missing along with the closing brackets; it should also be formatted in italics rather than regular font;
- b) in addition, in the Welsh text, it states that ““harvestable surplus” ... **is the live weight of the cockles that can** be fished for or taken...”. Therefore, there are additional words in the Welsh text that are not found in the English text of the definition.

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

In article 2, in the English text, the definition of “Wales” is not listed according to alphabetical order as is the convention. It should appear after the definition of “vessel”.



The definition is noted in single quotation marks rather than double quotation marks, and the words “of the” are missing from the reference “section 158(1) **of the** Government of Wales Act 2006” in the English text.

Finally, this defined term only appears to be used on a single occasion in the application provision found in article 1(2) of this Order. If a defined term is only used on a single occasion in a statutory instrument it should appear in the same provision and only be defined for that provision -see WLW 4.3(1).

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

In article 8(3), there is a difference between the English and Welsh text. In the English text, the term “the permit period” has been used which is not the defined term “a single permit period” found in article 2.

In addition, the Welsh text differs from the English text in this provision as it states, “between 1 June in a calendar year and the end of 31 May in the following year” rather than “during the permit period”.

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

In article 9(1)(b), the term “specified cockle bed” has been used but it has not been defined and given a meaning by article 2 of the Order. The defined term in article 2 is “cockle bed” which is found within the specified area described by Schedule 1 to this Order.

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

In article 10(1)(a), there is a difference between the English and Welsh text. In the English text, it states “are 16 years of age or over” but the Welsh text includes some additional words so that it means “are 16 years of age or over at the time the permit is issued”.

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

In article 10(2), in the definition of “relevant offence” for that article, in sub-paragraph (c)(i), it states that a relevant offence includes an offence under “section 139 (**contravention of orders under sections 134, 134A, 134B or 136**)”. However, the words in parentheses suggest that an offence under section 139 of the 2009 Act is limited to a contravention of orders made under those listed sections of the 2009 Act.

However, offences under section 139 include contraventions of both byelaws and orders made under other sections of the 2009 Act. Therefore, the words in parentheses are potentially misleading and confusing for the reader as it is unclear whether there is any intention to limit the relevant offences under section 139 of the 2009 Act for article 10 of this Order.



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

In article 12(1)(c) of, and paragraph 5 of Schedule 2 to, this Order the terms “a permit period” and “the permit period” are used in the Order. But the term has been defined in article 2 as “single permit period” which has been used elsewhere in this Order.

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

In Schedule 1, in paragraph 1(1)(c), there is a difference between the English and Welsh text. In the English text, it states “High Water Mark or Ordinary Tides”, but the meaning given by the Welsh text is “High Water Mark **of** Ordinary Tides”.

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

In Schedule 2, in paragraph 7, in the Welsh text, the word “deemed” has been expressed as “ystyriir” which means “considered”. The Glossary of the Welsh Government’s Legislative Translation Unit has standardised “barnu” as the recommended choice of word for “deem” in the Welsh text of legislation. Therefore, “bernir” should have been used in the Welsh text to express the meaning of “deemed”.

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

In Schedule 2, in paragraph 9, the heading refers to the “Requirement to carry **and produce** the permit” as one of the conditions which will apply to all permits. However, paragraph 9 only includes a requirement for the permit holder to carry their permit at all times while gathering cockles from a cockle bed.

There does not appear to be a requirement to produce a permit included in paragraph 9 of Schedule 2. Therefore, the heading is confusing and potentially misleading to the reader of the Order.

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

In Schedule 3, in paragraph 2(6)(b), there is a difference between the English and Welsh text. Both paragraphs (a) and (b) of paragraph 2(6) attempt to introduce amendments to article 8(1) of the Cockles and Mussels (Specified Area) (Wales) Order 2011.

In the English text, the amendment in paragraph 2(6)(b) does not succeed to clearly identify the existing text in article 8(1) for amendment because the word “shellfish” also occurs in the phrase “specified shellfish” which is amended by paragraph 2(6)(a).

In the Welsh text, the amendment made by paragraph 2(6)(b) does clearly identify the existing text for amendment by adding some additional words so that it states for “**those** shellfish”



substitute “**those** mussels””. This is sufficient to identify the existing text in article 8(1) that is amended by paragraph 2(6)(b) of Schedule 3, and to distinguish it from the text amended by paragraph 2(6)(a) of that Schedule.

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

In Schedule 3, in paragraph 3(3), the amendment inserts a new sentence that includes a reference to this Order at the end of Byelaw 13 of the Byelaws of the former North Western and North Wales Sea Fisheries Committee.

However, the title of the Order is incorrectly noted in the new insertion as the word “**Fishing**” is missing. It should be cited as “the Cockle **Fishing** Management and Permitting (Specified Area) (Wales) Order 2024”.

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

In Schedule 3, in paragraph 3(4), a series of amendments are made to omit any references to “cockle” and phrases where it is used from Byelaw 13A of the Byelaws of the former North Western and North Wales Sea Fisheries Committee.

The amendment made by paragraph 3(4)(c) omits a reference to “cockle or” from paragraph 2 of Byelaw 13A in those Byelaws. However, there is also a reference to “cockle or” found in paragraph 3 of Byelaw 13A in those Byelaws which is not omitted following these amendments. Therefore, these amendments have not succeeded in removing all the references to “cockle” from Byelaw 13A of those Byelaws.

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

In Schedule 3, in paragraph 6(1), there is a difference between the English and Welsh text. In the English text, it states that “The Byelaws of the former South Wales Sea Fisheries Committee” are amended. But the meaning given by the Welsh text is that “The Byelaws of the former North Western and North Wales Sea Fisheries Committee” are amended as follows.

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

In this Order, the verb “will” is found in several provisions but it is unclear whether it is being used as a future tense or to impose an obligation. For example, in article 9(4), it states that “the Welsh Ministers **will** consult with permit holders and other relevant stakeholders before varying or removing additional conditions”.

Also, in article 16(2), it states “Declarations and notifications made under the Order **will** be published on the Welsh Government website and, whenever practicable, declarations **will** be placed in clearly visible locations...”.



If these provisions are imposing obligations, they should use a phrase such as “must” or possibly “are to be” – see the Welsh Government’s drafting guidelines WLW 3.14(4) and (5).

In addition, there are other examples of the use of “will” in the Order such as in article 12(1)(b) and (c) where it is also unclear whether it is being used as a future tense, an obligation or as a declaration.

Merits Scrutiny

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

18. 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 Huw Irranca-Davies AS/MS and Cabinet Secretary for Climate Change & Rural Affairs in a letter to the Llywydd dated 26 June 2024.

In particular, we note the following paragraphs:

“Public cockle fisheries in Wales have been managed by the Welsh Government since the dissolution of the former Sea Fisheries Committees in 2010. The first sale value of these fisheries is estimated to be between £3M and £10M per annum. They support approximately 350 commercial hand gatherers and 50 workers in processing plants.

The Cockle Fishing Management and Permitting (Specified Area) (Wales) Order 2024 will introduce the following measures to conserve cockle stocks and ensure the sustainability of the fishery:

- a) An all-Wales cockle permit to gather on any cockle bed within a specified area.*
- b) Carrying out uniform eligibility checks for cockle permit applications*
- c) Charging an annual fee for cockle permits*
- d) Attaching a number of universal permit conditions to all cockle permits*
- e) Making provision to allow for additional local conditions specific to individual named fisheries for the purposes of adaptive cockle fishery management. Any additional conditions will also be attached to all permits.*
- f) Standardising the daily personal recreational allowance within the specified areas.*

Finalisation of the Order took longer than anticipated to ensure the Order delivered the changes required to establish the new permitting system. Contravention of the convention is thought necessary and justifiable to avoid delaying the opening of the Three Rivers Fishery to ensure cockle gatherers do not lose out on valuable income. Any



delay in opening the fishery on 17 July would penalise those cockle gatherers who rely on this income alone and could lead to cockle 'die off' as summer temperatures increase."

19. 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 from the Explanatory Memorandum that a 12-week public consultation on proposals for new cockle fishery management measures was launched on 11 February 2022 and closed on 6 May 2022.

The letter to the Llywydd dated 26 June 2024 states that the finalisation of the Order took longer than anticipated to ensure the Order delivered the changes required to establish the new permitting system.

Can clarification be provided as to the justification for the delay from the consultation in 2022 and to laying the Order in June 2024?

20. 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 specified area is the area described in Schedule 1 to this Order. The Explanatory Memorandum at paragraph 4.3 and 4.4 states that *"Maps of the specified area will be provided to permit holders when permits are issued to permit holders under the Order. A programme of work is underway to produce new mapping of the whole of the specified area. The updated mapping will be made available on www.GOV.WALES when the Order comes into force."* It would be helpful for the reader to be referred to the maps of the specified area in this Order.

Welsh Government response

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

Committee Consideration

The Committee considered the instrument at its meeting on 16 July 2024 and reports to the Senedd in line with the reporting points above.



Government Response: The Cockle Fishing Management and Permitting (Specified Area) (Wales) Order 2024

Technical Scrutiny Point 1: The Welsh Government accept the point raised and will take steps to correct this. As the term “manteisio ar” does not appear in the text of the legislation, Welsh Government are satisfied this difference does not undermine the legal effect of the instrument.

Technical Scrutiny Point 2: The Welsh Government accept the point raised and will take steps to correct this. The Welsh Government are satisfied that the incorrect placement of the definition does not undermine the legal effect of the instrument.

Technical Scrutiny Point 3: In relation to point a), the Welsh Government accepts the point raised and will take steps to correct this. The Welsh Government is satisfied these minor differences do not undermine the legal effect of the instrument. In relation to point b), a line of text has been erroneously omitted from the definition. An amendment will be brought forward to rectify this.

Technical Scrutiny Point 4: The Welsh Government accept the points raised and will take steps to correct this. The Welsh Government is satisfied the placement of the definition and the other minor points raised do not undermine the legal effect of the instrument.

Technical Scrutiny Point 5: In article 8(3) the intention is to refer to the period of any given permit period and not to the definition of the “single permit period”. The term “permit period” takes its ordinary meaning. The Welsh Government are satisfied no additional definition is required. However, steps will be taken to ensure equivalence between the English and Welsh texts.

Technical Scrutiny Point 6: The reference in article 9(1)(b) to a “specified cockle bed” is to a particular cockle bed to be specified in the permit conditions. The term takes its ordinary meaning. The Welsh Government is satisfied no additional definition is required.

Technical Scrutiny Point 7: The Welsh Government agrees with the point raised. An amendment will be brought forward to rectify this.

Technical Scrutiny Point 8: The parentheses draws attention to Orders for marine conservation in relation to Wales and the Welsh Zone because it is intended that an offence under section 139 of the 2009 Act is limited to a contravention of orders made under those listed sections. The Welsh Government considers this is clear and that no additional clarification is required.

Technical Scrutiny Point 9: The intention in article 12(1)(c) and paragraph 5 of Schedule 2 is to refer to the period of any given permit period and not to the definition of the “single permit period”. The term “permit period” takes its ordinary meaning. The Welsh Government is satisfied no additional definition is required.

Technical Scrutiny Point 10: The Welsh Government agrees with the point raised and will take steps to correct this typographical error.

Technical Scrutiny Point 11: The Welsh Government agrees with the reporting point and will take steps to address this. “Bernir” is the better term and “barnu” is the glossary term for “deem”.

Technical Scrutiny Point 12: Article 13 of the Order makes provision about the production of permits. There is a clear, enforceable requirement to produce a permit if requested to do so.

Paragraph 9 of Schedule 2 introduces a permit condition requiring permit holders to carry their permit at all times while gathering cockles from a cockle bed. This is for the purpose of producing the permits when requested.

The Welsh Government is satisfied no further clarification is required in this provision.

Technical Scrutiny Point 13: The proposed amendments, taken in the order they are set out in paragraph 2(6) of Schedule 3, mean that the first reference in 8(1) is dealt with in paragraph 2(6)(a) and the only other reference to “shellfish” which then remains is dealt with in paragraph 2(6)(b). The Welsh Government is satisfied that no additional clarification is required.

Technical Scrutiny Point 14: The Welsh Government agrees with the reporting point and steps will be taken to correct the omission.

Technical Scrutiny Point 15: The Welsh Government agrees with the reporting point and steps will be taken to remove remaining references to “cockle” from Byelaw 13A of the Byelaws of the former North Western and North Wales Sea Fisheries Committee.

Technical Scrutiny Point 16: The Welsh Government agrees with the reporting point and steps will be taken to correct the reference to the Byelaws.

Technical Scrutiny Point 17: In relation to article 9(4), the Welsh Government agrees with the reporting point and steps will be taken to replace the verb “will”.

In relation to article 12(1)(b) and (c), the Welsh Government agrees with the reporting point and steps will be taken to replace the verb “will”.

In relation to article 16(2), the Welsh Government agrees with the reporting point and steps will be taken to replace the verb “will”.

Otherwise, the Welsh Government does not consider the use of “will” in this Order requires clarification.

Merit Scrutiny point 19: In light of the need to balance resources so as to deliver priority Welsh Government legislative projects in 2022 and 2023, work on this Order did not proceed continuously between mid-2022 and mid-2024. Work on the production of this Order accelerated significantly in 2024 alongside the development of the operational infrastructure (e.g. the electronic permitting system and maps). The establishment of a new framework for permitting of the cockle fishery in relation to Wales inevitably entailed detailed consideration by officials and lawyers of the scope and the effect in practice of the proposed provisions of the Order which took longer than anticipated.

Merit scrutiny point 20: As indicated in the Explanatory Memorandum, maps have been made available online. Maps of the individual fisheries are also provided with permit conditions. However, the point is noted and the Welsh Government will consider an amendment to the Order to add clarity.

The Welsh Government aim to bring forward legislation which will make the required corrections by Spring 2025.

SL(6)504 – The National Health Service (General Medical Services Contracts) (Prescription of Drugs Etc.) (Wales) (Amendment) Regulations 2024

Background and Purpose

The National Health Service (General Medical Services Contracts) (Prescription of Drugs Etc.) (Wales) Regulations 2004 (**the principal Regulations**) make provision as to the drugs, medicines or other substances that may be ordered for patients in the provision of medical services under a general medical services contract.

These Regulations amend the principal Regulations by:

- placing restrictions on the prescribing of gonadotrophin releasing hormone (GnRH) analogues by NHS general practitioners in Wales when used to suppress puberty as part of treating gender incongruence or gender dysphoria in children and young people under 18 years of age.
- removing the current restriction on NHS general practitioners in Wales prescribing of vitamin B12 (cyanocobalamin) tablets.

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 3 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

Regulation 2(2)(a) to (c) inserts text into the table in Schedule 2 to the principal Regulations, doing so by inserting text “at the appropriate place”.

In this case, we believe the drafting should have pinpointed exactly where the new text should be inserted in each of the columns in Schedule 2. We note that [when the table was amended by the Welsh Ministers in 2005](#), a more precise approach was adopted which left no room for



confusion as to where the text should be inserted. We believe that approach should have been used in these Regulations.

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

Regulation 2(3) defines “general medical practitioner” as a medical practitioner whose name is included in the General Practitioner Register kept by the General Medical Council under section 2 of the Medical Act 1983.

However, the requirement to keep the “General Practitioner Register” is set out in section 34C of the Medical Act 1983, not section 2. Section 2 provides for a different register, namely “the register of medical practitioners”.

Therefore, the definition of “general medical practitioner” in the Regulations is unclear.

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

In regulation 2(4), there are several errors in the description of the existing text identified for amendment and in the new text that will replace that text—

- (a) in the description of the text identified for amendment in the definition of “patient”, there is a difference between the English and Welsh text. In the English text, the title of the instrument is noted as “National Health Service (General Medical Services Contracts) (Wales) Regulations 2004” but in the Welsh text it is noted as “National Health Services (General Medical Services Contracts) (Wales) Regulations 2004”. The Welsh text is correct as it cites the existing text including the error in the title of the instrument that was inserted by a previous amendment.
- (b) in the new text that will replace the existing text, the title of the instrument is incorrect—
 - (i) in both language texts, part of the title of the instrument is incorrect as they both note “National Health Services...” but the correct title of the instrument is “National Health Service...”;
 - (ii) there is a difference between the English and Welsh texts in the title of the instrument that will replace the existing reference. In the English text, part of the title is incorrectly noted as “(General Medical Service Contracts)” but in the Welsh text it is correctly noted as “(General Medical Services Contracts)”.

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 to the second reporting point.

Committee Consideration

The Committee considered the instrument at its meeting on 16 July 2024 and reports to the Senedd in line with the reporting points above.



Senedd Cymru

Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad

—
Welsh Parliament

Legislation, Justice and Constitution Committee

Pack Page 33

Government Response: The National Health Service (General Medical Services Contracts) (Prescription of Drugs Etc.) (Wales) (Amendment) Regulations 2024

Technical Scrutiny point 2: The Welsh Government is grateful to the Committee for raising this point and accepts further clarity is required. We will seek to make the provision clearer at the next available opportunity, and within the next 12 months.

Huw Irranca-Davies AS/MS
Y Dirprwy Brif Weinidog ac Ysgrifennydd y Cabinet dros
Newid Hinsawdd a Materion Gwledig
Deputy First Minister and Cabinet Secretary for Climate
Change and Rural Affairs

Ein cyf/Our ref: HID/PO/227/2024

Mike Hedges MS
Legislation, Justice and Constitution Committee

30 August 2024

Dear Mike,

I am writing in accordance with the inter-institutional relations agreement to let you know that the Inter-Ministerial Group for Environment, Food and Rural Affairs will be held on 16 September at the Defra offices in Marsham Street, London.

This will be the first meeting of this group since September 2023 and I am hopeful that it will usher in a re-set of relations.

I will be representing the Welsh Government. The meeting will focus on partnership working across the UK, a joint work programme for enhanced collaboration, opportunities and challenges for the UK's agriculture markets and protecting and enhancing the UK's biodiversity. I will update you on discussions, and a communique will be issued, after the meeting.

I have also copied this letter to the Climate Change, Environment and Infrastructure Committee and the Economy, Trade and Rural Affairs committee.

Yours sincerely,



Huw Irranca-Davies AS/MS

Y Dirprwy Brif Weinidog ac Ysgrifennydd y Cabinet dros Newid Hinsawdd
a Materion Gwledig
Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs

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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.

Agenda Item 4.2

Rebecca Evans AS/MS
Ysgrifennydd y Cabinet dros Gyllid, y Cyfansoddiad
a Swyddfa'r Cabinet
Cabinet Secretary for Finance, Constitution & Cabinet Office



Llywodraeth Cymru
Welsh Government

Mike Hedges MS
Chair
Legislation, Justice and Constitution Committee
Senedd Cymru

5 August 2024

Dear Mike,

I am writing in accordance with the inter-institutional relations agreement to notify you of the Welsh Government's attendance at the British-Irish Council (BIC) Summit held in Isle of Man on 20 and 21 June. The then Cabinet Secretary for Economy, Energy and Welsh Language, Jeremy Miles MS, represented the Welsh Government. I would like to draw your attention to the BIC [communique](#) summarising the outcomes of the Summit.

The Summit theme focused on 'Unlocking the Economic and Social Opportunities of Renewables Across These Islands'. The Welsh Government noted its commitment to delivering a fair and affordable transition to a low carbon future, including our aims for the publicly owned renewable energy developer, Trydan Gwyrdd Cymru, to secure value from the energy system and help to meet our renewable energy targets. In addition, Wales' Morlais project, one of the world's first fully consented tidal stream array, as well as offshore and onshore wind opportunities were highlighted.

I have copied this letter to the Chairs of the Climate Change, Environment, and Infrastructure Committee and the Culture, Communications, Welsh Language, Sport, and International Relations Committee.

Yours sincerely,

Rebecca Evans AS/MS

Ysgrifennydd y Cabinet dros Gyllid, y Cyfansoddiad a Swyddfa'r Cabinet
Cabinet Secretary for Finance, Constitution & Cabinet Office

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Ein cyf/Our ref: MA-HIDCC-5465-24

Mike Hedges MS
Chair
Legislation, Justice and Constitution Committee
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9 August 2024

Dear Mike,

I am writing to inform the Committee of my intention to consent to the UK Government making and laying the Producer Responsibility Obligations (Packaging and Packaging Waste) Regulations 2024 (“the Regulations”).

The Regulations intersect with devolved policy and will apply to Wales. The Regulations will be made by the Secretary of State for Environment, Food and Rural Affairs under the following provisions of the Environment Act 2021:

- sections 50 - 52, 142(1), (6) and (10), and 143(1),
- paragraphs 1-5, 7 and 12 of Schedule 4,
- paragraphs 1-9 and 11-17 of Schedule 5, and
- paragraphs 1, 4, and 7-12 of Schedule 7.

Sections 50(3), 51(3) and, 52(4) of the Environment Act 2021 provide that such Regulations can be made by the Secretary of State in relation to Wales with the consent of the Welsh Ministers. The Regulations apply in relation to England, Scotland, Northern Ireland and Wales and a similar request for consent has been sent to Scottish Ministers and Northern Ireland Assembly Members.

The Regulations will revoke the previous Producer Responsibility Obligations (Packaging Waste) Regulations 2007 and the Packaging Waste (Data Collections and Reporting) (Wales) Regulations 2023 and introduce an Extended Producer Responsibility (EPR) scheme for packaging and packaging waste. Implementation of Extended Producer Responsibility is a Programme for Government commitment of this administration and this

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

scheme for packaging will require producers of packaging to pay the full net cost of managing packaging waste and the provision of public information about the disposal of packaging waste. This will result in the costs of managing packaging waste being met by the producers who use and supply packaging, applying the “polluter pays” principle. The producer fees will be raised by a scheme administrator jointly appointed by the four governments of the UK who will distribute these monies to local authorities. The scheme will also require producers to meet packaging recycling targets and to adopt a clear ‘Recycle/Do not recycle’ label so that it is easier for people to know how to recycle their packaging waste.

Collectively, the aim of these measures is to act as a clear incentive to producers to reduce unnecessary packaging, design packaging that is easy to recycle, encourage the use of reuseable and refillable packaging, and reduce packaging litter. The EPR scheme for packaging is therefore important in both tackling the climate and nature emergency and building a stronger, greener economy as we progress towards a net zero Wales.

Whilst 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 doing so collaboratively with the UK Government where there is a clear rationale for doing so. In this instance it will enable a a single UK-wide SI to make provision for the UK-wide scheme as has been consulted upon, thereby ensuring consistency of approach across the UK.. It is therefore appropriate that the Regulations are made on a UK-wide basis.

It is anticipated that the Regulations will be laid before the UK Parliament using the affirmative procedure and are expected to come into force in January 2025. Final confirmation of the laying of the Regulations will be subject to the legislative programme of the new UK administration.

I have also written to Llŷr Gruffydd, Chair of the Climate Change, Environment and Infrastructure Committee.

Yours sincerely,



Huw Irranca-Davies AS/MS

Ysgrifennydd y Cabinet dros Newid Hinsawdd a Materion Gwledig
Cabinet Secretary for Climate Change & Rural Affairs

Huw Irranca-Davies AS/MS
Y Dirprwy Brif Weinidog ac Ysgrifennydd y Cabinet dros Newid
Hinsawdd a Materion Gwledig
Deputy First Minister and Cabinet Secretary for Climate Change
and Rural Affairs



Llywodraeth Cymru
Welsh Government

Mike Hedges MS
Chair of the Legislation, Justice and Constitution Committee
Senedd Cymru

SeneddLJC@senedd.wales

12 August 2024

Dear Mike,

The Windsor Framework (Retail Movement Scheme: Plant and Animal Health) Regulations 2024.

I refer to my letter to you of 16 July. I wish to inform the Committee I have given my consent to the Minister of State to lay the Windsor Framework (Retail Movement Scheme: Plant and Animal Health) Regulations 2024 in relation to Wales. I have laid a Written Statement which can be found [here](#).

The Regulations intersect with devolved policy and will apply to Wales. The Regulations extend to England, Scotland and Wales. The Statutory Instrument (SI) is subject to the negative procedure and was laid before UK Parliament on 9 August 2024 and will come into force on 26 August 2024 for Regulation 3 and 2 September 2024 for all other purposes.

Although the Welsh Government's general principle is that the law relating to devolved matters should be made and amended in Wales, on this occasion, it is considered appropriate for the substance of the amendments to apply to Wales. The SI relates to a devolved area, however, the SI operates GB-wide and has effect as to the acceptance of goods into Northern Ireland. Given the application to Northern Ireland it would not be within competence of Welsh Ministers to make this SI wholly as Wales-only. Additionally, there is no policy divergence between the Welsh and UK Government in this matter. This ensures a coherent and consistent statute book with the regulations being accessible in a single instrument. Making the regulations GB-wide also ensures there will be no risk of legislative divergence in the UK which would likely jeopardise the continued implementation of the Windsor Framework.

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

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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.

Yours sincerely

A handwritten signature in black ink, consisting of several fluid, overlapping strokes that form a stylized representation of the name.

Huw Irranca Davies AS/MS

Y Dirprwy Brif Weinidog ac Ysgrifennydd y Cabinet dros Newid Hinsawdd a Materion
Gwledig

Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs



Llywodraeth Cymru
Welsh Government

WRITTEN STATEMENT BY THE WELSH GOVERNMENT

TITLE **The Windsor Framework (Retail Movement Scheme: Plant and Animal Health) Regulations 2024**

DATE **12 August 2024**

BY **Huw Irranca-Davies MS, Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs**

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

Agreement was sought by Lord Douglas-Miller, the previous Minister for Biosecurity, Animal Health and Welfare at the Department for Environment, Food and Rural Affairs (DEFRA) to make a Statutory Instrument (SI) titled The Windsor Framework (Retail Movement Scheme: Plant and Animal Health) Regulations 2024.

The above titled SI will be made by the Secretary of State, in exercise of the powers conferred under section 8C(1) and (2) of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018.

The Regulations amend GB legislation in the Official Control Regulations, the Plant Health Regulations and the Phytosanitary Conditions Regulations and make references to EU POAO Regulations for multiple purposes. Primarily the amendments expand the list of non-EU, Rest of the World (RoW), plants, plant products and products of animal origin (POAO) goods eligible for movement under the Northern Ireland Retail Movement Scheme (NIRMS) and the facilitated movement scheme.

The SI was laid before the UK Parliament on 9 August 2024 and will come into force on 26 August 2024 for Regulation 3 and 2 September 2024 for all other purposes.

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

<https://www.legislation.gov.uk/uksi/2024/853/contents/made>

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

Although the Welsh Government's general principle is that the law relating to devolved matters should be made and amended in Wales, on this occasion, it is considered appropriate for the substance of the amendments to apply to Wales. The SI relates to a devolved area, however, the SI operates GB-wide and has effect as to the acceptance of goods into Northern Ireland. Given the application to Northern Ireland it would not be within competence of Welsh Ministers to wholly make this SI as Wales-only. Additionally, there is no policy divergence between the Welsh and UK Government in this matter. This ensures a coherent and consistent statute book with the regulations being accessible in a single instrument. Making the regulations GB-wide also ensures there will be no risk of legislative divergence in the UK which would likely jeopardise the continued implementation of the Windsor Framework.

This statement is being issued during recess in order to keep members informed. Should members wish me to make a further statement or to answer questions on this when the Senedd returns I would be happy to do so.



Mike Hedges MS
Chair of the Legislation, Justice and Constitution Committee
Senedd Cymru

SeneddLJC@senedd.wales

16 July 2024

Dear Mike,

The Windsor Framework (Retail Movement Scheme: Plant and Animal Health) Regulations 2024.

I wish to inform the Committee of the intention to consent to the UK Government making and laying The Windsor Framework (Retail Movement Scheme: Plant and Animal Health) Regulations 2024 (“the Regulations”) by 29 July 2024.

I received a letter from Lord Douglas-Miller, the previous Minister for Biosecurity, Animal Health and Welfare, requesting consent to the Regulations. The Regulations will be made by the Secretary of State for Environment, Food and Rural Affairs, in exercise of the powers conferred by Section 8C(1) and (2) of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018.

The purpose of the Regulations is to protect biosecurity and support trade between Northern Ireland (“NI”) and Great Britain (“GB”), following the agreement of the Windsor Framework. The amendments contained in the Regulations change the way in which plants, plant products and other objects move between GB and NI, restoring the smooth flow of trade within the internal market of the United Kingdom.

The Regulations expand the list of non-EU, Rest of the World (RoW), plants, plant products and products of animal origin (POAO) goods eligible for movement under the Northern Ireland Retail Movement Scheme (NIRMS) and the facilitated movement scheme.

The Statutory Instrument (SI) is subject to the negative procedure and is due to be laid before UK Parliament on 29 July 2024.

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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.

Although the Welsh Government's general principle is that the law relating to devolved matters should be made and amended in Wales, on this occasion, it is considered appropriate for the substance of the amendments to apply to Wales. The SI relates to a devolved area, however, the SI operates GB-wide and has effect as to the acceptance of goods into Northern Ireland. Given the application to Northern Ireland it would not be within competence of Welsh Ministers to wholly make this SI as Wales-only. Additionally, there is no policy divergence between the Welsh and UK Government in this matter. This ensures a coherent and consistent statute book with the regulations being accessible in a single instrument. Making the regulations GB-wide also ensures there will be no risk of legislative divergence in the UK which would likely jeopardise the implementation of the Windsor Framework. Therefore, I am giving my consent to these Regulations.

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

Yours sincerely

A handwritten signature in black ink, appearing to be 'Huw Irranca Davies', written in a cursive style.

Huw Irranca Davies AS/MS

Ysgrifennydd y Cabinet dros Newid Hinsawdd a Materion Gwledig
Cabinet Secretary for Climate Change and Rural Affairs

Huw Irranca-Davies AS/MS
Dirprwy Brif Weinidog ac Ysgrifennydd y Cabinet dros
Newid Hinsawdd a Materion Gwledig
Deputy First Minister & Cabinet Secretary for
Climate Change & Rural Affairs

Ein cyf/Our ref MA-HIDCC-5473-24

Mike Hedges MS
Chair
Legislation, Justice and Constitution Committee
Welsh Parliament

22 August 2024

Dear Mike,

I have received a request from Lord Douglas-Miller, the former Minister for Biosecurity, Marine and Rural Affairs, requesting formal consent for the Sea Fisheries (Amendment) (No 2) Regulations 2024 (the "2024 Regulations") which intersects with devolved competence, and will apply in relation to Wales.

The 2024 Regulations relate to measures which apply to the seabass fishery which extends beyond the Welsh Zone. In order for them to be effective, they need to apply on a UK basis and apply to all vessels operating in UK waters. In particular the 2024 Regulations remove seabass fishing provisions for United Kingdom registered fishing vessels from Council Regulation (EU) 2020/123. This is to enable more responsive management to be brought in through vessel licensing.

As these Regulations implement UK-wide obligations I intend to give my consent to the Secretary of State for Environment, Food and Rural Affairs to make the 2024 Regulations, so the provisions therein apply in relation to Wales.

The anticipated laying date is the 8 October and the SI is subject to the negative procedure.

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

Yours sincerely,



Huw Irranca-Davies AS/MS

Y Dirprwy Brif Weinidog ac Ysgrifennydd y Cabinet dros Newid Hinsawdd a Materion Gwledig
Deputy First Minister & Cabinet Secretary for Climate Change & Rural Affairs
Cabinet Secretary for Climate Change & Rural Affairs

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Huw Irranca-Davies AS/MS
Y Dirprwy Brif Weinidog ac Ysgrifennydd y Cabinet dros
Newid Hinsawdd a Materion Gwledig
Deputy First Minister and Cabinet Secretary for Climate
Change and Rural Affairs

Ein cyf/Our ref: MA/HIDCC/5478/24

Mike Hedges MS
Chair
Legislation, Justice and Constitution Committee
Welsh Parliament

2 September 2024

Dear Mike,

In accordance with the inter-institutional relations agreement, I am writing to notify you that a Service Level Agreement between Welsh Ministers, Rural Payments Agency and the British Cattle Movement Service was published on 2 September 2024 and can be found [here](#).

This Service Level Agreement records the agreement made between the Welsh Ministers and the BCMS for the provision of services and the exercise of Welsh Ministers' functions pursuant to section 83 of the Government of Wales Act 2006

I have also copied this letter to Rebecca Evans MS, Cabinet Secretary for Finance, Constitution & Cabinet Office, the Economy, Trade, and Rural Affairs Committee and the Finance Committee.

Yours sincerely,



Huw Irranca-Davies AS/MS

Y Dirprwy Brif Weinidog ac Ysgrifennydd y Cabinet dros Newid Hinsawdd
a Materion Gwledig
Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs

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Agenda Item 5.1



Free-at-source immigration legal services in Wales - a snapshot

Access to justice for immigration matters is severely restricted in Wales. With immigration legal aid services at the point of collapse and limited provision for non-legal aid cases, immigration legal provision is in crisis. Many migrants and sanctuary-seekers are unable to access justice, with devastating consequences for them and their families. This paper gives an overview of current immigration legal provision in Wales and illustrates its decline since the last civil legal aid contracts began in 2018.

1. Legal Aid

Most immigration casework was removed from the scope of legal aid in 2012. Legal aid is still available for asylum cases, with very restricted availability for certain non-asylum matters, e.g. detention and bail applications, cases of human trafficking, and domestic violence.

Exceptional Case Funding (ECF) is a theoretical safety net, available where denying legal aid would risk violation of human rights. The low fixed fees offered for ECF work make it financially unviable, and most immigration solicitors in Wales do not offer it.

How much immigration legal aid provision is needed in Wales?

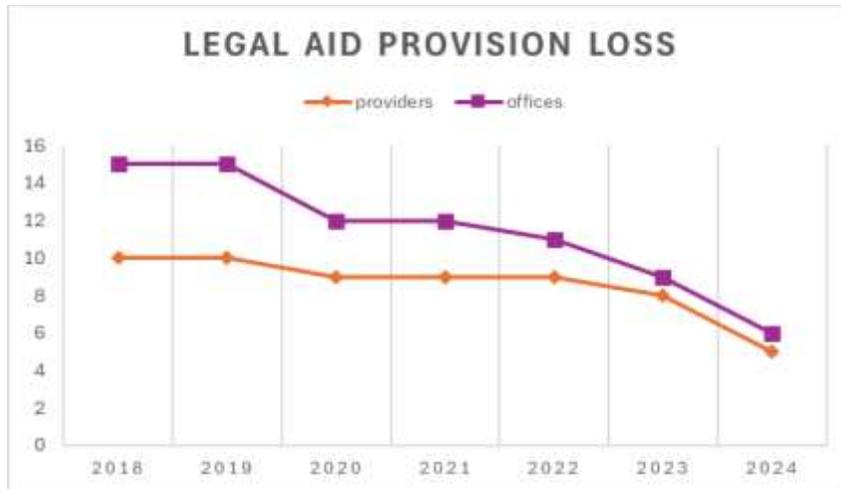
A conservative estimate calculates that in 2022 over 3,500 people in Wales presented with **new** immigration and asylum cases within the scope of legal aid.¹

Based on an annual average of 1380 legal aid matter starts¹ in Wales, the author, Dr Jo Wilding, calculated a Primary Legal Aid Deficit (cases clearly within scope but unable to find representation in Wales) of 2,226. Since this report was written, need has risen, while the number of matter starts opened in 2023-24 dropped to just over 1,080, a figure only slightly higher than at the height of the Covid-19 pandemic in 2020-21.

Providers

The number of legal aid providers and offices in Wales has dropped steeply, from 13 offices and 9 providers in September 2018, to only five providers today, operating 6 offices between them. This represents a 60% reduction in legal aid provision points for people needing access to immigration justice in Wales.

¹ A 'matter start' is a case started within a legal aid contract. More information about legal aid, plus a glossary of terms, can be found in the Bevan Foundation report *Firefighting: protecting legal aid funded immigration legal services in Wales, 2023* <https://www.bevanfoundation.org/resources/firefighting-protecting-legal-aid-funded-immigration-services-in-wales/>

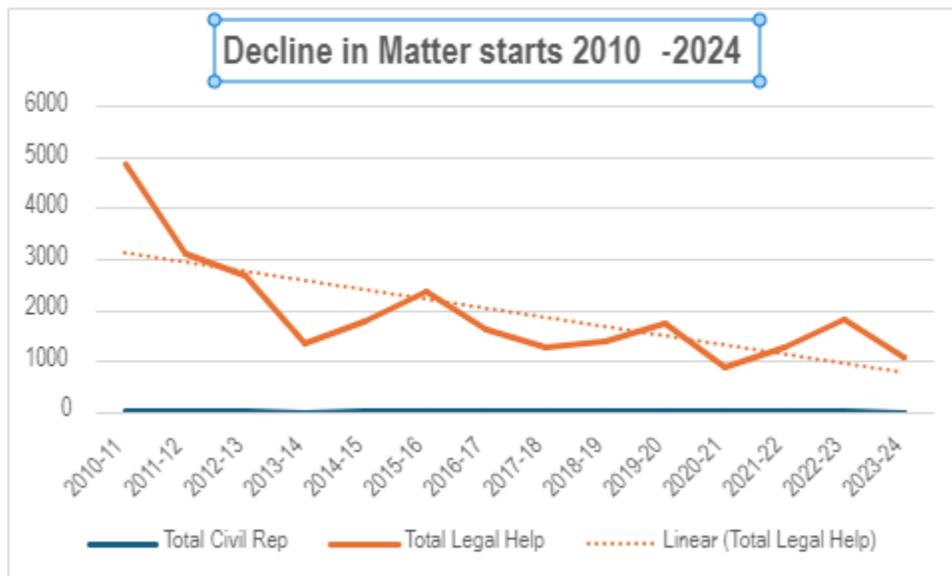


1 - Source: Ministry of Justice, Legal Aid Agency

Matter starts

Ministry of Justice figures show a steep decline in matter starts opened in Wales since the last financial year, with a 40 percent drop since 2022-3. An increase in new applications following a sharp drop during the Covid-19 pandemic may be a contributor, but the loss of providers, including one of Wales’s largest providers, is a major cause.

The decline is entrenched and long-term. Since 2015-15, there has been a 55% drop in immigration legal aid matter starts in Wales. The drop since 2010-11 is 80%.



2 - Source: Ministry of Justice, Legal Aid Agency

2. Out of scope provision

The greatest demand for immigration legal services falls outside the scope of legal aid. In the Refugee Action report cited above, its author Dr Jo Wilding estimated the numbers of urgent and pressing immigration cases in Wales that fall outside of the scope of legal aid to be just under 48,000. As noted by Dr. Wilding in her report for the Welsh Government, this need is spread throughout Wales, whereas the limited immigration legal provision that exists in Wales is overwhelmingly concentrated in the South East, in recognised 'dispersal areas'.²

OISC Services in Wales

The Office of the Immigration Services Commissioner regulates the provision of immigration advice in Wales. Non-fee-charging work outside of legal aid is provided predominantly through OISC-regulated advisors in the third sector. These are vital legal services that serve some of Wales's most vulnerable migrants. There are three levels of OISC competence which cover two categories of work: Immigration; and Asylum and Protection.

Of the six organisations providing OISC services in Wales, three provide a service that is restricted to people applying for a particular type of visa or to a particular ethnic group or group of experience (eg. sanctuary seekers or EU migrants).

Of the two organisations operating above OISC Level 1 (the most basic level), only Asylum Justice offers casework to a broad cohort, focusing on refugees and 'vulnerable' migrants (i.e. those in most challenging circumstances). This makes Asylum Justice unique in Wales: it offers a range of casework and representation at the highest level (OISC Level 3), free of charge, to migrants of all backgrounds. There is a huge demand for Asylum Justice's services

Other than the Welsh Refugee Council service situated in BAWSO's Wrexham office, there are no OISC regulated services outside of Cardiff, Newport and Swansea.

The table overleaf shows the three OISC levels; a short summary of the work that the advisor can undertake (the precise scope of work varies between the Immigration and the Asylum Protection categories); and the providers in Wales operating under that accreditation. (Note that above Level 1, providers can offer work at lower levels of competency.)

OISC Accreditation		Work	Providers in Wales	Region
Level 1	Advice and assistance	Basic advice and straight forward applications.	Welsh Refugee Council (Immigration, Asylum & Protection)	Cardiff, Newport, Swansea and Wrexham
			TPG Cymru (Immigration- EUSS only in partnership with Settled)	Cardiff
			Swansea Law Clinic (Immigration, Asylum & Protection)	Swansea
Level 2	Casework	Complex and discretionary casework. Representation to UKVI on illegal entry, overstayers, removal and deportation, applications for Secretary of State bail.		
Level 3	Advocacy and Representation	Most complex casework. Substantive appeals work. Pre-action protocol letters in advance of judicial review. Instruct and support counsel in certain circumstances.	Settled (Immigration, Asylum & Protection)	Newport
			Asylum Justice (Immigration, Asylum & Protection)	Cardiff

The impacts of exclusion from justice

Evidence indicates that people are increasingly unable to access immigration justice in Wales. Representation for appeals is particularly difficult to find in Wales. Support agencies report routinely referring people from Cardiff to Birmingham and Manchester.

Delays in finding advice and representation contribute to stress and impact well-being. Failure to access justice at the right time can result in the loss of employment, housing, immigration status, and ultimately lead to destitution or deportation. Due to the lack of legal literacy and knowledge of rights amongst migrants and people seeking sanctuary, it is difficult for people to assess whether or not an advisor is genuine, leading to alarming reports of exploitation and damage to immigration cases as a result of using unqualified and unregulated advisors.

The Bevan Foundation is currently undertaking research into people lived experiences of seeking and using immigration legal services in Wales. We are working with a working group of experts by experience, who will produce their own recommendations based on the findings of our research. More information on this work is available from the Bevan Foundation.

¹ Wilding, No Access to Justice, how legal aid deserts fail refugees, migrants, and our communities, 2022, Refugee Action <https://www.refugee-action.org.uk/no-access-to-justice-how-legal-advice-deserts-fail-refugees-migrants-and-our-communities/>

² Wilding, The adequacy and availability of legal advice services for forced migrants living in Wales, Welsh Government, 2023 <https://www.gov.wales/adequacy-and-availability-immigration-legal-advice-forced-migrants-wales-introduction-html>

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**WRITTEN STATEMENT
BY
THE WELSH GOVERNMENT**

TITLE **The UK Government’s Legislative Programme**

DATE **19 July 2024**

BY **Rebecca Evans MS, Cabinet Secretary for Finance, Constitution
and Cabinet Office**

On 17 July 2024, His Majesty the King formally opened the new session of the UK Parliament and outlined the UK Government’s proposed legislation for the new session.

Further information on the content of the King’s Speech was subsequently made available in a [publication](#) from the Prime Minister’s Office. The Secretary of State for Wales issued a [written statement](#) on 18 July setting out the Bills intended to extend and apply to Wales.

In the period between the General Election and the King’s Speech, Welsh Government officials engaged with UK Government officials on areas of likely impact for Wales. On the morning of the King’s Speech, the First Minister and I discussed the content of the UK Government’s legislative programme with the Leader of the House of Commons and the Secretary of State for Wales. This is a programme that has been introduced at pace following the General Election, and I welcome the early and thoughtful engagement carried out ahead of the King’s Speech. We will continue to engage with UK Government on the detail of proposals throughout the session.

The principle of legislative consent, as reflected in the Sewel Convention and section 107(6) of the Government of Wales Act, lies at the heart of the devolution settlements and its proper application is vital to ensuring appropriate democratic engagement and legislature scrutiny of relevant Bills. The previous UK Government demonstrated a lack of respect for the Convention in recent years. The Welsh Government has long argued that the Sewel Convention is in need of reform and I look forward to working with the new UK Government, along with other Devolved Governments, with a view to strengthening the operation of this fundamental principle of devolution.

Our position remains that primary legislation in devolved areas should be enacted by the Senedd. However, the Welsh Government also continues to hold the view that there can be

circumstances when it is sensible for provision, which is in the Senedd's legislative competence, to be included in UK Parliamentary Bills, with the explicit consent of the Senedd.

The UK Government's legislative programme covers a variety of areas, including devolved issues such as transport, planning, energy, social justice, and others. Welsh Government has previously supported proposals for reform in relation to renters' rights and tobacco and vapes, and we will engage with UK Government on its intentions to legislate in these areas as well as other areas of interest to Wales (including appropriate conversations about legislation in reserved areas in which the Welsh Government and the Senedd will also hold interests). Each of the Bills in the UK's legislative programme will be thoroughly assessed and, where relevant, taken through the legislative consent process. At all times, we will continue to ensure devolved interests and impacts for Wales are properly considered and addressed.

We look forward to sharing further information about relevant Bills when it is possible to do so, and to working with the Senedd on legislative consent processes throughout this new Parliamentary session.

Ein cyf/Our ref: MA/HIDCC/5192/24

Mike Hedges MS
Chair
Legislation, Justice and Constitution Committee
SeneddLJC@senedd.wales

31 July 2024

Dear Mike,

I writing to inform you of the appointment of Dr Susannah Bolton as independent external chair to oversee the statutory review of the Water Resources (Control of Agricultural Pollution) (Wales) Regulations 2021.

You will be aware the Water Resources (Control of Agricultural Pollution) (Wales) Regulations 2021 were introduced in April 2021 and set out an all-Wales approach to reducing the detrimental impacts of pollution from agricultural activities. Implementation has been phased-in over a four-year period and the final set of measures will come into force by the end of the year. A 12-month Enhanced Nutrient Management Approach was introduced for the 2024 calendar year.

At least every four years, the effectiveness of the measures imposed by the Regulations as a means of reducing or preventing water pollution from agricultural sources must be reviewed and, if necessary, revised. Preparatory work for the review has been undertaken and the review, which will be overseen by Dr Bolton, will provide a prime opportunity to take stock and to listen further to the wide range of views on the effectiveness of the Regulations. As part of this, we will continue to engage with stakeholders, including on the alternative measures proposals, in a true spirit of partnership.

Dr Bolton is Vice Principal for Enterprise and Knowledge Exchange for Scotland's Rural College, supporting the development of mission-led approaches to address the challenges facing food production and the natural economy. Until December 2021, she was Research Director for the Agriculture and Horticulture Development Board (AHDB), responsible for a programme of applied research on behalf of farmers and processors across the arable, horticulture, ruminant and pork sectors of the UK.

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Correspondence.Huw.Irranca-Davies@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.

Prior to that, Dr Bolton was Knowledge Exchange Director and oversaw the development of the AHDB Farm Excellence Platform, a farmer network of over 70 farm businesses, delivering knowledge exchange, peer to peer learning and benchmarking. She has previous experience in a Welsh context engaging in cross border work in relation to the Wye catchment supporting decision making tools for farmers to use to help address nutrient losses. She has a PhD in Tropical Agroforestry and spent 3 years working with the research provider EMBRAPA in North East Brazil, following which she was responsible for international relations and external communications at Rothamsted Research.

I attach great importance to this review and I am very grateful to Dr Bolton for taking on the role of independent chair. A final report and recommendations from the review to Welsh Ministers are expected by the end of March 2025, which I am sure will be of interest to members of the committee.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'Huw Irranca-Davies', written in a cursive style.

Huw Irranca-Davies AS

Ysgrifennydd y Cabinet dros Newid Hinsawdd a Materion Gwledig
Cabinet Secretary for Climate Change and Rural Affairs

Ref: 190SOS24

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Mr Mike Hedges MS
Chair, Legislation Justice and Constitution Committee
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31 July 2024

Dear Mike,

Thank you for your letter of 18 July and for the good wishes. I am pleased to take up the role of Secretary of State for Wales and look forward to working with you and your colleagues in the Senedd. I am replying to your letter on behalf of the UK Government.

I echo your comments on the importance of the relationships between the four nations. The work of your committee and our shared focus on constitutional matters relating to Welsh devolution are central to ensuring devolution in Wales thrives.

The UK Government is committed to a reset in intergovernmental relations and to upholding and strengthening the Sewel Convention; the way we legislate will be at the forefront of demonstrating this. This starts with rebuilding the trust that allows the four nations to work collaboratively together in law-making and beyond. The UK Government intends to work closely with the devolved governments in Wales, Scotland and Northern Ireland, to reach consensus and deliver legislation in service of people across the United Kingdom. It is through strong collaboration between colleagues in the UK and Welsh governments that we will best ensure that the Senedd has sufficient time to carry out its important scrutiny work and that the views of the Senedd are taken into account in the legislative process. As you know, we also committed as part of our manifesto, to strengthening the Sewel Convention by setting out a new memorandum of understanding outlining how the nations will work together for the common good.

Ref: 190SOS24

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I note the concerns you raise relating to specific parts of the legislative process and the important role of the Senedd in implementing international obligations. I can assure you that the UK Government will always make Parliament aware of relevant matters concerning its bills and their devolution implications and will ensure the structures and institutions of intergovernmental working improve relationships and collaboration on policy. You also rightly point out the complexity of delegated powers where careful thought will be required on how these operate.

I am copying this letter to Eluned Morgan MS, First Minister of Wales designate; the Rt Hon Elin Jones MS, Llywydd; Rebecca Evans MS, Cabinet Secretary for Finance, Constitution and Cabinet Office; The Rt Hon Angela Rayner MP, Secretary of State for Housing, Communities and Local Government and Deputy Prime Minister; The Rt Hon Nick Thomas Symonds MP, Paymaster General and Minister for the Cabinet Office (Minister for the Constitution and European Relations); Lord McFall of Alcluith, the Lord Speaker; and the Rt Hon Sir Lindsay Hoyle MP, the Speaker of the House of Commons.

Yours sincerely,



Rt Hon Jo Stevens MP
Secretary of State for Wales
Ysgrifennydd Gwladol Cymru

The Rt Hon Angela Rayner MP, Secretary of State for Housing,
Communities and Local Government and Deputy Prime Minister, and
Minister for inter-governmental relations

Jo Stevens MP, Secretary of State for Wales

The Rt Hon Nick Thomas Symonds MP, Paymaster General and
Minister for the Cabinet Office (Minister for the Constitution and
European Relations)

16 July 2024

Dear all

I would like to take the opportunity to congratulate you on your appointments to the newly formed UK Government.

You will be aware that the relationship between the four countries of the United Kingdom, whilst always important, has taken on new and significant meaning in recent years, in particular since the United Kingdom's withdrawal from the European Union. My Committee has responsibility for constitutional matters, and as part of that takes a keen interest in the relationships between the respective governments of our four nations, specifically through the lens of Welsh devolution and how it can and should be protected and respected.

In this regard, we take seriously our role in scrutinising Welsh Government legislative consent memoranda laid before the Senedd for Bills introduced to the UK Parliament that seek to make provision in areas which are devolved to Wales.

It is an unfortunate matter of fact that on too many occasions in recent years the legislative consent (Sewel) convention has been breached and the UK Parliament has been asked to pass laws where consent from the relevant devolved parliament has not been obtained. You will know that this convention is intended to support and respect the devolution of law-making powers to Wales, Scotland and Northern Ireland. Breaches of the convention can lead to an erosion of trust within the constitutional framework and in particular can disrupt and minimise productive intergovernmental relations.

My purpose in writing on this occasion is to highlight, based on the Committee's scrutiny work over the last three years, areas where we believe changes for the better can be made to law-making by the UK Government in the UK Parliament where it intersects with devolved legislative competence. Such changes could, we believe, result in improvements to intergovernmental working in the UK, and would re-invigorate respect for devolution.

Our longstanding and firm view is that it should be the responsibility of the Senedd to legislate for Wales on matters which are within its devolved competence.

Nonetheless, we recognise that on some occasions there will be times when there may be cause for the governments of the UK to legislate together (for example where the boundaries of legislative competence may be unclear), and the UK Government will therefore seek to take a Bill through the UK Parliament's legislative processes.

In drawing these matters to your attention we have a genuine hope that, on such occasions, the intergovernmental engagement will be sufficient and appropriate, and the views and decisions of the Senedd (and other devolved institutions) will be fully respected.

The legislative consent convention

My Committee considers all legislative consent memoranda laid before the Senedd for Bills introduced into the UK Parliament that seek to make provision in areas which are devolved to Wales.

In the Sixth Senedd alone we have considered memoranda for 47 such Bills. This has resulted in us reporting on almost 75 occasions to the Senedd on provisions in these Bills as introduced, or amendments subsequently made to them. Such extensive consideration of these memoranda, that relate to Bills which span UK and Welsh government departmental responsibilities, has given us a firm evidence-base from which to make clear conclusions on the current operation of the legislative consent convention.

Earlier this year, we summarised our conclusions when we provided evidence to the House of Lords' Constitution Committee's inquiry into the governance of the Union. In our [submission](#), we argued that:

It is imperative that the UK Government and UK Parliament observe constitutional norms in relation to legislating in areas clearly devolved to the Senedd...providing a more robust constitutional footing for the Sewel Convention, built around a clearly defined and universally understood process, would have the potential to improve the understanding of devolution in Whitehall, providing an incentive to ensure it is factored into work planning in UK Government departments and the UK Parliament, throughout the UK legislative process.



Our submission to the Constitution Committee built upon a conclusion we voiced in our Annual Report for 2022/23 that:

...reform of the Sewel Convention must include a greater say for the Senedd throughout the consent process. It cannot be right that negotiations between governments form the key components of a process of making law for Wales in a devolved area, while at the same time limiting the Senedd's ability to influence a legislative process that it would expect to be at the heart of.

In our evidence to the Constitution Committee, we also took the opportunity to welcome the fact that the House of Lords' business document now gives fuller and more prominent consideration about when legislative consent from devolved legislatures is pending or contested, and when it has been granted or withheld.

A further issue, which has most recently been highlighted as part of our consideration of legislative consent memoranda for the Victims and Prisoners Bill (which we are aware was passed by the UK Parliament during the wash-up period ahead of dissolution before the general election), is that it is sometimes the case that the UK Government, the Welsh Government and the Senedd disagree on whether legislative consent is required. This was noted in recent correspondence to us. In this particular case, as the UK Government did not agree that consent was required for certain clauses, the fact that the Welsh Government and Senedd had arrived at a different competence assessment and had declined to give consent for those clauses was not drawn to the attention of the UK Parliament.

Engagement with the Welsh Government on Bills introduced to the UK Parliament, and intergovernmental relations

Our extensive consideration of legislative consent memoranda laid in the Senedd has also enabled us to arrive at firm conclusions about the engagement between the UK and Welsh governments in recent years on Bills introduced to the UK Parliament which engage the legislative consent process.

We have seen several examples of the Welsh Ministers reportedly receiving late sight of Bills and having limited engagement with the UK Government ahead of a Bill's introduction to the UK Parliament. In recent months, this issue has arisen in respect of the Criminal Justice Bill and the Victims and Prisoners Bill. As regards the latter, the Welsh Government has noted that, while interactions with the UK Government on the Bill were initially constructive, engagement later broke down:

Until the very end of March 2024, and following extensive and constructive engagement at official level, we understood it would be likely the UK Government would offer, in view of the Senedd's competence in this area, a consent provision for the Welsh Ministers regarding the declaration of a major incident and the appointment of an Advocate for victims of major incidents arising in Wales. This

position was suddenly reversed to one in which the UK Government undertook to only provide consult provisions which we had been clear did not respect the Senedd's competence and would be unacceptable. They gave no credible rationale for this position and we were surprised and disappointed that what we had worked to achieve was not possible.

In our evidence to the Constitution Committee we voiced a concern that we were unclear whether Part 2 of the Devolution Guidance Note (DGN) which covers the inclusion of devolved provision in a UK Parliament Bill is being followed fully.

We hope that UK Government Ministers and the UK Parliament itself would appreciate that poor intergovernmental engagement and information-sharing will have a knock-on effect on the time available to Senedd committees to consider and report on legislative consent memoranda, before the Senedd being afforded a meaningful role in the legislative consent process.

In our evidence to the Constitution Committee, we also highlighted our concerns about the negative impact that the tabling of amendments to Bills, particularly where they are significant and/or late in the UK Parliament's legislative process, can have on the Senedd's scrutiny of devolved provisions within those Bills.

Related to these concerns about intergovernmental engagement, we also remain unclear as to why the new intergovernmental structures are not leading to the Welsh and UK governments reaching agreement on important constitutional matters. This was highlighted in our recent report on the Data Protection and Digital Information Bill.

Delegated powers in Bills

One issue which has been a constant and unwelcome feature of Bills introduced to the UK Parliament in recent years has been the delegation of powers in devolved areas to UK Secretaries of State and other reserved bodies, as well as at the removal of devolved executive functions from the Welsh Ministers. Perhaps the most stark example has been the powers included in the Data Protection and Digital Information Bill. We raised several concerns when considering this Bill, including:

- the conferral of regulation-making powers in devolved areas to UK Secretaries of State and the Treasury;
- the lack of Senedd scrutiny that would be afforded by the exercise in the UK Parliament of concurrent/concurrent plus powers that made devolved provision;
- the transferral of regulation-making powers previously exercisable by the Welsh Ministers to UK Secretaries of State therefore modifying devolved executive competence; and
- the revocation of Senedd-agreed secondary legislation.

Such conferral of powers, and indeed the removal and/or modification of competence, in this manner is wholly inappropriate.

International implications for the Senedd

My final comments for you to consider relate to international implications for the Senedd of Bills passed by the UK Parliament. Our scrutiny, where necessary, considers the relationship between international obligations and the Bill which has engaged the legislative consent process.

While we acknowledge that it is the UK Government's responsibility to negotiate and enter into international obligations on behalf of Wales, the Welsh Government and Senedd must comply with these international obligations and are responsible for their implementation in devolved areas. In this context, decisions taken by the UK Government can impact on the delivery of devolved responsibilities.

For example, in our report on the Economic Activity of Public Bodies (Overseas Matters) Bill, we stated that we shared the Welsh Government's concerns about the "compatibility of the Bill with international law and the European Convention on Human Rights", and reasserted our position that:

...a decision by the Senedd to consent to the Bill could contribute to a breach of international law and would mean the Senedd acting incompatibly with international obligations, which would be in contrast to the spirit of the devolution settlement.

In the coming months, we would welcome an opportunity to discuss these matters with you further at one of our committee meetings. I have asked our Committee Clerk to liaise with your officials to identify a suitable date.

I am copying this letter to the Rt Hon Vaughan Gething MS, First Minister of Wales; Rebecca Evans MS, Cabinet Secretary for Finance, Constitution and Cabinet Office; the Rt Hon Elin Jones MS, Llywydd; Lord McFall of Alcluith, the Lord Speaker; and the Rt Hon Sir Lindsay Hoyle MP, the Speaker of the House of Commons.

Yours sincerely,



Mike Hedges
Chair

Agenda Item 5.5

Huw Irranca-Davies AM/MS

Y Dirprwy Brif Weinidog ac Ysgrifennydd y Cabinet dros
Newid Hinsawdd a Materion Gwledig
Deputy First Minister and Cabinet Secretary for Climate
Change and Rural Affairs



Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref: HIDCC/PO/0228/24

Mike Hedges MS
Chair
Legislation, Justice & Constitution Committee
Welsh Parliament
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9 September 2024

Dear Mike,

Thank you for your letter of 3 July in response to my update on the Trade in Animals and Related Products (Amendment and Legislative Functions) and Animal Health (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2022 (“the 2022 Regulations”). You have sought further information on ongoing work related to the Committee’s original report on the 2022 Regulations, most particularly points 25 and 30 of that report.

Firstly, you are seeking an explanation why the Government has not brought forward an amending Statutory Instrument (SI), as promised, in relation to reporting point (RP) 25 and a timeline for correction.

The policy team has overarching responsibility for maintaining high standards of animal health through disease prevention and biosecurity assurance, in the context of trade. This is primarily through the introduction of border controls. The team’s priority focus over the last 18 months has been to deliver the policy and legislation for the GB-wide Border Target Operating Model, working to fixed milestones in agreement with the other administrations. Additionally, the team has worked at pace, bringing in emergency legislation to respond to disease risk in third countries, providing essential controls for biosecurity assurance. A significant number of disease outbreaks have required emergency safeguard measures in this timeframe.

Whilst an initial draft SI has been developed by Government lawyers working with the policy team responsible for the 2022 Regulations, this needs further consideration and the Government’s resources have been directed to the more pressing delivery priorities outlined above.

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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.

We have taken this difficult decision given that the error identified in RP 25 is of negligible impact at present. The legislative function retained by the 2022 Regulations is inoperable as it was not included in the Schedule to the 2022 Regulations. As a result, the appropriate authority is unable to set, by regulations, a time of the year when it would be permissible for Equidae to be dispatched from zones with an African Horse Sickness outbreak into Wales. The reason this has negligible practical impact at present is that the only third country from which we are able to import Equidae is Ireland. Nonetheless we are committed to introducing legislation to amend the 2022 Regulations at the earliest available opportunity.

RP 30 relates to the scrutiny procedure applicable to the delegated powers in the 2022 Regulations and the (then) Minister's commitment to change this from negative to the affirmative procedure. I have previously explained how suitable vires to achieve this change to procedure needs to be found. In line with previous commitments, and Welsh Government's principles, it remains my preference to do this via a Welsh Bill or SI. However, with no suitable legislative vehicles currently available, I cannot commit to a timeline. When the Government is able to provide further information, we will of course update the Committee.

I hope this letter provides you with some reassurance that I, and my officials, are aware of the two outstanding reporting points from the Committee's 2022 report and are actively looking for opportunities to implement the required amendments.

I am copying this letter to the Counsel General Designate.

Yours sincerely,

A handwritten signature in black ink, consisting of several fluid, overlapping strokes that form a cursive representation of the name Huw Irranca-Davies.

Huw Irranca-Davies AS/MS

Y Dirprwy Brif Weinidog ac Ysgrifennydd y Cabinet dros Newid Hinsawdd
a Materion Gwledig

Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs

Huw Irranca-Davies MS
Cabinet Secretary for Climate Change and Rural Affairs

3 July 2024

Dear Huw

The Trade in Animals and Related Products (Amendment and Legislative Functions) and Animal Health (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2022

Thank you for your letter of reply (dated 27 June 2024), in response to the letter we sent to you on 5 June in relation to the Trade in Animals and Related Products (Amendment and Legislative Functions) and Animal Health (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2022 (the 2022 Regulations). We considered the correspondence at our meeting on Monday 1 July 2024.

Thank you for drawing to our attention that the error we identified in the equivalence between the English and Welsh texts of regulation 4(2)(a)(viii) of the 2022 Regulations was actually corrected on making, rather than by amending instrument as we were originally advised.

Turning to the omission to reference article 5(5)(a) in the Schedule to the 2022 Regulations, it is disappointing to now understand that this error remains uncorrected. As you acknowledge, the Minister at the time gave a commitment to the Senedd that the error would be fixed the month following the Senedd being asked to approve the knowingly defective Regulations.

We are unclear why, more than 18 months later, it has not been possible to correct this omission from the 2022 Regulations. While we note you state it remains the Welsh Government's intention to resolve this issue, we respectfully ask that you provide a definitive timeline for this error to finally be addressed.

We are similarly unclear why it has taken so long for the Welsh Government to advise us that it has not yet been possible to identify a suitable vires to amend the scrutiny procedure applicable to one of the delegated powers in the Regulations from the negative to the affirmative procedure. Again, we note that you state this issue remains under review but we would welcome details of a timeline within

which your officials are working. If a suitable power is not identified, given the commitment the then Minister gave the Senedd, we would expect the Senedd to be notified of the situation, including information on whether you are seeking the relevant power in any primary legislation that is anticipated to be laid before the Senedd in the coming months.

Given we are now approaching the end of the summer term, we would welcome a response no later than 30 August 2024 so that we may give it consideration at our first meeting of the autumn term.

Yours sincerely,

A handwritten signature in black ink that reads "Mike Hedges". The signature is written in a cursive style and is underlined with a single horizontal line.

Mike Hedges
Chair



From Caernarfon to Caerdydd:
Reimagining Justice in Wales 2030
A Consultation & Discussion paper



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**To read the complete From Caernarfon to Caerdydd
Reimagining Justice in Wales Suite of papers please scan
the QR code below:**



Foreword

The following collected discussion papers have been developed by The Law Society Wales Office as both a suite of standalone documents for members and key stakeholders in Wales and as a supporting contribution to the 21st Century Justice and Reframing Justice projects being delivered by colleagues in London for members in both England and Wales.

The overarching aim of *Reimagining Justice in Wales* is to detail the unique challenges facing the legal sector in Wales over the next decade and the opportunities for growth amidst the wider political context. Underfunding of the legal system across Wales and England has created and magnified numerous issues that need to be rectified and in which the devolution of some parts of the justice system to the Welsh Government is an increasingly likely outcome.

The most promising solutions to the long-standing problems currently facing the justice system in Wales are not groundbreakingly new or especially provocative. While this suite of papers attempts to offer new perspectives on how to reimagine the next decade or so of justice in Wales, the most fundamental changes required are in many ways already known and are systemic in nature.

The scale of the current problems facing the justice system in Wales, coupled with a drive for reform that has lagged behind other professional sectors, mean that in many cases, straightforward system solutions have significant potential to lead to a significant transformation across Wales.

The headline direction of 2030 permits a strong public affairs strategy to mirror the political cycle of the next full Senedd term. This term will be the first full term of under the terms of the Senedd Reform Act 2024 and the first full term of the Senedd following the recent UK General election. It is in this landscape that the devolution of justice to Wales is likely to become a key policy matter.

These papers will ask pertinent questions around identified key legal policy issues which, we hope, will be engaged with, and answered by members and key stakeholders and built upon further as we move through this discussion process.

These papers, whilst detailed, should be viewed as part of a wider discussion initiation, that are open to challenge and further discussion and should certainly not be considered as the final word on any of the areas covered.



A handwritten signature in dark ink that reads "Jonathan Davies".

Jonathan Davies
Head of Wales

From Caernarfon to Caerdydd:

Reimagining Access to Justice

Background

- It is widely accepted that the significant issues currently facing the legal profession in Wales originate from the lack of long-term investment by the UK Government.

Paper perspectives

- This paper reviews the current state of access to justice in Wales, exploring reform to both civil and criminal legal aid.

Suggestions

- The key theme of the suggestions in this paper are that basic funding reform and creativity to approaching legal aid structures would result in significant changes.

Reimagining Courts

Background

- There exists a series of issues facing the courts in Wales, stemming from a lack of long term investment and vision.

Paper perspectives

This paper reviews the current issues facing:

- Infrastructure
- Backlogs
- Staffing shortages
- Hurdles to reform
- Tribunal reform
- Digitalisation and technology

Solutions

- This paper explores a series of solutions present in other jurisdictions in each of the key areas above.

Reimagining Courts

Background

- The key problem in Wales regarding technology is that solicitors have their expertise and experience grounded in solving legal problems, not in implementing the latest technologies.

Paper perspectives

- This paper provides examples of transformative legal technology that is easily accessible, understandable, and implementable within the context of the legal sector in Wales.

Solutions

- This paper demonstrates how successful jurisdictions have used technological solutions to improve efficiency, access, and sustainability.

Reimagining Justice in Wales 2030

Making Devolution Work

Background

- The Welsh Government has repeatedly called for the devolution of various justice functions from UK Government.

Paper perspective

- As a matter of urgency, the Welsh Government ought to undertake significant political and civil service preparations for devolution
- The Law Society believes that the part or full devolution of justice, if implemented and funded appropriately, offers significant potential opportunities to the people of Wales, alongside significant risk if not planned, funded, and implemented in a coherent and timely way.

The Law Firm of 2030

Background

- Law firms operating in Wales will face a series of external challenges by the end of the decade.
- These include specialisation, recruitment and retention, technology (including AI), and the sustainability of the small, local high street firms.

Paper perspectives

- The Welsh Government is well placed to support the legal sector through increased support as an essential sector.
- We believe that The Welsh Government could make renewed attempts at working in collaboration with the UK Government around these issues

Reimagining Data

Background

- There exists little to no contemporary data pertaining to the legal sector in Wales. This alone makes issue identification and solution much more difficult.
- Data from a series of areas, from economic trends and their influence on the demand for legal services to the cost of civil legal aid in Wales, per annum, is at best uncollated and unreviewed, and at worst undocumented.
- Rigorous and up-to-date data would allow us to fully ground our eventual recommendations in fact, targeting the exact issues present in each of the papers in the Reimagining justice series.

To read the complete From Caernarfon to Caerdydd Reimagining Justice in Wales Suite of papers please scan the QR code



Reimagining Consultation

Launched in January 2024, the Reimagining Justice in Wales Internal Member Consultation ran for six weeks, followed by a period of additional responses from external stakeholder organisations collated between March and April 2024. In May and June these submissions were scrutinised and implemented accordingly.

Relevant consultation responses have been integrated into this paper where applicable. Further information on the Reimagining Justice in Wales consultation can be found in the document: Reimagining Justice in Wales 2030 the consultation.

We received consultation responses from:

Law Society Organisations

- *The National Board for Wales*
- *Subgroup for In House*
- *Subgroup for Policy*
- *Subgroup for Managing Partners*
- *Subgroup for Member Experience*

Local Law Societies

- *Cardiff Law Society*
- *Swansea Law Society*
- *Mid Wales Law Society*
- *Gwynedd Law Society*
- *Chester and North Wales Law Society*
- *Junior Lawyers Division*

External Organisations

- *Law Council for Wales*
- *National Advice Network*
- *Citizen Advice Cymru*
- *Speakeasy Law Centre*
- *The Solicitors Regulatory Authority*

Government organisations

- *Mick Antoniw MS, Counsel General*
- *Welsh Local Government Lawyers Association*
- *Welsh Government Justice Policy*
- *Crown Prosecution Service*

External Individuals

- *Carolyn Kirby, Former Law Society president, current president of the Mental Health Review Tribunal for Wales.*
- *Emma Waddingham, founder and Editor of Legal News Wales*
- *Damon Rands, Pure Cyber Founder*
- *Dame Vera Baird, Justice Adviser to Welsh Govt.*
- *Fran Targett, Chair of the Welsh Government's National Advice Network*

Partners, directors and solicitors

- *Robert D. Williams, Partner, GHP legal*
- *Rachel Phillips FALA, Partner, Agri Advisor*
- *Emily Littlehales, Director, Celtic Law*
- *Daniela Mahapatra, deputy director of Legal and Risk NHS*
- *Tom Black, Partner, Eversheds*
- *Kelly Byrne, Legal Services Manager, Pembrokeshire County Council*
- *Catrin Williams, Solicitor, Gamlins Law*
- *Hannah Newberry, Chair of JLD / Member of the National Board for Wales*
- *Ffion Williams, Head of Corporate, EBCPCW,*
- *Mark Davies, Partner and Director Goldstones*



The most significant challenges facing law firms currently are those regarding technology, retention of lawyers, practically junior talent. Challenges of the transparency as to succession planning and opportunities available further compound issues. In Wales, the ability to administrate justice and tackle Welsh issues is absolutely paramount.

Hannah Newberry,

Family Solicitor Hugh James / Chair of JLD / Member of
the National Board for Wales



As a small firm, I feel that the biggest challenge for those like me, is the ability to keep up with the development of technology and funding it.

Professional indemnity insurance is forever on the rise - and I fear that there will be a diminution in small firms (increased mergers and so on) and generally, solicitors choosing to set up their own practice.

I have some reservations about AI, but the client application process could be made easier with AI for the client. Software could be developed for use by legal aid practitioners specifically, which uses AI for preparing documents and research etc. The software would need to be affordable (possibly funded in part).

Emily Littlehales,

Family Solicitor & Advocate at Hugh James / Chair of
JLD / Member of the National Board for Wales



Reimagining Access to Justice

Following a prolonged period of underinvestment, legal aid faces numerous well documented challenges, including a growing shortage of solicitors, the unsustainability of firms providing legal aid and an increasing number of court closures. This paper reviews the current state of access to justice in Wales. Highlighted are where services are failing and offering solutions to rectify present issues.

Legal aid provision, predicated on supporting those who seek to explore disputes outside of court, and in early stages of cases can be cost effective in terms of advice saved down the line, reducing the court backlog, resolving cases quicker and assisting those who need support.

Following a prolonged period of underinvestment, legal aid faces numerous well documented challenges, including an ever-growing shortage of solicitors, the unsustainability of firms providing legal aid and an increasing number of court closures.

Restrictions on the scope of and eligibility for legal aid has rendered access to justice all-but impossible for Welsh society's most vulnerable, a situation further exacerbated by a difficult geography and an inconsistent and expensive public transport infrastructure.

The current model of predominantly funding legal aid services by funding individual cases, often via fixed fees, will not enable providers to meet the need or demand for legal aid services.

These fixed fees assessments rarely consider the geography or context of the area they are assigned. The extensive bureaucracy of the Legal Aid Agency system on each individual case leads to further additional and unnecessary cost.

The Nordic model of justice is just one excellent example that provides real systemic alternatives for reform to the justice system in Wales by either UK Government or in the event of devolution of justice to Welsh Government.

The Law Society Wales office, having contributed to the Ministry of Justice's review of Criminal legal aid is providing similar support, including running focus groups for the current review of Civil legal aid being undertaken by the UK Government.

As of 2023 across England and Wales

- 53m people (90%) do not have access to a local education legal aid provider.
- 49.8m people (84%) do not have access to a local welfare legal aid provider.
- 42m people (71%) do not have access to a local community care legal aid provider.
- 39m people (66%) do not have access to a local immigration and asylum legal aid provider.
- 25.3m people (42%) do not have access to a local legal aid provider for housing advice, up 5% since 2019.

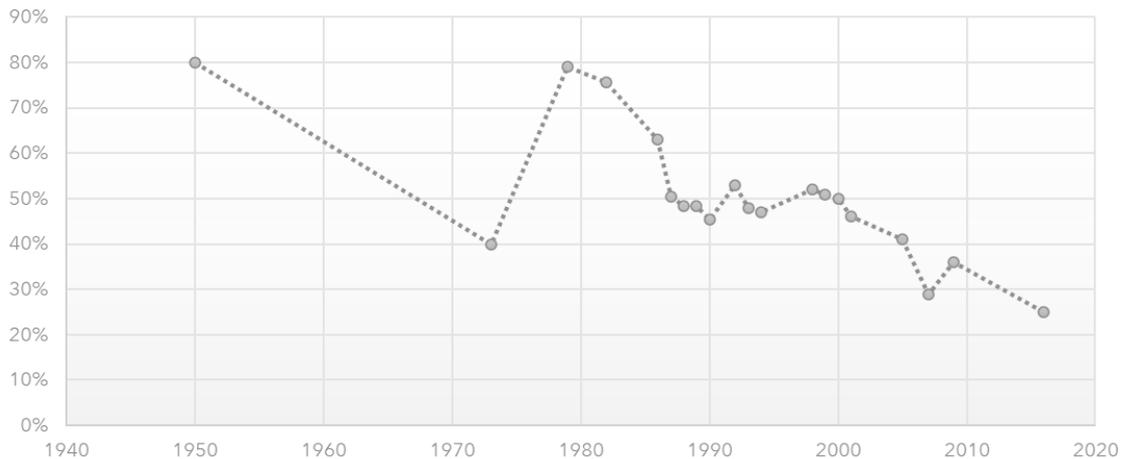
¹ <https://www.lawgazette.co.uk/news/laspo-turns-10-legal-aid-deserts-expanding/5115622.article>



Many have argued that the structure of legal aid does not have much longer before breaking down completely. As the Legal Cheek states, ambiguity surrounds only what will give first: the sector, its lawyers, or the vulnerable people whom the system was designed to serve.

The goal in Wales ought to be early legal advice availability alongside mediation and other forms of dispute resolution, resulting in an increase in the numbers using dispute resolution successfully.

% Estimates of Civil Legal Aid Eligibility, 1945 - 2016



Criminal legal aid

Criminal legal aid faces many of the same challenges as civil legal aid that includes an ever-growing shortage of criminal duty solicitors.

The erosion of the level of remuneration received by criminal legal aid solicitors such as the inability to provide pre-charge advice has led to very poor relative earnings and has driven the reduction in the numbers of qualified solicitors who feel able to work in this area.

This coupled with the backdrop of increasing court closures, inadequate prison provision and a 3% rise in arrests in the last 12 months in England and Wales has brought the criminal legal aid provision to the crisis point we now face.

The Legal Aid Transformation (LAT) tranche of reforms in 2013 introduced an upper eligibility threshold for the first time. Any defendant with a disposable household income of £37,500 or more would now be ineligible for legal aid.

A fair criminal justice system needs to be predicated on the ability of those to have fair access to justice without impediment.

ii

Reimagining Courts in Wales

Our courts in Wales are plagued by a myriad of deficiencies, further exacerbated by a lack of clear overall strategic direction, budget allocation or ambition for change. This paper establishes a framework for reimagining the court system in Wales, beginning with documenting current failures in the system and highlight international success stories.

Court infrastructure

The justice system across England and Wales is currently experiencing significant court backlogs and delays in case resolution. There is a shortage of solicitors, barristers, and judges, alongside court staff.

Worsening Court Backlogs

The justice system across England and Wales is currently experiencing significant court backlogs and delays in case resolution.

Criminal Justice System Reform

Issues to address in this area include overrepresentation of certain groups within the prison population, improving rehabilitation and reintegration programs, and ensuring consistent, fair, and equitable sentencing.

Overcoming hurdles to resolution

The justice system across England and Wales is currently experiencing significant court backlogs and delays in case resolution.

Tribunal reform in Wales:

As a devolved area of competency, the latest tribunal reform proposals in Wales must address longstanding funding and capacity issues, to both improve outcomes and demonstrate that Welsh Government is able to seek further devolution of justice functions.

Digitalisation and Technology

The justice system in Wales, is in the process of varying degrees of digital transformation; however, the data necessary to make informed strategic decisions remains very scarce.

Examples of court reform

Programmes of reform have emerged designed to equip the judiciary with the most up-to-date modern technology and structures. In many cases, these modern reforms have created an efficient and coherent court process and strengthened access to justice that could offer some solutions for court reform in Wales.

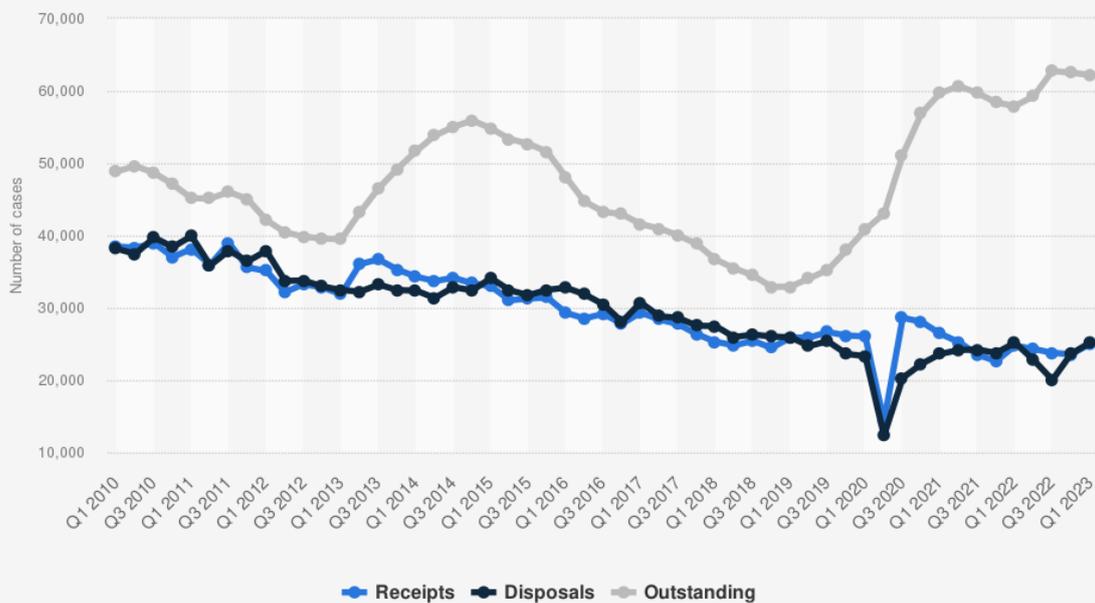




An ever-increasing backlog

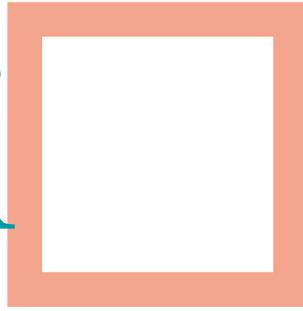
New figures published 14 December 2023 on the Crown Court backlogs show they have grown over the last quarter to 66,547, an increase of 3% on the previous quarter and the highest Crown Court outstanding caseload on record. The gap between spiralling numbers waiting in the queue and the UK government's own unambitious target of reducing the Crown Court backlog to 53,000 by March 2025 continues to widen.

Number of receipts, disposals, and outstanding cases in the crown court of England and Wales from 1st quarter 2010 to 1st quarter 2023



Sources
Ministry of Justice UK; GOV.UK
© Statista 2024

Additional Information:
United Kingdom; Q1 2010 to Q1 2023



Reimagining Technology

The current complex and rapidly evolving technological environment in which solicitors are currently operating adds to the already substantial set of issues being faced. The ambition of this paper is to provide examples of transformative legal technology that is easily accessible, applicable understandable, and implementable within the context of the legal sector in Wales.

Key findings:

Data

An improved data set of the current state of technology in the legal sector in Wales, would better provide a more detailed plan for both potential usage and implementation of technology.

Technology as an assistant

Technology alone will not fix the numerous current issues facing the justice system in Wales, but can allow for the exploration of new forms of working that are more efficient and cost effective.

Accessible tools

There are a series of widely available and easily accessible legal tech tools available for use by law firms in Wales.

Market Disadvantages

Where firms in Wales are not using the latest technology, they risk being at a market disadvantage.

Slow implementation

The main reason behind the slow implementation of improved information technology solutions includes funding, a lack of knowledge and understanding of the latest technological innovations and anticipated barriers of cost.

Basic Upgrades

The technological improvements required in the legal sector in Wales are basic such as the upgrading of the operating software and IT hardware across the justice system.

Key proposals:

Collaboration

Collaboration between law firms and technology companies must increase, leading to the development of custom legal software, case tools, website client portals and platforms that cater to the specific needs of the legal industry.

Did you know?

According to research undertaken by the Legal Services Board, a mere 8% of legal service providers across England and Wales currently provide online services to clients.



Legal Services Board. Technology and innovation in Legal Services - Main report, November 2019, p8



The future of data generation, the ability to utilise automation and artificial intelligence to streamline contract analysis, legal research, and administrative work are all areas of technology with which the Law Society could work with the Welsh Government to support firms.

Accessible Legal-Tech

AI legal assistants

AI assistants can automate legal tasks like research and document review. These usually take the form of an AI chatbot, like ChatGPT for lawyers.

Contract review and analysis

AI contract tools can automate time-consuming processes like contract review and analysis.

Automated workflows

No-code automation platforms can streamline manual processes, improving tasks like inquiry handling and triage.

Automated risk and compliance

This type of legal automation can assist businesses when tackling risk and compliance. It can quickly identify these risks and highlight them to the relevant stakeholders.

Knowledge management.

Legal automation can automate research processes, compiling and delivering knowledge and precedents to busy legal teams.

eDiscovery

Discovery, as a process has historically been largely manual in nature. The rise of eDiscovery occurred as technology evolved that could automate many of the processes involved in discovery, and as the landscape of work changed so that most of the data and information that needed to be collected, produced, and reviewed become electronic. In eDiscovery, data sampling and statistical analysis require new resources in the form of data analysts.



iv

Making Justice Devolution Work

The prospect of the devolution of full or partial justice powers from the UK Government to Welsh Government has remained a topic of ongoing debate for several years.

The case for the devolution of justice must be predicated upon the idea that justice in Wales would be run more **effectively, efficiently** and with far greater levels of **reform** and **innovation** than it has currently been the case across England and Wales.

The Law Society believes the following tests must be met before this current support in principle can become unqualified support:

1

Any devolution of justice functions must be accompanied by an adequate commitment to a rigorous costing exercise followed by full and fair funding from UK Treasury and meaningful intergovernmental collaboration with the legal sector to ensure its success.

2

The ability of solicitors in Wales and England to practise across the border without any impediment must be maintained without restriction.

3

The current single regulatory framework for solicitors across Wales and England should be preserved whilst recognising the unique circumstances of Welsh law.



Furthermore, the Law Society has noted five recommendations for the process of devolution, alongside the above three 'red lines' on devolution based on the knowledge and experience of our membership:

i. Evolution not revolution

The Law Society asks that any devolution of justice functions take place as part of a planned and incremental process built on the principle of evolution, rather than a sudden devolutionary spasm.

ii. Full generational costing and sequencing

The Law Society asks that the costing and sequencing of any future plan for the devolution of justice is built for a 'generation', not just the immediate period following devolution.

iii. Aligning policy implementation and resources

The Law Society asks that the Welsh Government works through Business Wales and its Ministry of Economy to build the business capacity and sustainability of the legal sector in Wales, identifying areas which will require additional support before, during and after the devolution of further justice functions.

iv. Apprenticeships and legal sector recognition

The Law Society strongly believes that the implementation of a level 7, degree equivalent, legal apprenticeship (as is already available in England) is a Welsh Government policy decision that is vital to the transformation and sustainability of the legal sector in Wales.

v. 'Distinct' not 'separate' jurisdiction.

The Law Society strongly believes that any moves towards a separate jurisdiction carries great risk. Our paper clarifying the current operation of justice in Wales as a distinct jurisdiction is outlined in the annex: "A Distinct Jurisdiction".

V

Reimagining the Model Law Firm of 2030

As we progress towards the end of the decade and begin to examine the future policy and operational direction of the legal sector in Wales, it is useful to identify the support that both Welsh Government and UK Government are able, if so minded, to provide to improve the strength and sustainability of Law Firms operating in Wales, alongside the self-development of firms many will wish to undertake.

The top 5 significant issues facing law firms in Wales:

1. Recruitment and retention

Our consultation highlighted retention and training of legal talent in Wales as one of the most prominent issues.

2. Operation Costs

Those challenges born from operational and financial costs were the second most cited challenge, with issues of energy costs, the cost-of-living crisis, and interest rate hikes noted.

3. Technology

Many of the medium to large firms interviewed noted they were investing heavily in the latest technology and IT software to gain a competitive edge on their rivals. Several noted they had brought in external consultants to identify the most useful and efficient technology for their practice.

4. Client demands and expectations

An additional concern raised was over what some participants termed “changing client expectations.” Trends in this category include downward pressure on fees, demands for quicker turnarounds, and delayed payments

5. Growth and succession planning

As we move towards 2030, there will be considerable political and economic drivers for law firms in Wales to become more environmentally sustainable in their practice and operation, including reduced paper usage, energy-efficient operations, and digital document management.

Our work with UK and Welsh Governments

Support procured and administered by the Law Society and fully funded by the Welsh Government in the shape of the current program of Cyber essential grants have been a resounding success with take-up of almost 30% of eligible firms, with a strong geographical distribution across the entirety of Wales. The continuation and development of funded initiatives such as this will significantly support the legal sector in Wales.





Responses to our consultation detailed the following issues:



- *Ineffective IT and data management/storage systems in courts*
- *Challenges of hybrid working and succession planning / transparency of opportunities available*
- *Adapting to modern technology, ensuring practitioners are competent with evolving platforms.*
- *Potential utilisation of AI*
- *A decrease in sole practitioners and small firms*
- *Recruitment and retention of workforce*
- *Access to practitioners*
- *The loss of talent to overwhelming number of England based firms*
- *Dilapidated Court estate with a lack of investment in Wales*
- *Staff wellbeing, mental health and cost of occupational health support*
- *Cost of maintaining premises in light of increases to utility costs*
- *Areas where the broadband provision remains poor/slow or non-existent*
- *Inflation affecting overheads and salaries, and revenue not keeping up or even within our control.*
- *Constant, ill-thought out legal reform.*
- *Barely operational HMCTS portals*



Reimagining the potential of Data

To fully comprehend the scale of the legal system in Wales including areas of potential decline and necessary improvement, one must fully understand the successes and failures of the current operational arrangements.

There exists little to no current Wales specific data detailing the full extent of issues and successes across Wales. Without this data it is very difficult to develop fully detailed improvement plans for the legal sector. This lack of data can be clearly seen in the following areas:

The role of the legal sector in Wales

- The total revenue of the legal sector in Wales
- Growth rates and trends in revenue 2015-2025 in Wales
- Breakdown of revenue by practice area
- Wales market share of major law firms or legal service providers
- Economic trends and their influence on the demand for legal services.
- Comparisons of each of these (a-e) per head with England

Solicitors and Law firms

- The number of solicitors practicing in Wales, per annum
- The number of law firms with headquarters in Wales, per annum
- The number of law firm offices in Wales, per annum
- The number of branch offices in Wales that belong to law firms based in England
- The geographical distribution of where each of those law firm offices are based
- The percentage split between local authority areas divided into regions.
- The percentage split between regions in Wales (North, mid, Southwest, etc)
- The geography and concentration of Welsh-headquartered law firms.
- Total number of lawyers, paralegals, and support staff, per annum
- Trends in employment numbers and changes over time, per annum
- Data on gender, ethnic, and demographic diversity within the legal workforce,

Areas of practice

- Percentage of firms in each practice Area
- Breakdown of legal services offered (e.g., transactional, advisory, litigation).
- Data on the most active practice areas in terms of caseload or revenue.
- Emerging areas of law (e.g., technology law, environmental law)
- Percentage comparison of specialisms with English firms
- Geographical distribution of areas of practice

Firm turnover and size

- The total annual revenues generated by English and Welsh Law firms per annum
- The revenues of law firms compared (<£100,000, >=£100,000 and £500,000)
- Legal market firm size breakdown by employee numbers per annum and trends (e.g. *A total of 43% of all Welsh firms employ 10 solicitors or less*)
- Ownership models, percentages, and changes over time

Adoption of technology

- Adoption rates of legal technology solutions (e.g., AI, legal research tools, document management)
- Investment in legal tech startups and innovative projects.
- Impact of technology on legal service delivery and client interactions.
- Software / hardware used in Wales (e.g. use windows 7 or 8, or 10,)

Clients

- Types of clients served (individuals, corporations, government entities)
- Geographic distribution of clients
- Client feedback and satisfaction levels

Cross-Border Services and Globalization

- Data on international legal services and cross-border transactions
- Top countries for legal outsourcing and collaboration

Legal Education and Training

- Data on law school enrolment and graduation rates
- Qualifications and certifications required for legal professionals
- Ongoing professional development trends

Access to justice

- Trends in access to legal representation for different socioeconomic groups

Civil Legal aid

- The eligibility percentage for civil legal aid for those living in Wales
- The cost of civil legal aid in Wales, per annum 2015 - 2025
- The number of civil legal aid cases, per annum 2015-2025
- The number of civil legal aid cases in receipt of 'early advice', 2015 - 2025
- The number of Third Sector advice providers including Law Centres

Criminal legal aid

- Percentage of population eligible for criminal legal aid
- The percentage of recipients of pre-charge advice at police stations
- The percentage of trials where criminal legal aid representation was used
- How many prisoners accessed legal aid provisions 2015-2025
- Budget expenditure on Criminal legal aid Wales 2015-2025
- Litigants in person and McKenzie Friends, 2015 - 2025
- Number of Duty solicitors in Wales, in each area

Courts

- Court infrastructure budget, 2015 - 2025
- The current backlog, compared to annual reports 2015-2025
- Number of courts in Wales 2015 - 2025 in each section (magistrate, county, crown)
- Number of courts utilising digital technology
- Youth justice statistics in Wales, convictions

Current challenges facing the legal sector

- Challenges facing the accessibility of Welsh law
- Challenges facing criminal and legal aid
- Criminal and Legal aid / alternative models for access to justice



Reimagining Justice in Wales 2030
Consultation & Discussion paper

The Law Society
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CF10 3AD



WRITTEN STATEMENT BY THE WELSH GOVERNMENT

TITLE	The Second Bi-Annual Welsh Government REUL Act Update (January 2024 - June 2024)
DATE	10 September 2024
BY	Rebecca Evans MS, Cabinet Secretary for Finance, Constitution and Cabinet Office

Members of the Senedd will wish to be aware the UK Government published their [Assimilated Law Parliamentary Report January 2024 – June 2024](#) and made a [Written Statement](#) on 23 July 2024. The report was presented to Parliament pursuant to Section 17 of the Retained EU Law (Revocation and Reform) Act 2023 (“the REUL Act”).

To complement this report, the Welsh Government has published its [Second Bi-Annual Welsh Government REUL Act Update \(January 2024-June 2024\)](#) which reports on Welsh Ministers’ interaction with the REUL Act during the same reporting period. The previous UK Government continued to meet non-statutory commitments to seek consent from Welsh Ministers to the use of concurrent powers in the REUL Act in devolved areas.

During the reporting period Welsh Ministers did not use the REUL Act powers available to them.

During the reporting period Welsh Ministers consented to the use of concurrent powers in the REUL Act by the UK Government for three Statutory Instruments.

The previous UK Government made changes to assimilated law between January and June 2024 through a total of 24 statutory instruments. Of those 24 statutory instruments, eight were made using REUL Act powers. Of those eight, five were in wholly reserved areas.

This statement is being issued during recess in order to keep members informed. Should members wish me to make a further statement or to answer questions on this when the Senedd returns I would be happy to do so.

Huw Irranca-Davies AS/MS
Y Dirprwy Brif Weinidog ac Ysgrifennydd y Cabinet dros
Newid Hinsawdd a Materion Gwledig
Deputy First Minister and Cabinet Secretary for Climate
Change and Rural Affairs

Ein cyf/Our ref: MA/HIDCC/6069/24

Mike Hedges MS
Chair
Legislation, Justice and Constitution Committee
Welsh Parliament
Cardiff Bay
Cardiff
CF99 1SN

10 September 2024

Dear Mike,

I am writing to inform you that my officials have been working in partnership with the UK Government on developing the Water (Special Measures) Bill. As you may know, the Bill was introduced into Parliament on 4 September 2024, please see attached together with the Explanatory Notes. The policy statement which accompanies the Bill is available at [Water \(Special Measures\) Bill: policy statement - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/policies/water-special-measures-bill).

The Bill was announced in the King's Speech on 17 July and reflects the UK Labour Government's manifesto commitment. The Bill demonstrates early action to improve water quality, which is a matter of great public concern. It addresses the perceived widespread failures by the water sector in addressing pollution caused by sewage discharges and aging infrastructure.

The Bill's provisions relate to the devolved matter of water industry and reserved matter of insolvency. I have agreed that some of the Bill's clauses will apply to Wales and sought equivalent powers for the Welsh Ministers to those of the Secretary of State. I believe this legislation will deliver positive changes and support the enforcement of regulatory requirements in the water sector, improving water company performance in Wales.

Following the laying of the Bill in Parliament, I am proposing to start the legislative consent process and support a legislative consent motion in the Senedd.

As the Bill has been developed at pace, my officials and I will continue to scrutinise the proposed measures and consider all the potential impacts for Wales throughout the Parliamentary process.

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

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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 am keen for early engagement with yourself on this matter, so should you wish to discuss this further, please do let me know. I will also be raising this matter on the floor of the Senedd shortly.

I am also copying this letter to the Llywydd.

Yours sincerely,

A handwritten signature in black ink, consisting of several fluid, overlapping strokes that form a stylized representation of the name 'Huw Irranca-Davies'.

Huw Irranca-Davies AS/MS

Y Dirprwy Brif Weinidog ac Ysgrifennydd y Cabinet dros Newid Hinsawdd
a Materion Gwledig

Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs

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