

# Agenda – Legislation, Justice and Constitution Committee

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Meeting Venue:

For further information contact:

Video conference via Zoom

P Gareth Williams

Meeting date: 14 July 2025

Committee Clerk

Meeting time: 13.00

0300 200 6565

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

## Remote

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### Public meeting

(13.00–13.20)

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

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

(13.00 – 13.05)

##### Made Negative Resolution Instruments

#### 2.1 SL(6)632 – The Education (School Day and School Year) (Wales) (Amendment) Regulations 2025

(Pages 1 – 2)

[Regulations](#)

[Explanatory Memorandum](#)

Attached Documents:

LJC(6)–23–25 – Paper 1 – Draft report

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

13.05 – 13.10



**3.1 SL(6)623 – The Infrastructure Consent (Examination and Decision)  
(Procedure) (Wales) Regulations 2025**

(Pages 3 – 10)

Attached Documents:

LJC(6)–23–25 – Paper 2 – Report

LJC(6)–23–25 – Paper 3 – Welsh Government response

**3.2 SL(6)624 – The Infrastructure Consent (Compulsory Acquisition) (Wales)  
Regulations 2025**

(Pages 11 – 15)

Attached Documents:

LJC(6)–23–25 – Paper 4 – Report

LJC(6)–23–25 – Paper 5 – Welsh Government response

**3.3 SL(6)625 – The Infrastructure Consent (Pre–Application and Application  
Procedure and Transitional Provisions) (Wales) Regulations 2025**

(Pages 16 – 23)

Attached Documents:

LJC(6)–23–25 – Paper 6 – Report

LJC(6)–23–25 – Paper 7 – Welsh Government response

**3.4 SL(6)627 – The Environmental Protection (Single–use Vapes) (Wales)  
(Amendment) (Wales) Regulations 2025**

(Pages 24 – 27)

Attached Documents:

LJC(6)–23–25 – Paper 8 – Report

LJC(6)–23–25 – Paper 9 – Welsh Government response

**Affirmative Resolution Instruments**

**3.5 SL(6)621 – The Infrastructure Consent (Miscellaneous Provisions) (Wales)  
Regulations 2025**

(Pages 28 – 32)

Attached Documents:

LJC(6)-23-25 – Paper 10 – Report

LJC(6)-23-25 – Paper 11 – Welsh Government response

### **3.6 SL(6)622 – The Infrastructure Consent (Fees) (Wales) Regulations 2025**

(Pages 33 – 40)

Attached Documents:

LJC(6)-23-25 – Paper 12 – Report

LJC(6)-23-25 – Paper 13 – Welsh Government response

### **3.7 SL(6)630 – The Welsh Elections Financial Assistance Scheme (Disabled Candidates) Regulations 2025**

(Pages 41 – 43)

Attached Documents:

LJC(6)-23-25 – Paper 14 – Report

LJC(6)-23-25 – Paper 15 – Welsh Government response

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

13.10 – 13.15

### **4.1 Correspondence from the Welsh Government: Meetings of inter-ministerial groups**

(Pages 44 – 52)

Attached Documents:

LJC(6)-23-25 – Paper 16 – Letter from the Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs: Inter-Ministerial Group for Environment, Food and Rural Affairs, 7 July 2025

LJC(6)-23-25 – Paper 17 – Written Statement by the Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs: Inter-Ministerial Group for Environment, Food and Rural Affairs, 7 July 2025

LJC(6)-23-25 – Paper 18 – Letter from the Cabinet Secretary for Finance and Welsh Language: Finance: Interministerial Standing Committee, 8 July 2025

LJC(6)-23-25 – Paper 19 – Written Statement by the Cabinet Secretary for

Social Justice, Trefnydd and Chief Whip: Inter-Ministerial Group for Work and Pensions, 9 July 2025

LJC(6)-23-25 – Paper 20 – Letter from the Cabinet Secretary for Social Justice, Trefnydd and Chief Whip: Inter-Ministerial Group for Work and Pensions, 9 July 2025

LJC(6)-23-25 – Paper 21 – Letter from the Minister for Culture, Skills and Social Partnership: Inter-Ministerial Group for the Culture and Creative Industries, 9 July 2025

## **5 Papers to note**

13.15 – 13.20

### **5.1 Correspondence to the Welsh Government: Environment (Principles, Governance and Biodiversity Targets) (Wales) Bill**

(Pages 53 – 64)

Attached Documents:

LJC(6)-23-25 – Paper 22 – Letter to the Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs, 9 July 2025

LJC(6)-23-25 – Paper 23 – Letter from the Climate Change, Environment and Infrastructure Committee to the Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs, 8 July 2025

### **5.2 Correspondence from the Welsh Government: The Welsh Government's response to the Committee's reports on the Welsh Government's Legislative Consent Memorandum and the Supplementary Legislative Consent Memorandum (Memorandum No. 2) on the Planning and Infrastructure Bill**

(Pages 65 – 72)

Attached Documents:

LJC(6)-23-25 – Paper 24 – Welsh Government response, 9 July 2025

### **5.3 Correspondence from the Cabinet Secretary for Local Government and Housing: The Allocation of Housing and Homelessness (Eligibility) (Wales) (Amendment) Regulations 2025**

(Pages 73 – 74)

Attached Documents:

LJC(6)-23-25 – Paper 43 – Letter from the Cabinet Secretary for Local Government and Housing, 11 July 2025

- 6 Motion under Standing Order 17.42(vi) and (ix) to resolve to exclude the public from the remainder of the meeting**  
13.20

**Private meeting**

(13.20–16.30)

- 7 Legislative Consent Memoranda on the Children's Wellbeing and Schools Bill: Draft report**

(13.20 – 13.35)

(Pages 75 – 95)

Attached Documents:

LJC(6)-23-25 – Paper 25 – Draft report

- 8 Legislative Consent Memorandum on the Absent Voting (Elections in Scotland and Wales) Bill: Draft report**

(13.35 – 13.45)

(Pages 96 – 106)

Attached Documents:

LJC(6)-23-25 – Paper 26 – Draft report

- 9 Supplementary Legislative Consent Memorandum (Memorandum No. 3) on the Planning and Infrastructure Bill: Draft report**

(13.45 – 13.50)

(Pages 107 – 117)

Attached Documents:

LJC(6)-23-25 – Paper 27 – Draft report

- 10 Legislative Consent Memorandum on the Dogs (Protection of Livestock) (Amendment) Bill**

(13.50 – 14.05)

(Pages 118 – 122)

Attached Documents:

LJC(6)-23-25 – Paper 28 – Legal Advice Note

## **11 Legislative Consent Memorandum on the Sustainable Aviation Fuel**

### **Bill: Draft report**

(14.05 – 14.10)

(Pages 123 – 129)

Attached Documents:

LJC(6)-23-25 – Paper 29 – Draft report

## **12 Supplementary Legislative Consent Memorandum (Memorandum No. 4) on the Employment Rights Bill: Draft report**

(14.10 – 14.25)

(Pages 130 – 144)

Attached Documents:

LJC(6)-23-25 – Paper 30 – Legal Advice Note

LJC(6)-23-25 – Paper 31 – Draft report

LJC(6)-23-25 – Paper 31a – Letter from the Economy, Trade and Rural Affairs Committee to the Llywydd, 10 July 2025

## **13 Review of the implementation of the UK–EU Trade and Cooperation Agreement: Draft report chapter on cross-cutting issues**

(14.25 – 14.35)

(Pages 145 – 258)

Attached Documents:

LJC(6)-23-25 – Paper 32 – Covering paper

LJC(6)-23-25 – Paper 33 – Draft report

LJC(6)-23-25 – Paper 34 – Submission from Wales Council for Voluntary Action, 10 July 2025

## **Break**

(14.35–14.40)

## **14 Consolidation Acts of the Senedd: The role of the responsible committee**

(14.40 – 14.55)

(Pages 259 – 294)

Attached Documents:

LJC(6)-23-25 – Paper 35 – Consolidation Acts of the Senedd: The role of the responsible committee

LJC(6)-23-25 – Paper 36 – Standing Order 26C

LJC(6)-23-25 – Paper 37 – Guidance to support the operation of Standing Order 26C on Consolidation Bills

## **15 The Welsh Government's exercise to consolidate planning law in Wales: Briefing from Welsh Government officials**

(14.55 – 15.55)

(Pages 295 – 299)

[Draft Planning \(Wales\) Bill](#)

James George, Senior Legislative Counsel, Welsh Government

Catrin Huws, Legislative Counsel, Welsh Government

Dewi Jones, Legislative Counsel, Welsh Government

Dion Thomas, Head of Legislation and Performance (Planning Directorate), Welsh Government

Claire Fife, Policy Advisor to the Counsel General and Head of the Legislative Codes Office, Welsh Government

Attached Documents:

LJC(6)-23-25 – Paper 38 – Welsh Government briefing document

## **16 Planning (Wales) Bill: Approach to scrutiny (subject to the Bill's introduction)**

(15.55 – 16.05)

(Pages 300 – 306)

Attached Documents:

LJC(6)-23-25 – Paper 39 – Scope and approach paper

**17 Planning (Consequential Provisions) (Wales) Bill: Approach to scrutiny (subject to the Bill's introduction)**

(16.05 – 16.15)

Attached Documents:

LJC(6)-23-25 – Paper 40 – Scope and approach paper

**18 Supplementary Legislative Consent Memorandum (Memorandum No.4) on the Mental Health Bill: Draft report**

(16.15 – 16.30)

(Pages 307 – 317)

Attached Documents:

LJC(6)-23-25 – Paper 41 – Legal Advice Note

LJC(6)-23-25 – Paper 42 – Draft report

## **SL(6)632 – The Education (School Day and School Year) (Wales) (Amendment) Regulations 2025**

### **Background and Purpose**

The Education (School Day and School Year) (Wales) Regulations 2003 (“the 2003 Regulations”) make provision about the length of the school day, which is ordinarily divided into two sessions, and for schools to meet for at least 380 sessions during any school year.

The Education (School Day and School Year) (Wales) (Amendment) Regulations 2025 (“these Regulations”) make provision for schools to have an additional in-service training (INSET) day in the 2025-2026 school year for the purpose of training or preparation and planning in relation to key education reforms, namely:

- reducing the impact of poverty on the progression and attainment of pupils at the school;
- the operation of the Additional Learning Needs and Education Tribunal (Wales) Act 2018 for pupils at the school;
- the curriculum to be provided at the school under Parts 2 and 3 of the Curriculum and Assessment (Wales) Act 2021;
- the assessment arrangements to be made under Part 4 of the Curriculum and Assessment (Wales) Act 2021.

The Explanatory Memorandum provides that this will enable schools to engage appropriately with these matters and to address school and staff development needs accordingly.

### **Procedure**

Negative.

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

### **Technical Scrutiny**

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

### **Merits Scrutiny**

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



**1. Standing Order 21.3(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.**

Paragraph 7.8 of the Regulatory Impact Assessment contained within the Explanatory Memorandum notes the potential impact of an additional INSET day on children and families:

*“We believe the main impact would be upon children and families, particularly those on lower incomes. In considering the options, we have been conscious of the current economic context, with rising living costs. The impact on children as a group would be short term as there would be a collective missed day of school for children and young people. However, in the long term this additional INSET day would enable the successful delivery of the new curriculum and other reforms, improving the standard and breadth of education they receive.”*

Paragraphs 7.9 to 7.15 provide that there will be a cost for working families, where either childcare or annual leave is used to cover the time for an additional INSET day. In addition, an additional INSET day means that a primary school aged child may not be able to access a healthy, nutritious free school meal on that day. Paragraph 7.16 concludes:

*Therefore, on balance, the impact on learners of not being able to access food provision on 1 of 190 school days (in addition to the existing 5 INSET days) is outweighed by the benefits to their education from introducing the additional INSET day.*

## **Welsh Government response**

A Welsh Government response is not required.

### **Legal Advisers**

**Legislation, Justice and Constitution Committee**

**4 July 2025**



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)623 – The Infrastructure Consent (Examination and Decision) (Procedure) (Wales) Regulations 2025**

### **Background and Purpose**

The Infrastructure (Wales) Act 2024 (“the 2024 Act”) establishes a unified application and consenting process to enable the making and consideration of applications for infrastructure consent. The process broadly applies to significant infrastructure projects that are energy, transport, waste and water projects.

These Regulations make provision additional to that in the 2024 Act about pre-application requirements and applying for infrastructure consent. They deal with the examination procedure which follows an application, and, in particular, they make further provision in relation to an examining authority, preparation for and the examination of applications and post-examination processes.

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

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

Regulation 2 defines “application” as “an application for infrastructure consent made under section 32 of the 2024 Act and includes any agreed variation”. However, “agreed variation” is not defined and there is no information as to what constitutes an agreed variation and who needs to agree to it in the Regulations. If this information is set out in the Infrastructure Consent (Pre-Application and Application Procedure and Transitional Provisions) (Wales) Regulations then this should be specifically referenced in the definition of “application”.

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

In regulation 2(1), there is a definition of “land” for these Regulations. However, there is another definition of “the land” in paragraph 3 of Schedule 2. Therefore, the definition of “land”



in regulation 2(1) should alert the reader to this fact, possibly by using a phrase such as “, other than in Schedule 2,”.

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

In regulation 6(2), there is a difference between the English and Welsh text. In the English text, it notes “any change of or to the examining authority” but the meaning given by the Welsh text is “any change to the examining authority”.

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

In regulation 6(3), there is a difference between the English and Welsh text. In the English text, it notes “The person who is the examining authority or the chair of the panel who is the examining authority...”. But the meaning given by the Welsh text is “The person who performs the role of the examining authority or the chair of the panel who performs the role of the examining authority...”. This gives the potential for confusion not only between the two texts, but also in the Welsh text could lead to ambiguity regarding the application of the regulation.

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

Regulation 11(4)(b) refers the reader to “regulation 24(2)” but it does not identify the Regulations in which that regulation is found. It should also state “of the 2025 Compulsory Acquisition Regulations” afterwards to complete that reference.

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

Regulation 14(5) imposes requirements regarding the display of a notice for applications relating to “linear development”. The Regulations do not provide a meaning for this term and therefore it is unclear on the face of the Regulations what a “linear development” is.

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

In regulations 15(1) and 26(1)(a), “an inquiry” is used without a previous reference to “a local inquiry”. Elsewhere it always refers to “a local inquiry” on the first occasion in a provision before using phrases such as “an inquiry” or “the inquiry” when referring back to that local inquiry. The Committee assumes that regulations 15(1) and 26(1)(a) should refer to “local inquiry” but clarification is requested.

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

In regulation 15(2), there is a difference between the English and Welsh text. In the English text, it notes that “The examining authority may require the person to prepare a written



statement of that evidence.” But in the Welsh text the meaning of “may” has been expressed by using “gall” which only suggests the possibility of the examining authority requiring such a written statement – “The examining authority might require...”. However, the use of “may” in this provision appears to be conferring discretionary legal power on the examining authority to require a written statement. In which case the Style Guide of the Welsh Government’s Legislative Translation Unit notes that either “caiff” or “caniateir” are the appropriate choice in this context in the Welsh text of legislation.

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

In regulation 17, there is a difference in the numbering of the English and Welsh text. In the English text, the provision is numbered as regulation “17”, but in the Welsh text it is incorrectly numbered as regulation “17-(1)” even though there is no paragraph (2) in that regulation.

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

Regulations 20 and 21 permit the making of “closing submissions” in relation to hearings and local inquiries respectively. “Closing submissions” is defined for the purpose of regulation 20 but not for regulation 21. It is therefore not clear whether “closing submissions” is intended to have the same meaning in regulation 21 as it does in regulation 20.

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

Regulation 25 requires the examining authority to give notice of the name of any assessor, solicitor or barrister appointed to assist them. Regulation 25(2) states that notice must be given of the matters in relation to which any assessor has been appointed to assist, but there is no similar requirement in relation to any barrister or solicitor who has been appointed.

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

In regulation 27(6), there is a difference between the English and Welsh text. In the English text, it states that the notice “must specify” the purposes of the meeting etc. But the meaning given by the Welsh text is that the notice “must note” the purposes of the meeting etc. This is because the Welsh text has used “nodi” to express the meaning of “specify” but “pennu” is the word standardised for “specify” by the Glossary of the Welsh Government’s Legislative Translation Unit.

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



In regulation 28(11)(a), there is a difference between the English and Welsh text. In the English text, the cross-reference refers to “paragraph (7)” but in the Welsh text it incorrectly refers to “paragraph (11)”.

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

In regulation 33, it notes that “they must send to the interested parties... a written statement” after referring earlier in that regulation to both “the examining authority” and “the Welsh Ministers”. However, it appears to be placing an obligation on “the examining authority” by using a plural pronoun rather than on “the Welsh Ministers” which is confusing for the reader as to the meaning of the regulation. In this regard, plural pronouns have been used throughout these Regulations when referring to “the examining authority” although the Welsh Government’s drafting guidelines recommend using a singular pronoun “it” rather than a plural pronoun “they” when referring to public bodies such as a local authority, a tribunal or a committee.

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

In regulation 34(1)(b), the reference is incomplete as it refers to “section 60(3)(a)” without identifying the Act in which that section is found. In regulation 35, the references to other provisions also found in section 60 identify the Act by noting “of the 2024 Act”. Therefore, it is also an inconsistent approach to the description of references found in the same Act. Similarly, paragraphs 1(d) and (e) and 2(a) and (b) of Schedule 2 to the Regulations refer to various sections, but no Act is specified in relation to these sections. It is assumed that they are reference to provisions of the 2024 Act but this should be explicitly stated.

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

In Schedule 1, in paragraph 3(b), the amendment to regulation 3(3) of the Planning (National Security Directions and Appointed Representatives) (Wales) Regulations 2006 does not make sense. The existing sub-paragraphs in regulation 3(3) of the 2006 Regulations are numbered (a) to (c). Therefore, it does not make sense to insert a new sub-paragraph numbered as (i) which includes a description of another amendment to be inserted “after sub-paragraph (c)”. It appears that paragraph 3(b) of Schedule 1 should state “in paragraph (3), after sub-paragraph (c) insert-” followed by the text of the new sub-paragraph (d).

### **Merits Scrutiny**

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

### **Welsh Government response**

A Welsh Government response is required.



## Committee Consideration

The Committee considered the instrument at its meeting on 7 July 2025 and reports to the Senedd in line with the reporting points above.



Senedd Cymru

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

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Welsh Parliament

**Legislation, Justice and Constitution Committee**

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## **Government Response: The Infrastructure Consent (Examination and Decision) (Procedure) (Wales) Regulations 2025 (“the Regulations”)**

**Technical Scrutiny point 1:** The Welsh Government notes the point but does not consider that this term requires further definition. The words will be given their ordinary, everyday meaning. A variation of an application which is agreed may arise under regulation 31 of the Infrastructure Consent (Pre-Application and Application Procedure and Transitional Provisions) (Wales) Regulations 2025, under the Infrastructure Consent (Compulsory Acquisition) (Wales) Regulations 2025 or under regulation 28 of these Regulations.

**Technical Scrutiny point 2:** The Welsh Government notes the point but does not consider that there is merit in a different approach. The only instance where a different definition applies is in paragraph 1 of Schedule 3 and it is clear from paragraph 3 of that same Schedule what the meaning is. There is no advantage in signposting that different definition to readers of regulation 2, to whom it will not be relevant.

**Technical Scrutiny point 3:** The Welsh Government is grateful to the Committee for identifying the linguistic point. A “change of” refers to a new examining authority being appointed and “a change to” refers to a change where the examining authority is a panel. In order to capture both, the Welsh Government will seek to include an amendment to the effect of substituting “mewn perthynas â” for “i” in the Welsh language, in an amending instrument before the coming into force of the Regulations on 15 December 2025.

**Technical Scrutiny point 4:** The Welsh Government notes the linguistic point raised. It does not consider that there is any difference in meaning between “the person who is the examining authority” and “the person who performs the role of examining authority”. The Welsh Government is satisfied that it is clear that both formulations refer to the person or panel appointed under section 40(1) of the Infrastructure (Wales) Act 2024 and does not see a basis for ambiguity in the application of the regulation.

**Technical Scrutiny point 5:** The Welsh Government is grateful to the Committee for identifying this cross-referencing point, which it accepts. The Welsh Government will seek to clarify it in an amending instrument before the coming into force of the Regulations on 15 December 2025.

**Technical Scrutiny point 6:** The Welsh Government notes the point but does not consider that that this term requires further definition. The term is a well-understood concept and is development that is linear in nature, such as a railway line or highway. It is also noted that the word is similarly used, without further definition, in S.I. 2004/2018, S.I. 2006/1466 and S.I. 2009/2264.

**Technical Scrutiny point 7:** The Welsh Government notes the point but considers that the meaning of “inquiry” as referring to a local inquiry is clear in context. See for example section 48 of the Infrastructure (Wales) Act 2024 for similar usage.

**Technical Scrutiny point 8:** The Welsh Government notes the linguistic point raised. “May” is intended to convey the possibility that a written statement might be required, it being inherent in that possibility that there is a power to do so. Based on current practice, the examining authority does not routinely require such a written statement, but if it chooses to do so, the remaining provisions of the regulation apply.

**Technical Scrutiny point 9:** The Welsh Government is grateful to the Committee for identifying the typographical error, which it accepts. The Welsh Government will seek to include it in an amending instrument before the coming into force of the Regulations on 15 December 2025.

**Technical Scrutiny point 10:** The Welsh Government accepts the point. The Welsh Government will seek to clarify the point in an amending instrument before the coming into force of the Regulations on 15 December 2025.

**Technical Scrutiny point 11:** An assessor is an expert with technical knowledge, appointed to assist with identified subject matters. A solicitor or barrister is a legal expert and is likely to be appointed in relation to matters that may arise throughout the examination, not just in relation to a particular subject area. The government does not think that further provision is necessary.

**Technical Scrutiny point 12:** The Welsh Government is grateful to the Committee for identifying the linguistic inconsistency, which it accepts. The Welsh Government will seek to include it in an amending instrument before the coming into force of the Regulations on 15 December 2025.

**Technical Scrutiny point 13:** The Welsh Government is grateful to the Committee for identifying the linguistic inconsistency, which it accepts. The Welsh Government will seek to include it in an amending instrument before the coming into force of the Regulations on 15 December 2025.

**Technical Scrutiny point 14:** The Welsh Government is grateful to the Committee for identifying this grammatical point. The obligation in regulation 33 is on the examining authority. The Welsh Government notes that largely the Regulations do in fact refer to the examining authority as “it”, in line with the Welsh Government’s drafting guidelines. The Welsh Government will seek to amend “they” to “it” in regulation 33 and in the six other instances in which it occurs, in an amending instrument before the coming into force of the Regulations on 15 December 2025.

**Technical Scrutiny point 15:** The Welsh Government is grateful to the Committee for identifying this cross-referencing point. The Welsh Government will seek to clarify

it in an amending instrument before the coming into force of the Regulations on 15 December 2025.

**Technical Scrutiny point 16:** The Welsh Government accepts this point. The sensible meaning is as described in the last sentence of point 16 of the Committee's report and the Welsh Government will seek to include it in an amending instrument before the coming into force of the Regulations on 15 December 2025.

## **SL(6)624 – The Infrastructure Consent (Compulsory Acquisition) (Wales) Regulations 2025**

### **Background and Purpose**

The *Infrastructure (Wales) Act 2024* (the “**2024 Act**”) created a unified consenting regime for major infrastructure projects in Wales.

The *Infrastructure Consent (Compulsory Acquisition) (Wales) Regulations 2025* (the “**Regulations**”) are part of a suite of regulations that implement and provide details of the processes required under the 2024 Act.

In particular, these Regulations make provision for procedures where the infrastructure consent order will authorise compulsory acquisition of land or rights over land.

The matters specified and the requirements set out in these Regulations are not relevant to all applications, and are in addition to any requirements contained in other regulations that implement the 2024 Act (such as the *Infrastructure Consent (Pre-Application and Application Procedure and Transitional Provisions) (Wales) Regulations 2025*).

Throughout the application process, these Regulations impose additional requirements to give various notices to persons with an interest in the land to which the compulsory acquisition request relates. During pre-application, where additional persons are identified, the submission of the application is extended to enable consultation with those persons. There are also additional requirements that an application for infrastructure consent must contain.

### **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 8 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**



"Additional interested person" is defined in regulation 3 as "*an interested person who has **not** been given written notice in accordance with regulation 5, 7 or 16*".

Under regulation 5, an applicant must give notice of the proposed application to an interested person. If additional interested persons are identified after such notices have been given, those additional interested persons must also be given a notice under regulation 7.

As drafted, it appears logical to define an '*additional interested person*' as a person who has not been given a written notice under regulation 5.

However, a person under regulation 7 will have been given a written notice (albeit at a later date). We therefore query whether it is logical and necessary to refer to regulation 7 in the definition.

It is also unclear whether the reference to regulation 16 should instead be a reference to regulation 15 (which expressly refers to 'additional interested persons').

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

These Regulations makes numerous references to '*replacement land*'. For example, if a planning application made under the 2024 Act includes a compulsory acquisition request, applicants may be required to submit a plan identifying, inter alia, any '*replacement land*'.

Whilst this term is defined in the 2024 Act, it is not defined in these Regulations.

In our view, consideration should be given to including a definition in regulation 3, cross-referencing to the relevant definition in the 2024 Act (as is done for numerous other terms in the Regulations, such as '*land*' and '*the prospective purchaser*'). Alternatively, cross-referencing footnotes would also promote accessibility and provide certainty.

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

There are numerous instances in the instrument where the drafting omits certain words.

In regulation 8(2), the reference is incomplete as it refers the reader to "in (1)", but it should be correctly described as "in **paragraph** (1)". This also occurs in regulation 15(4) where it notes "in accordance with (2)" but it should note "in accordance with **paragraph** (2)". In addition, it occurs in regulation 30(c), where it notes "in (b)" but it should note "in **paragraph** (b)".

Further, in regulation 10(1), the reference to "*section 38(2)*" is incomplete as it does not note the Act where that section is found. It should note "*section 38(2) of the 2024 Act*" to complete the meaning of the reference.

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



In regulation 19(1)(b), there is a difference between the English and Welsh text. In the English text, it notes "*all land interests*" but the meaning given by the Welsh text is "*everyone with an interest in the land*". Therefore, the meaning of the phrase is unclear in this provision.

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

In regulations 19(2)(l) and 20(5)(l), there is a difference between the English and Welsh text. In the English text, it notes in both places, "*the details of how representations **can** be made*" but the meaning given by the Welsh text is "*the details of how representations **may** be made*". Therefore, the English text only suggests the details of a possible way of making representations, but the meaning of the Welsh text is the details of the way you are legally permitted to make representations.

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

In regulation 20(6), it refers to the Welsh Ministers being treated as "*complying with the relevant paragraph*" in connection with steps taken to replace defaced notices.

This drafting is not particularly helpful to the reader when referring to compliance with legal requirements as it is unclear which paragraph this is referencing. It would be more appropriate to refer the reader to the specific numbered paragraph which sets out the requirements.

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

In regulation 21(3), there is a difference between the English and Welsh text. In the English text, it notes "*specified in any notice*" but the meaning given by the Welsh text is "*noted in any notice*." This is because the Welsh text has used "*nodir*" rather than "*pennir*" to express the meaning of "specified". But "*pennu*" is the standardised word for "specify" in the Glossary of the Welsh Government's Legislative Translation Unit.

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

In certain circumstances, a compulsory acquisition notice must include a 'general vesting declaration statement'. The contents of such statement is prescribed under regulation 30.

Certain terms are used in regulation 30 which are defined in the *Compulsory Purchase (Vesting Declarations) Act 1981* (such as "land" and "tenancy"). In addition, the term "*long tenancy that is due to expire*" in regulation 30(f) is very similar to the term "long tenancy which is about to expire" defined by section 2 of the 1981 Act.

We would be grateful for confirmation whether these terms are intended to bear the same meaning in regulation 30 as found in the 1981 Act.



## Merits Scrutiny

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

## Welsh Government response

A Welsh Government response is required.

## Committee Consideration

The Committee considered the instrument at its meeting on 7 July 2025 and reports to the Senedd in line with the reporting points above.



Senedd Cymru

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

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**Legislation, Justice and Constitution Committee**

**Government Response: *The Infrastructure Consent (Compulsory Acquisition) (Wales) Regulations 2025***

**Technical Scrutiny point 1:**

The Welsh Government is grateful to the committee for identifying the incorrect reference to regulation 16 in the definition of “additional interested person”. The Welsh Government accepts the point and will amend the S.I. via an amending S.I. to correct the cross-reference prior to the coming into force of the instrument on 15 December 2025.

The Welsh Government is of the view that the references to regulations 5 and 7 are correct in the definition. The notification under regulation 5 is a one-off duty that occurs when the application is initially proposed, regulation 7 is a continuing duty during the pre-application period. It is important that at any time in the process where additional interested persons are identified that the correct consultation and publicity is carried out. The reference to both regulations make this clear.

**Technical Scrutiny points 2, 3, 4, 5, 6, 7, and 8:**

The Welsh Government accepts the points and will amend the S.I., via an amending S.I. to address the identified issues prior to the coming into force of the Regulations on 15 December 2025.

# Agenda Item 3.3

## **SL(6)625 – The Infrastructure Consent (Pre-Application and Application Procedure and Transitional Provisions) (Wales) Regulations 2025**

### **Background and Purpose**

The Infrastructure (Wales) Act 2024 (“the 2024 Act”) creates a unified consenting regime for major infrastructure projects in Wales, both on land and in the territorial sea. These Regulations are part of a suite of regulations that implement and provide details of the processes required under the 2024 Act.

These Regulations make provision for pre-application processes and procedures, and the manner in which applications for infrastructure consent are to be dealt with by the Welsh Ministers in respect of any development which is, or forms part of, a significant infrastructure project.

The Regulations include provision in relation to, among other things, notice, and acceptance of notice, of proposed development, pre-application consultation and publicity, information to be contained in notices, general requirements for applications, validating an application, consulting statutory consultees and other persons, local impact reports, marine impact reports, and the procedure in respect of variation of applications.

The Schedule to the Regulations also sets out the consultees who must be consulted before the grant of infrastructure consent according to the type of development being applied for.

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

#### **1. Standing Order 21.2(i) – that there appears to be doubt as to whether it is intra vires**

The preamble lists one of the enabling powers as section 132(2) of the 2024 Act. However, section 141(3) and (4)(k) of the 2024 Act requires that statutory instruments containing



regulations made under section 132 are subject to the affirmative procedure. This instrument instead follows the negative procedure.

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

In regulation 2(1), in the definition of “EIA development” and “the EIA Regulations” there are references to the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017 and the Marine Works (Environmental Impact Assessment) Regulations 2007. However, these SIs have been defined as “the Planning EIA Regulations” and “the Marine EIA Regulations” respectively in these Regulations. Therefore, those defined terms should have been used when referring to those instruments. This has been done when referring to other defined legislation such as the Infrastructure (Wales) Act 2024 which is referred to as “the 2024 Act” in the definition and throughout these Regulations.

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

The definition of “environmental statement” in regulation 2(1) includes a reference to “the Marine Regulations”. However, this has not been defined in the regulations and instead appears to be referring to “the Marine EIA Regulations” which has been defined.

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

In regulation 2(1), the definition of “significant infrastructure project” states that it has the meaning in “Part 1” of the 2024 Act. However, it is unclear if this should instead refer to “section 1” as is the case in the same definition in regulation 2 of the Infrastructure Consent (Miscellaneous Provisions) (Wales) Regulations 2025.

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

Regulation 10(a)(i), (iii), (iv), (v) and (vii) require an applicant to give notice to certain categories of persons “considered appropriate by the applicant”. This includes any planning authority, community council, Member of the Senedd, Member of the House of Commons, or any other person considered appropriate by the applicant. Although the applicant “must” give notice to anyone in the list of persons “considered appropriate by the applicant” this gives a wide discretion to the applicant to not consider any of these persons “appropriate” and appears to undermine the requirement to give notice. Whilst we appreciate that 10(a)(vii) provides a catch all category in much the same way as regulation 8(h), for example, the requirements as drafted in 10(a)(i), (ii) (iv) and (v) may result in none of those persons receiving notice at the discretion of the application before an application is submitted.

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



Regulation 10(a) requires a notice to be published “for at least 7 days” in one or more newspapers, at least one appropriate fishing journal, and Lloyd’s list, before the application is submitted. In contrast, regulation 26 approaches the publication of notices where an application is accepted differently. Regulation 26(4) provides that a newspaper notice needs to be for “a minimum period of one week” commencing within 5 working days beginning with the day after the application is accepted as valid. Likewise, there is a requirement to publish in a fishing journal for “a minimum period of one week”. However, there is no timescale listed for the notice to be published in Lloyds list, unlike in regulation 10(a). It is unclear therefore, how long a notice would need to be published in Lloyd’s List under regulation 26(4)(b).

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

In regulation 11(f), in the Welsh text, the meaning of the term “issued” has been expressed as “cyhoeddi” but in the opening words of regulation 11 the same term has been expressed as “dyroddi”. Also, “cyhoeddi” has also been used to express the meaning of “published” in regulation 11(e). Therefore, the terminology of the Welsh text is inconsistent when referring to the issuing of notices in regulation 11. “Dyroddi” is the standardised word recommended for “issue” by the Glossary of the Welsh Government’s Legislative Translation Unit.

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

In regulation 14(1), the words “in accordance with section 29(4) of the 2024 Act” are superfluous. The definition of “notice of acceptance” in regulation 2(1) notes that it is a notice given under section 29(4) of the 2024 Act.

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

In regulation 17(2) there is a difference between the English and the Welsh text. In the Welsh text, the chapter details are noted in brackets immediately after the second reference to the Energy Act 2004 at the end of the provision. However, they are not noted in the English text.

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

In regulation 19(a), there is a difference between the English and Welsh text. In the English text, it begins with “securing” but there is no corresponding phrase to convey that meaning in the Welsh text.

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

In regulation 24(f), the words “under regulation 2(1) of the Marine EIA Regulations” are superfluous because the definition of regulated activity in regulation 2(1) of these



Regulations notes that “regulated activity” (“gweithgaredd a reoleiddir”) has the meaning given in regulation 2(1) of the Marine EIA Regulations.

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

Regulation 26(3) which relates to the publication of notices, states that “Where a notice is, without any fault, removed, obscured or defaced before the period of 42 days has elapsed, the requirement will be treated as having been complied with if reasonable steps are taken to protect the notice and, where required, to replace it”. This appears to be inconsistent with the approach in regulation 7(3) which states that “Where the site notice is, without any fault of the applicant, removed, obscured, or defaced before the period of 42 days has elapsed, the applicant will be treated as having complied with the requirements of the relevant paragraph if they have taken reasonable steps to protect the site notice and if need be, replace it”. The drafting in 7(3) seems much clearer as to its intention. The provision in 26(3) appears to only provide protection for the notice in circumstances “without any fault”. In cases where the notice is simply removed, it will be difficult to ascertain whether that was with, or without, fault, and therefore whether the provisions of 26(3) would apply. If a notice was obviously deliberately and maliciously defaced, 7(3) would require reasonable steps be taken for it to be protected/replaced. Conversely, 26(3) would not appear to require protection/replacement if the notice was defaced with “fault” by a person. However, it would if it could be proved that it was defaced without fault. This appears to be an inconsistent approach for provisions which are both designed, on their face, to ensure that site notices can be viewed by persons at the site.

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

In regulation 26(5), there is a difference between the English and Welsh text. In the English text it notes “beginning the day after” but the meaning given by the Welsh text is “beginning with” the day after. In addition, the descriptions of the beginning of periods of time vary in the English text as elsewhere in these Regulations it usually notes “beginning with the day” except in this provision and in the opening words of regulation 32(1) where “beginning the day” has been used. The Welsh text varies because in regulations 4 and 11(f) “sy’n dechrau drannoeth” has been used to convey “beginning with the day” but “sy’n dechrau â thrannoeth” has been used elsewhere such as in regulations 27 and 31.

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

In regulation 27(3), there is an incorrect reference to “paragraph 12 of these Regulations”. However, there is no paragraph (12) in regulation 27, and it appears to be referring instead to regulation 12. In addition, the words “of these Regulations” are also superfluous.

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



In regulation 28(c)(iii), there is a reference to “paragraph (1)(c)(ii) of this regulation”. Regulation 28 does not contain a paragraph (1). If it is referring to regulation 28(c)(ii) it should be described as sub-paragraph (ii).

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

In regulation 29(2)(a), there is a difference between the English and the Welsh text. In the Welsh text, there is a conjunction meaning “and” at the end of regulation 29(2)(a), to show the relationship between sub-paragraphs (a) and (b). However, there is no “and” in the corresponding place in the English text.

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

In Part 7, there is a difference between the English and the Welsh text. In the English text, in the heading of that Part, it notes “Part 7”, but the meaning given by the Welsh text is “Part 1”.

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

In regulation 32(3)(b), the reference to “regulation 7 of the Infrastructure Consent (Miscellaneous Provisions) (Wales) Regulations 2025” does not appear to be correct. It is unclear if it should refer the reader to regulation 8 or some other provision in these Regulations.

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

In the Schedule, in paragraph (g), in Column 2, paragraph (iii), there is a difference between the English and Welsh text. In the English text, it notes “the grass surface of a playing pitch **on a playing field** with...” but the meaning given by the Welsh text is “the grass surface of a playing pitch with...”. There is an additional significance to this difference because “playing field” is a term defined for paragraph (g) by the Interpretation of Table.

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

In the Schedule, in the Interpretation of table, in paragraph (b), there is a difference between the English and Welsh text. In the English text, in the paragraph beginning with “Reference to the height of development” it notes “the highest part of the surface adjacent to it” at the end of the paragraph. However, the meaning given by the Welsh text is “the highest part of the surface **immediately** adjacent to it”. In this regard, the English text is inconsistent because it does use the phrase “immediately adjacent” earlier in the same paragraph.

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



In the Schedule, in the Interpretation of Table, in paragraph (f), the term “airport” is given the same meaning as in section 82(1) of the Airports Act 1986. However, it is also defined with that meaning in section 143(1) of the 2024 Act. It is unclear why “airport” has not been defined by reference to the 2024 Act, unlike definitions such as “harbour authority”.

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

In the Schedule, in the Interpretation of Table, there is a difference between the English and Welsh text in the numbering of the paragraphs. In the English text, the definition of “Distribution Network Operators” appears in paragraph (g), but in the Welsh text, there is no paragraph (g), so that the definition appears in paragraph (f) immediately after the definition of “airport”.

### **Merits Scrutiny**

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

### **Welsh Government response**

A Welsh Government response is required.

### **Committee Consideration**

The Committee considered the instrument at its meeting on 7 July 2025 and reports to the Senedd in line with the reporting points above.



## **Government Response: The Infrastructure Consent (Pre-Application and Application Procedure and Transitional Provisions) (Wales) Regulations 2025**

**Technical Scrutiny point 1:** The Welsh Government is grateful to the Committee for identifying this point. Section 132(2) of the Infrastructure (Wales) Act 2024 (“the 2024 Act”) has been included in the preamble in error. Section 132(2) provides a power to ‘modify or exclude any enactment’ relating to Crown applications. There are no provisions in the regulations which rely on section 132(2), therefore, the inclusion of section 132(2) is an error, and the regulations are subject to the negative procedure.

**Technical Scrutiny point 2 and 3:** The Welsh Government notes the point made. The SI will be corrected to use the defined terms by an amending instrument prior to the coming into force of the instrument on 15 December 2025.

**Technical Scrutiny point 4:** The Welsh Government notes the point made. The definition of “significant infrastructure project” in section 143 of the 2024 Act as “having the meaning given by Part 1”. These regulations take the same approach and therefore it is not considered further clarification is necessary.

**Technical Scrutiny point 5:** The Welsh Government notes the point raised by the Committee. Regulation 10 applies in relation to proposed applications for development in the Welsh marine area. The reason for allowing discretion to the applicant about which planning authority, community council, Member of the Senedd and Member of the House of Commons should be notified as considered appropriate by the applicant, is because in the marine area there will not be an associated body/person. Depending on the development, there may be an impact on land, and it will be for the applicant to identify where the impact may fall, and who should be notified.

**Technical Scrutiny point 6:** The Welsh Government accepts the point. The SI will be amended to clarify this point by an amending instrument prior to the coming into force of the instrument on 15 December 2025.

**Technical Scrutiny points 7-11:** The Welsh Government notes the points. The SI will be amended to correct the Welsh text and remove the superfluous words by an amending instrument prior to the coming into force of the instrument on 15 December 2025.

**Technical Scrutiny point 12:** The Welsh Government notes the point and agrees that regulation 26(3) could be clearer. The SI will be amended to provide additional clarification by an amending instrument prior to the coming into force of the instrument on 15 December 2025.

**Technical Scrutiny points 13-20:** The Welsh Government accepts the points and will amend the SI to ensure consistency in the English and Welsh texts, and to correct the relevant cross references by an amending instrument prior to the coming into force of the instrument on 15 December 2025.

**Technical Scrutiny point 21:** The Welsh Government notes the point. Further consideration will be given as to whether there is a benefit to amending the definitions to take a consistent approach.

**Technical Scrutiny point 22:** The Welsh Government accepts the point and will amend the SI to correct the Welsh text by an amending instrument prior to the coming into force of the instrument on 15 December 2025.

# Agenda Item 3.4

## **SL(6)627 – The Environmental Protection (Single-use Vapes) (Wales) (Amendment) (Wales) Regulations 2025**

### **Background and Purpose**

The Environmental Protection (Single-use Vapes) (Wales) Regulations 2024 came into force on 1<sup>st</sup> June 2025 and prohibit the supply of single-use vapes in Wales. They aim to address the environmental damage caused by inappropriate disposal of single-use vapes (“the 2024 Regulations”).

Regulation 10 of the 2024 Regulations includes a power for enforcement officers, who are appointed by a local authority, to seize single-use vapes that contravene the regulations and then retain them for listed specific purposes, such as to test the vape or to make it available as evidence. Regulation 12 of the 2024 Regulations gives the Welsh Ministers a power to direct that any single-use vapes seized by enforcement enforcers are disposed of as waste.

In error, the enforcement officers power to retain seized single-use vapes set out in regulation 10 does not extend to retention of them in order that they can be disposed of as waste, pursuant to a direction from the Welsh Ministers. These Regulations amend regulation 10 of the 2024 Regulations to extend the reach of the power to permit retention for that purpose.

### **Procedure**

Negative.

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

### **Technical Scrutiny**

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

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

These Regulations are made under powers in section 140(1) of the Environmental Protection Act 1990. The power enables the Welsh Ministers to specify and then regulate the possession, use or storage of a substance or article *if* the Welsh Ministers consider it is



appropriate in order to prevent that substance or article from causing either environmental pollution or harm to human, animal or plant health.

The exercise of the section 140(1) power is therefore conditional upon the Welsh Ministers reaching that view. The introductory words of the Regulations set out below refer to this condition:

*“The Welsh Ministers-*

*(a) consider it appropriate to make these Regulations for the purpose of preventing the articles specified in them from causing pollution of the environment and harm to the health of animals;”*

These words are intended to confirm the Welsh Ministers are satisfied in relation to the condition in section 140(1). The wording refers to *“articles specified”* in these Regulations. However no articles are specified in these Regulations, the regulated articles, single-use vapes, are specified in the 2024 Regulations.

In our view, in order to satisfy section 140(1) of the Environmental Protection Act 1990 the introductory words of these Regulations should refer to *“articles specified in regulation 3 & 4 of the the Environmental Protection (Single-use Vapes)(Wales) Regulations 2024”*.

## Merits Scrutiny

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

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

These Regulations were made on 17 June 2025, laid on 18 June 2025 and come into force on 19 June 2025. Section 11A(4) of the Statutory Instruments Act 1946 applies in the event a negative resolution SI is not laid at least 21 calendar days before it comes into force. It provides that the Welsh Government must notify the Llywydd and explain the 21 day requirement has not been observed.

The Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs Huw Irranca-Davies MS wrote to the Llywydd on 18 June 2025 and stated the following:

*“The 2024 Regulations came into force on 1 June 2025. Therefore, not adhering to the 21- day convention will ensure the 2024 Regulations are corrected as soon as is practicably possible, ensuring that the ban created by the 2024 Regulations is given its full effect in the soonest possible time.”*

## Welsh Government response

A Welsh Government response is required.



## Committee Consideration

The Committee considered the instrument at its meeting on 7 July 2025 and reports to the Senedd in line with the reporting points above.



Senedd Cymru

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

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**Legislation, Justice and Constitution Committee**

**Government Response: *The Environmental Protection (Single-use Vapes) (Wales) (Amendment) (Wales) Regulations 2025***

**Technical Scrutiny point 1:** The Government thanks the Committee for raising this point. Whilst the Government believes that the preamble makes it sufficiently clear that the conditions within section 140(1) have been complied with, it will seek to correct this via correction slip.

# Agenda Item 3.5

## **SL(6)621 – The Infrastructure Consent (Miscellaneous Provisions) (Wales) Regulations 2025**

### **Background and Purpose**

The Infrastructure (Wales) Act 2024 (“the 2024 Act”) establishes a unified application and consenting process to enable the making and consideration of applications for infrastructure consent. The process broadly applies to significant infrastructure projects that are energy, transport, waste and water projects.

These Regulations make provision for miscellaneous matters that ensure the purpose of the 2024 Act is appropriately implemented. The matters specified and the requirements set out in these Regulations are in addition to any contained in other regulations that implement the 2024 Act.

The Regulations make provision in respect of requests for directions to be given under the 2024 Act, obtaining information about land interests, disapplying requirements of the 2024 Act, annual reports and statutory consultees, requests for pre-application services, pre-application meetings, registers of pre-application services and applications for infrastructure consent, and removing consent requirements and deeming consents. They also list the projects that may be directed to be significant infrastructure projects.

### **Procedure**

Draft affirmative.

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

### **Technical Scrutiny**

The following eight 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 regulation 2, there is a difference between the English and Welsh text. In the Welsh text, there is an additional unnumbered paragraph at the end of the regulation which states that any other expressions used in these Regulations and in the 2024 Act have the same meaning as in the 2024 Act.

**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 “applicant”, it should explain to the reader that the definition does not apply to regulation 7 as a different definition has been given to the term “applicant” for that regulation.

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

In regulation 6(2)(b), there is a difference between the English and Welsh text. In the English text, it notes that “they give notice... to the developer”. But it could be argued that the meaning given by the Welsh text is “that they inform...the developer” because “rhoi gwybod” rather than “rhoi hysbysiad” has been used to express the phrase “give notice”. In addition, it means that it is inconsistent with the Welsh text of regulation 6(4) and other provisions of these Regulations.

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

In regulation 10(3), there is a difference between the English and Welsh text. In the English text, it states that “The notice of acceptance must **specify** the date...”. But it could be argued that the meaning given by the Welsh text is “The notice of acceptance must note the date...” because “nodi” rather than “pennu” has been used to express the word “specify”.

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

In regulation 11(1)(e) and (2)(d), in the Welsh text, there is an inconsistent approach in the meaning given to “may” when stating “advice on any pre-application consultation that **may** be carried out”. In regulation 11(1)(e), in the Welsh text, it notes “y **caniateir** ei gynnal” which means that there is legal discretion or permission to carry out a pre-application consultation. However, in regulation 11(2)(d), in the Welsh text, it notes “y **gellir** ei gynnal” which means that there is only a possibility of carrying out a pre-application consultation.

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

In Schedule 1, in paragraphs 21 and 22, in the Welsh text, there is an inconsistency in how the term “plant” is expressed. In paragraph 21, it is noted as “**gwaith**” on each occasion in the corresponding terms in the Welsh text. But in paragraph 22 it is expressed by using “safle” in “**safle** trin dŵr gwastraff” (“waste water treatment plant”) followed by a later use of “gwaith” where “plant” occurs on its own. As a result, it suggests to the reader of the Welsh text that “plant” has a different meaning on a single occasion in paragraph 22 although the English text uses the same word in all of the corresponding places.

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



In Schedule 1, in paragraph 27, several of the definitions are defined by given them the same meaning as in the 2024 Act. However, the terms “waste water” and “wind generating station” are defined by using descriptions that are identical to those found in sections 14(5) and 2(2) respectively of the 2024 Act. Could the Welsh Government explain why they adopted this inconsistent approach and did not expressly state that the definitions of “waste water” and “wind generating station” have the same meaning as in those sections of the 2024 Act?

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

In Schedule 1, in paragraph 27, in the Welsh text, the term “generating station” is defined as “gorsaf gynhyrchu” where a form of “cynhyrchu” is used to express the meaning of “generating”. However, in the terms “solar generating station” and “wind generating station”, the word “ynni” meaning “power” or “energy” rather than “cynhyrchu” has been used to express “generating”. Could the Welsh Government explain why they have not used “cynhyrchu” in the Welsh terms for “solar generating station” and “wind generating station” as found in “gorsaf gynhyrchu” (“generating station”)?

### Merits Scrutiny

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

### Welsh Government response

A Welsh Government response is required.

### Committee Consideration

The Committee considered the instrument at its meeting on 7 July 2025 and reports to the Senedd in line with the reporting points above.



**Government Response: *The Infrastructure Consent (Miscellaneous Provisions) (Wales) Regulations 2025***

**Technical Scrutiny point 1, 3, 4 and 6:** The Welsh Government is grateful to the committee for identifying these differences in the Welsh and English texts and intend on making the corrections identified in the table below prior to the making of the Regulations.

**Technical Scrutiny point 2:** The Welsh Government agrees that it would be more helpful to the reader if it was clear the definition does not apply to regulation 7 and intend on making the corrections identified in the table below prior to the making of the Regulations. This does not change the substantive effect of the regulations but will aid accessibility.

**Technical Scrutiny point 5:** The Welsh Government is grateful to the committee for identifying this difference in the Welsh and English texts. The “may” in these provisions signifies a possibility. The Welsh Government intend on making the corrections identified in the table below prior to the making of the Regulations.

**Technical Scrutiny point 7:** The Welsh Government notes the point but does not consider that the drafting is defective or requires amendment prior to the regulations being made.

**Technical Scrutiny point 8:** The Welsh Government notes the point about the definition of terms in Schedule 1 but considered that the definitions are correct as they are the same terms as used in section 143(1) and 2(2) of the infrastructure (Wales) Act 2024. The terms were standardised for the Infrastructure Act and are found on Byd Term Cymru, status A.

*Minor corrections to be made prior to making the Regulations*

| CORRECTIONS MADE TO THE WELSH TEXT PRIOR TO MAKING   | CORRECTIONS MADE TO THE ENGLISH TEXT PRIOR TO MAKING  |
|--|---|
| <p align="center"><b>Rheoliadau Cydsyniad Seilwaith (Darpariaethau Amrywiol) (Cymru) 2025</b></p>                                | <p align="center"><b>The Infrastructure Consent (Miscellaneous Provisions) (Wales) Regulations 2025</b></p> |
| <p>In the Welsh text only, in regulation 2 the words “Mae i unrhyw ymadroddion eraill a ddefnyddir yn y Rheoliadau hyn ac yn</p> |   |

|   |   |
|---|---|
| Neddf 2024 yr un ystyr ag yn y Ddeddf honno.” will be deleted   |   |
| In regulation 2 in the definition of “ceisydd”, the words “(nid yw’r diffiniad hwn yn gymwys at ddibenion rheoliad 7)” will be added to the end fo the defintion. | In regulation 2, in the definition of “the applicant”, the words “(this definition does not apply for the purpose of regulation 7)” will be added to the end of the definition. |
| In the Welsh text only, in regulation 6(2)(b) the words “rhei gwybod” will be replaced by “rhei hysbysiad   |   |
| In the Welsh text only, in regulation 10(3) the word “nodi’r” will be replaced by “bennu’r”.  |   |
| In the Welsh text only, in regulation 11(1)(e) the words “y caniateir” will be replaced by “y gellir”.  |   |
| In the Welsh text only, in paragraph 22 of Schedule 1, the word “safle” will be replaced by “gwaith”.   |   |
| Minor issues such as formatting, changes to the explanatory note, footnotes and typographical errors will also be corrected prior to making.                      |   |

## **SL(6)622 – The Infrastructure Consent (Fees) (Wales) Regulations 2025**

### **Background and Purpose**

The Infrastructure (Wales) Act 2024 (“the 2024 Act”) establishes a unified application and consenting process to enable making and consideration of applications for infrastructure consent. The process applies to the significant infrastructure projects that are specified in Part 1 of the 2024 Act. Broadly, they are energy, transport, waste and water projects.

Part 2 of the 2024 Act contains the requirement for infrastructure consent. Part 3 of the 2024 Act makes provision about applying for infrastructure consent.

Part 4 of the 2024 Act contains provision about appointing an authority to examine applications for infrastructure consent (“the examining authority”) and about particular aspects of the examination process. Part 5 of the 2024 Act contains provisions about deciding applications for infrastructure consent.

The Act enables the Welsh Ministers to make provision for or in connection with the charging of fees by specified public authorities for the performance of an infrastructure consent function and the provision of an infrastructure consent service (as defined in section 124 of the Act).

These Regulations make provision in relation to the following—

- fees for pre-application services provided by the Welsh Ministers (regulation 3),
- fees for pre-application services provided by planning authorities (regulation 4),
- fees for pre-application services provided by Natural Resources Wales (regulation 5),
- fees for obtaining information about interests in land (regulation 6),
- fees for exercising powers of entry to survey land (regulation 7),
- fees for giving notice of proposed application (regulation 8),
- fees for making an application (regulation 9),
- fees for a local impact report (regulation 10),
- fees for a marine impact report (regulation 11),
- refund of unspent fees (regulation 12),
- fees payable to specified public authorities and relevant planning authorities for providing services other than pre-application services (regulation 13), and
- fees payable to relevant authorities for applications for removing consent requirement and deeming consents (regulation 14).



## Procedure

Draft Affirmative

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

## Technical Scrutiny

The following ten 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(1), is it necessary to include a definition of “financial year” because a definition of that term will be implied in these Regulations by virtue of Schedule 1 to the Legislation (Wales) Act 2019?

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

In regulation 3(3)(d) and (7)(b), there are several references to “the relevant pre-application services”. However, in regulation 3(4)(b), it refers to “the relevant services” rather than “the relevant pre-application services”. In addition, the term “Pre-application services” has been defined as having a particular meaning by regulation 2(1) of these Regulations. As a result, the drafting is inconsistent, and it could be argued that “the relevant pre-application services” has a narrower meaning in regulation 3 compared with “the relevant services”. The same varying between the terms “the relevant pre-application services” and “the relevant services” also occurs in several places in regulations 4 and 5 of these Regulations.

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

In regulations 3(6) and 4(6), there is a difference between the English and Welsh text. In the English text, it notes “21 days beginning the day after the date”. However, the meaning given by the Welsh text is “21 days beginning **on** the day after the date”. Both language texts are equivalent in meaning where the same phrase is used in regulations 4(8) and 5(8).

The Welsh Government may also wish to consider the consistency of the drafting of the English text when describing the beginning of periods of time because “beginning the day”, “beginning on the day” and “beginning with the day” are all used in various provisions in these Regulations such as regulations 3(9), 5(6) and (8), 13(5) and 14(6).

As a result, it is unclear if this is done intentionally because there is any difference in meaning or inconsistent drafting (see also the Welsh Government’s drafting guidelines about describing the beginning of periods of time which generally recommends “beginning with [the day]” in WLW 8.3).



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

In regulations 3(9), 4(8) and 5(8), it notes that “the fee will be administered by [an] invoice payable...”. In addition, in regulation 14(3), it notes that “the relevant authority will provide the applicant...”. However, it is unclear whether “will” in these provisions is placing a legal obligation to act in a particular manner or being used as a future tense. In this regard, the Welsh Government’s drafting guidelines state that the use of “will” should be avoided if imposing obligations, and that a phrase such as “must” or “is to be” should be used in that context, or the present indicative for declaratory provisions (see WLW 3.14 (4) and (5)).

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

In regulation 5(9)(b), there is a difference between the English and Welsh text. In the English text it notes “withhold the services” but the meaning given by the Welsh text is “withhold the relevant pre-application services”.

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

In regulation 7(1), it refers to “section 126(1) of the Act” where it appears to be referring to the Infrastructure (Wales) Act 2024. However, the Infrastructure (Wales) Act 2024 has been defined for these Regulations as “the 2024 Act” which is used in an earlier reference in regulation 7(1).

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

In regulation 10(2)(a) and (b), there are references to “section 34(2)(a) or (b)” but these references are incomplete as they do not note that the section is found in the 2024 Act. This also occurs in regulation 11(2)(a) and (b) in relation to references to “section 34(2)(b)” and “section 37(b)”.

In addition, there is further confusion concerning the reference to “section 37(b)” as there is no such section in the 2024 Act. Therefore, it is unclear as to whether it is referring to a different section in that Act.

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

In regulation 13(5), there is an incorrect cross-reference to “the notice referred to in paragraph (5)”. However, it appears that it should refer the reader to paragraph (4) of regulation 13.

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



In regulation 13(7), the term “relevant planning authority” is defined for regulation 13. However, the same term is also used in several other places such as regulations 4 and 10 of these Regulations. Therefore, the term will only have that defined meaning in regulation 13 but it has not been defined with a meaning for regulations 4 and 10 of these Regulations.

In addition, a different definition of the same term is also given by section 123 of the 2024 Act for Part 7 of that Act. As a result, the meaning of the term “relevant planning authority” is unclear in regulations 4 and 10 of these Regulations.

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

The reference in the italic headnote on pages 1 and 4 should be consistent with that found in the second paragraph of the preamble noting the statutory requirement for the instrument to be laid in draft before the Senedd. However, the italic headnote refers to “section 141(3) and 141(4)(h) of the Infrastructure (Wales) Act 2024” but the second paragraph of the preamble only refers to “section 141(3)” of that Act.

### **Merits Scrutiny**

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

### **Welsh Government response**

A Welsh Government response is required.

### **Committee Consideration**

The Committee considered the instrument at its meeting on 7 July 2025 and reports to the Senedd in line with the reporting points above.



## **Government Response: The Infrastructure Consent (Fees) (Wales) Regulations 2025**

**Technical Scrutiny point 1:** The Welsh Government notes the Committee's point. Whilst it is agreed that the term 'financial year' does not need to be defined and the definition in Legislation (Wales) Act 2019 could be relied upon, it was decided that in this instance it would be beneficial to include the term within this SI.

**Technical Scrutiny point 2:** The Welsh Government is grateful to the Committee for raising this point. The draft Regulations will be amended prior to making as set out in the table below to ensure consistent use of the defined term "relevant pre-application services". Whilst it is considered that the draft Regulations would be interpreted in this way as it is currently drafted, ensuring that the defined term is used consistently will aid accessibility.

**Technical Scrutiny point 3:** The Welsh Government is grateful to the Committee for raising this point. It is considered that the timescales are clear in each case. As set out in the table below, the Welsh will be amended in regulations 3(6) and 4(6) prior to making to ensure consistency with the English text.

**Technical Scrutiny point 4:** The Welsh Government notes the Committee's point. It is considered that there is no ambiguity in the use of the word 'will' in the context highlighted.

**Technical Scrutiny point 5:** The Welsh Government is grateful to the Committee for raising this point. As set out in the table below, the words "relevant pre-application" in regulation 5(9)(b) will be inserted before the word "services" prior to making. This will align the English text with the equivalent Welsh text in regulation 5(9)(b).

**Technical Scrutiny point 6:** The Welsh Government is grateful to the Committee for raising this point. Regulation 7(1) will be amended prior to making as set out in the table below to use the defined term "the 2024 Act", rather than "the Act".

**Technical Scrutiny point 7:** The Welsh Government is grateful to the Committee for raising this point. Regulations 10(2)(a) and (b) and 11(2)(a) and (b) will be amended prior to making as set out in the table below to clarify the references are to 'the 2024 Act'. In addition, the references to section 37(b) in regulations 11(2)(a) and (b) will be corrected to refer to section 37(2) of the 2024 Act. It is clear the cross-reference was meant to be to section 37(2) as the reference is to a direction specifying a deadline within which Natural Resources Wales must submit a marine impact report, which is what section 37(2) provides for.

**Technical Scrutiny point 8:** The Welsh Government is grateful to the Committee for raising this point. The cross reference will be corrected prior to making as set out in the table below.

**Technical Scrutiny point 9:** The Welsh Government notes the point. The term “relevant planning authority” used in regulations 4 and 10 are not intended to have the definition given by either regulation 13, or section 123 of the Act (which uses the term in the context of enforcement). In both regulations 4 and 10, there is reference to a “planning authority” (as defined in regulation 2(1)). The following references to “the relevant planning authority” within regulations 4 and 10 are references to the first “planning authority” e.g. either the planning authority that provides the pre-application services, or the planning authority which submits a local impact report.

**Technical Scrutiny point 10:** The Welsh Government is grateful to the Committee for raising this point. The second paragraph of the preamble will be corrected prior to making as set out in the table below to include reference to section 141(4)(h) of the 2024 Act.

*Minor corrections to be made prior to making the Regulations*

| <b>CORRECTIONS MADE TO THE WELSH TEXT PRIOR TO MAKING</b>  | <b>CORRECTIONS MADE TO THE ENGLISH TEXT PRIOR TO MAKING</b>  |
|--|--|
| <b>Rheoliadau Cydsyniad Seilwaith (Ffioedd) (Cymru) 2025</b>   | <b>The Infrastructure Consent (Fees) (Wales) Regulations 2025</b>  |
| In the second paragraph of the preamble, “a 4(h)” will be inserted after “adran 141(3)”.   | In the second paragraph of the preamble “and (4)(h)” will be inserted after “section 141(3)”.                        |
| Regulation 3(4)(b) will be amended so that “gwasanaethau perthnasol” is replaced with “gwasanaethau cyn gwneud cais perthnasol”. | Regulation 3(4)(b) will be amended so that “relevant services” is replaced with “relevant pre-application services”. |
| Regulation 3(6) will be amended so that “sy'n dechrau ar y diwrnod” is replaced with “sy'n dechrau y diwrnod”.                   |  |
| Regulation 4(3)(d) will be amended so that “gwasanaethau perthnasol” is replaced with “gwasanaethau cyn gwneud cais perthnasol”. | Regulation 4(3)(d) will be amended so that “relevant services” is replaced with “relevant pre-application services”. |

|  |   |
|--|---|
| Regulation 4(4)(b) will be amended so that “gwasanaethau perthnasol” is replaced with “gwasanaethau cyn gwneud cais perthnasol”. | Regulation 4(4)(b) will be amended so that “relevant services” is replaced with “relevant pre-application services”.              |
| Regulation 4(6) will be amended so that "sy'n dechrau ar y diwrnod" is replaced with "sy'n dechrau y diwrnod".                   |   |
| Regulation 5(3)(d) will be amended so that “gwasanaethau perthnasol” is replaced with “gwasanaethau cyn gwneud cais perthnasol”. | Regulation 5(3)(d) will be amended so that “relevant services” is replaced with “relevant pre-application services”.              |
| Regulation 5(4)(b) will be amended so that “gwasanaethau perthnasol” is replaced with “gwasanaethau cyn gwneud cais perthnasol”. | Regulation 5(4)(b) will be amended so that “relevant services” is replaced with “relevant pre-application services”.              |
| No amendment required. The amendment to the English aligns with the existing Welsh text.   | In regulation 5(9)(b) the words “relevant pre-application” will be inserted before “services”.                                    |
| Regulation 7(1) will be amended to replace the words “o’r Ddeddf” after “adran 126(1)” with “o Ddeddf 2024”.                     | Regulation 7(1) will be amended to insert the words “2024” before the word “Act” in the second place it occurs in that paragraph. |
| In regulation 10(2)(a) the words “o Ddeddf 2024” will be added after “adran 34(2)(a) neu (b)”.                                   | In regulation 10(2)(a) the words “of the 2024 Act” will be added after “section 34(2)(a) or (b)”.                                 |
| In regulation 10(2)(b) the words “o Ddeddf 2024” will be added after “adran 34(2)(a) neu (b)”.                                   | In regulation 10(2)(b) the words “of the 2024 Act” will be added after “section 34(2)(a) or (b)”.                                 |
| In regulation 11(2)(a) the words “o Ddeddf 2024” will be added after “adran 34(2)(b)”.   | In regulation 11(2)(a) the words “of the 2024 Act” will be added after “section 34(2)(b)”.  |
| In regulation 11(2)(a) the words “adran 37(b)” will be replaced with “adran 37(2) o Ddeddf 2024”.                                | In regulation 11(2)(a) the words “section 37(b)” will be replaced with “section 37(2) of the 2024 Act”.                           |

|  |   |
|--|---|
| In regulation 11(2)(b) the words “o Ddeddf 2024” will be added after “adran 34(2)(b)”.   | In regulation 11(2)(b) the words “of the 2024 Act” will be added after “section 34(2)(b)”.              |
| In regulation 11(2)(b) the words “adran 37(b)” will be replaced with “adran 37(2) o Ddeddf 2024”.  | In regulation 11(2)(b) the words “section 37(b)” will be replaced with “section 37(2) of the 2024 Act”. |
| In regulation 13(5) the cross reference to “ym mharagraff (5)” will be amended to “ym mharagraff (4)”.                                       | In regulation 13(5) the cross reference to “paragraph (5)” will be amended to “paragraph (4)”.          |
| Minor issues such as formatting, changes to the explanatory note, footnotes and typographical errors will also be corrected prior to making. |   |

## **SL(6)630 – The Welsh Elections Financial Assistance Scheme (Disabled Candidates) Regulations 2025**

### **Background and Purpose**

These Regulations make provision in relation to the Welsh Ministers' duty to provide for a scheme of financial assistance to help disabled candidates in Welsh elections overcome barriers to their participation in those elections that are connected with their disability.

The Regulations provide details about the establishment and operation of the scheme, eligibility criteria, the functions of the scheme operator, the nature of the support or adjustments that may be provided under the scheme, the application and assessment process, the circumstances where repayment of support may be recovered and record keeping and reporting requirements. They also make consequential amendments to primary and secondary legislation in order give full effect to the scheme.

### **Procedure**

Affirmative

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

### **Technical Scrutiny**

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

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

Regulation 12 deals with the payment of financial assistance for approved support or adjustments under the financial assistance scheme. Regulation 12(4)(a) places a duty on the scheme operator to ensure that no payments are made unless it is satisfied that the person claiming has properly incurred or will properly incur the cost for the approved support. However, it does not make reference to approved adjustments which are also permitted under the financial assistance scheme. The Welsh Government is asked to explain why approved adjustments are not included in regulation 12(4)(a).

### **Merits Scrutiny**

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

### **Welsh Government response**



A Welsh Government response is required.

## **Committee Consideration**

The Committee considered the instrument at its meeting on 7 July 2025 and reports to the Senedd in line with the reporting point above.



Senedd Cymru

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

—

Welsh Parliament **Pack Page 42**

**Legislation, Justice and Constitution Committee**

## **Government Response: The Welsh Elections Financial Assistance Scheme (Disabled Candidates) Regulations 2025**

**Technical Scrutiny point 1:** The Welsh Government notes the comment and agrees it would be preferable if there were consistency between this and other similar provisions. The provision as drafted is not incorrect but to ensure consistency, this minor anomaly will be corrected prior to the making of the Regulations, as set out in the table below.

*Technical drafting correction to be made prior to the making of the Regulations*

| <b>CORRECTIONS MADE TO THE<br/>WELSH<br/>TEXT PRIOR TO MAKING</b>                                    | <b>CORRECTIONS MADE TO THE<br/>ENGLISH<br/>TEXT PRIOR TO MAKING</b>                                   |
|--|---|
| <b>Rheoliadau Cynllun Cymorth<br/>Ariannol Etholiadau Cymreig<br/>(Ymgeiswyr Anabl) 2025</b>         | <b>The Welsh Elections Financial<br/>Assistance Scheme (Disabled<br/>Candidates) Regulations 2025</b> |
| In regulation 12(4)(a) the words “neu’r addasiadau a gymeradwyir” will be added after “gymeradwyir”. | In regulation 12(4)(a) the words “or adjustments” will be added after “support”.                      |

# Agenda Item 4.1

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

Our Ref: PO HID 331 25

Mike Hedges MS  
Chair  
Legislation, Justice and Constitution Committee

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

7 July 2025

Dear Mike,

In accordance with the inter-institutional relations agreement, I wanted to report on the latest meeting of the Inter-Ministerial Group for Environment, Food and Rural Affairs on 23 June 2025.

The meeting was chaired by Jim Fairlie MSP, Minister for Agriculture and Connectivity of the Scottish Government, who was accompanied by Mairi Gougeon MSP, Cabinet Secretary for Rural Affairs, Land Reform and Islands and Gillian Martin MSP, Cabinet Secretary for Climate Action and Energy also for the Scottish Government.

Andrew Muir MLA, Minister of Agriculture, Environment and Rural Affairs and Caoimhe Archibald MLA, Minister for the Economy attended for the Northern Ireland Executive. The UK Government was represented by Steve Reed MP, Secretary of State for Environment Food and Rural Affairs, Mary Creagh MP, Parliamentary Under-Secretary of State for Nature, Baroness Sue Hayman, Parliamentary Under-Secretary of State at the Department for Environment, Food and Rural Affairs, and Daniel Zeichner MP, Minister of State for Food Security and Rural Affairs.

I have issued a Written Ministerial Statement summarising the discussions. The next meeting is currently scheduled for 8 September.

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

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

Bae Caerdydd • Cardiff Bay  
Caerdydd • Cardiff  
CF99 1SN

[Gohebiaeth.Huw.Irranca-Davies@llyw.cymru](mailto:Gohebiaeth.Huw.Irranca-Davies@llyw.cymru)  
[Correspondence.Huw.Irranca-Davies@gov.wales](mailto: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.



Llywodraeth Cymru  
Welsh Government

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

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**TITLE** 23 June 2025 Inter-Ministerial Group for Environment, Food and Rural Affairs

**DATE** 07 June 2025

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

In accordance with the inter-institutional relations agreement, I can report to Members I attended the latest meeting of the Inter-Ministerial Group for Environment, Food and Rural Affairs on 23 June 2025.

The meeting was chaired by Jim Fairlie MSP, Minister for Agriculture and Connectivity of the Scottish Government, who was accompanied by Mairi Gougeon MSP, Cabinet Secretary for Rural Affairs, Land Reform and Islands and Gillian Martin MSP, Cabinet Secretary for Climate Action and Energy also for the Scottish Government.

Andrew Muir MLA, Minister of Agriculture, Environment and Rural Affairs and Caoimhe Archibald MLA, Minister for the Economy attended for the Northern Ireland Executive. The UK Government was represented by Steve Reed MP, Secretary of State for Environment Food and Rural Affairs, Mary Creagh MP, Parliamentary Under-Secretary of State for Nature, Baroness Sue Hayman, Parliamentary Under-Secretary of State at the Department for Environment, Food and Rural Affairs, and Daniel Zeichner MP, Minister of State for Food Security and Rural Affairs.

The Group agreed the importance of regular meetings and the collective commitment to engagement between governments.

We held the second deep dive of our agreed work plan, focusing on the circular economy. The Group discussed and agreed the necessity to preserve our precious resources, reduce carbon emissions, and grow our economies. It was also an opportunity to identify key priorities for all four governments such as evidence sharing, wider collaborations and identifying products to tackle environmental issues and make supply chains more resilient.

The Group considered preparedness and response to current biosecurity threats and the National Audit Office's report on 'Resilience to Animal Diseases in England'. Whilst the report and its recommendations are England only, diseases do not respect borders and therefore we agreed to work together on considering any actions arising from the report.

We discussed the recent UK-EU summit, which announced a Common Understanding agreement across several areas, and the next steps on engagement, negotiations and implementation. I outlined the continued importance of engaging and working with devolved governments, as so many policy considerations within the agreement are devolved matters. The UK Government committed to engage with devolved governments on this issue. All parties welcomed the removal of barriers to trade and discussed the importance of ensuring that biosecurity measures are maintained to adequate levels during the transition. Within the meeting we discussed the recently announced Fisheries and Coastal Growth Fund, and I highlighted my expectation that the Fund should be devolved and administered by devolved governments.

We considered progress on finalising the EFRA Common Frameworks. I reemphasised the importance of the IMG, as it sits at the top of the Common Frameworks' governance. We discussed the link between finalising the Common Frameworks and the ongoing review of the UK Internal Market Act.

A communique regarding this meeting will be published on the UK Government website at <https://www.gov.uk/government/publications/inter-ministerial-group-for-environment-food-and-rural-affairs-communications>



Mike Hedges MS  
Chair, Legislation, Justice and Constitution Committee  
Senedd Cymru  
Cardiff Bay  
CF99 1NA

8 July 2025

Dear Mike,

I can confirm that the Finance: Interministerial Standing Committee (F:ISC) meeting was held in London on 26 June. A communique has been published following the meeting: [Finance: Interministerial Standing Committee – 26 June 2025 - GOV.UK](#)

The Rt Hon Darren Jones MP, Chief Secretary to the Treasury (UK Government) chaired the meeting. I joined alongside Shona Robison MSP, Cabinet Secretary for Finance and Local Government (Scottish Government). John O'Dowd MLA, Minister of Finance (Northern Ireland Executive) joined virtually.

The focus was on collaboration following the UK Spending Review, published in June. The Industrial and Infrastructure strategies published by the UK Government in June provide an opportunity to bring further economic growth to Wales. We explored how we can continue to engage to ensure new projects align with Wales' priorities.

We agreed to continue engagement on spending decisions, including through the UK's new National Infrastructure and Service Transformation Authority (NISTA), which will be hardwired into spending decisions.

I received your letter of 13 June, and I welcome your feedback. I raised the use of powers under the UK Internal Market Act (UKIMA) during the meeting. I explained that the use of UKIMA powers has the potential to overreach into spending in devolved areas, which is neither a practical nor sensible way of doing things. The Chief Secretary is aware of the concerns of all three devolved nations on this issue.

We also discussed fiscal flexibilities, which is a matter of shared interest between the devolved governments. I asked for the limits in our Fiscal Framework to be restored to the real value of the figures, as this is no longer an adequate tool.

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

Bae Caerdydd • Cardiff Bay  
Caerdydd • Cardiff  
CF99 1SN

[Correspondence.Mark.Drakeford@gov.wales](mailto:Correspondence.Mark.Drakeford@gov.wales)  
[Gohebiaeth.Mark.Drakeford@llyw.cymru](mailto:Gohebiaeth.Mark.Drakeford@llyw.cymru)

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

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

We agreed that officials would put forward modelling scenarios, led by Scottish officials, to demonstrate options for changes to fiscal flexibilities for all three devolved nations before the next F:ISC. The next F:ISC provides an opportunity to discuss fiscal flexibilities further to put forward for the UK Autumn Budget.

I also had the opportunity to raise Wales specific issues, including the recent Written Statement on Border Control Posts<sup>1</sup> and concerns with the application of the Barnett formula – I will follow up my concerns in writing to the CST.

The next F:ISC meeting will be held in Edinburgh in the Autumn, ahead of the UK Autumn Budget.

Yours sincerely,

A handwritten signature in black ink that reads "Mark Drakeford". The signature is written in a cursive, slightly slanted style.

**Mark Drakeford AS/MS**

Ysgrifennydd y Cabinet dros Gyllid a'r Gymraeg  
Cabinet Secretary for Finance and Welsh Language

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<sup>1</sup> [Written Statement: Border Controls on imports into Wales from Ireland \(24 June 2025\) | GOV.WALES](#)



Llywodraeth Cymru  
Welsh Government

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## WRITTEN STATEMENT BY THE WELSH GOVERNMENT

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**TITLE** 4 Nations Inter-Ministerial Group on Work and Pensions  
**DATE** 09 July 2025  
**BY** Jane Hutt MS, Cabinet Secretary for Social Justice, Trefnydd and Chief Whip

I represented the Welsh Government at the inaugural meeting of the 4 Nations Inter-Ministerial Group (IMG) on Work and Pensions on 26 June. This was chaired by Andrew Western, Minister for Transformation for DWP, UK Government. This inaugural meeting provided an opportunity for Ministers from the UK Government, Scottish Government, Welsh Government and Northern Ireland Executive to get together for the first time to talk about matters of mutual interest in the fields of employment support, disability, social security, child maintenance and pensions.

The terms of reference were formally agreed at the start of the meeting and it is anticipated they will be published on the dedicated [Intergovernmental Relations page](#) of the UK Government website.

Discussion focussed on the Pathways to Work green paper and the Get Britain Working white paper. I raised concerns on the potential for a disproportionate impact of the proposed changes to Personal Independence Payment eligibility criteria in Wales and the importance of listening to the individuals who this will affect. There was agreement on continued engagement on this matter across all four nations.

With regards to employment support, I highlighted the importance of ensuring alignment with existing programmes noting the successes of our community employability support and our Young Person's Guarantee in gaining trust from people in Wales.

I also raised the need to ensure we communicate regularly to share lessons learnt and the significance of timely and accurate data sharing which will enable us to achieve the shared goal of supporting more people into employment.

A [communiqué](#) is expected to be published on the UK Government's website in the near future.

Subsequent to the IMG meeting, on 1 July the DWP Minister for Social Security and Disability confirmed that Clause 5 would be withdrawn from the Universal Credit and

Personal Independence Payment Bill meaning that any changes to the eligibility criteria for PIP would be considered following the completion of the PIP review.

Jane Hutt AS/MS  
Ysgrifennydd y Cabinet dros Gyfiawnder Cymdeithasol, y  
Trefnydd a'r Prif Chwip  
Cabinet Secretary for Social Justice, Trefnydd and Chief Whip



Llywodraeth Cymru  
Welsh Government

Ein cyf/Our ref JH/PO/338/25

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

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

9 July 2025

Dear Mike,

Further to my letter of 23 June 2025 and in accordance with the Inter-Institutional Agreement, I am writing to draw to your attention to a [Written Ministerial Statement](#) summarising discussions at the inaugural 4 Nations Inter-Ministerial Group (IMG) meeting on Work and Pensions on 26 June 2025.

I am copying this letter to Chair of the Equality and Social Justice Committee.

Yours sincerely,

**Jane Hutt AS/MS**

Ysgrifennydd y Cabinet dros Gyfiawnder Cymdeithasol, y Trefnydd a'r Prif Chwip  
Cabinet Secretary for Social Justice, Trefnydd and Chief Whip

Bae Caerdydd • Cardiff Bay  
Caerdydd • Cardiff  
CF99 1SN

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

[Gohebiaeth.Jane.Hutt@llyw.cymru](mailto:Gohebiaeth.Jane.Hutt@llyw.cymru)  
[Correspondence.Jane.Hutt@gov.wales](mailto:Correspondence.Jane.Hutt@gov.wales)

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

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

Jack Sargeant AS/MS  
Y Gweinidog Diwylliant, Sgiliau a Phartneriaeth Gymdeithasol  
Minister for Culture, Skills and Social Partnership



Llywodraeth Cymru  
Welsh Government

Ein cyf/Our ref DC/JS/00471/25

Mike Hedges MS  
Chair  
Legislation, Justice and Constitution Committee

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

9 July 2025

Dear Mike,

I am writing in accordance with the inter-institutional relations agreement to notify you that the Culture and Creative Industries Inter-Ministerial Group (IMG) will meet on 16 July 2025.

This will be chaired by the UK Government Secretary of State for Culture, Media and Sport, the Rt Hon Lisa Nandy MP. I will be representing the Welsh Government at this virtual meeting.

I anticipate the meeting will provide an opportunity to discuss recent creative industries developments, including the publication of the Creative Industry Sector Plan, international activity, and ongoing engagement.

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

Yours sincerely,

**Jack Sargeant AS/MS**  
Minister for Culture, Skills and Social Partnership  
Y Gweinidog Diwylliant, Sgiliau a Phartneriaeth Gymdeithasol

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

Bae Caerdydd • Cardiff Bay  
Caerdydd • Cardiff  
CF99 1SN

[Gohebiaeth.Jack.Sargeant@llyw.cymru](mailto:Gohebiaeth.Jack.Sargeant@llyw.cymru)  
[Correspondence.Jack.Sargeant@gov.wales](mailto:Correspondence.Jack.Sargeant@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.

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

9 July 2025

Dear Huw

**Environment (Principles, Governance and Biodiversity Targets) (Wales) Bill**

Thank you for attending the Committee's meeting on 30 June to discuss the above Bill and agreeing to write to the Committee on the matters referred to at paragraphs 49 to 51, 82 and 126 to 127 of the [transcript](#).

The Committee has some additional questions to put to you which we were unable to ask during the session. We would be grateful to receive a response to the questions in the Annex by 11 September 2025.

I am copying this letter to the Climate Change, Environment and Infrastructure Committee.

Yours sincerely,



Mike Hedges  
Chair

## General matters

Q1. In our [report](#) on the Environment Bill LCM in September 2021, we recommended that:

*"A future environmental Bill introduced by the Minister should address devolved issues contained within the UK Government's Environment Bill, following appropriate consultation with stakeholders."*

The Welsh Government accepted this recommendation in principle. Please can you explain if the Bill addresses the recommendation in our 2021 report and if so, how?

## Welsh Ministers duties when making policy (section 3)

Q2. Please explain how the duty to have special regard to the principles will work in practice. For example, what processes will be put in place by the Welsh Government to identify policy that has, or could have any effect on the environment, and how will Welsh Ministers go about having special regard to the principles?

## Environmental assessment: public authorities duties (section 5)

Q3. Under section 5 of the Bill, public authorities must have regard to the environmental principles when undertaking strategic environmental assessments. What accountability mechanisms are in the Bill to monitor whether public authorities comply with this duty?

## Office of Environmental Governance Wales (OEGW)

Q4. The [Green Alliance](#) has suggested that the Bill should be amended:

- i. to include a duty on Welsh Ministers to respect the OEGW's independence (see paragraph 17 of Schedule 1 of the UK Environment Act 2021).
- ii. to clarify that Welsh Ministers have no power of direction in relation to the OEGW (akin to paragraph 1 of Schedule 1 to the UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021.)

What is your view of these suggestions and please can you explain why you disagree with them, should that be the case?

Q5. The Welsh Ministers must consult a Senedd committee before appointing the OEGW's chair and deputy chair (paragraph 8(2) of Schedule 1). If this is intended to be a pre-appointment hearing, why does it not state that on the face of the Bill, and do you intend to add these roles to the list of offices subject to pre-appointment hearings under the protocol agreed between the Llywydd and the Welsh Government?

## **Hight court review after failure to take specified action (section 19)**

Q6. The OEGW may apply to the High Court for an order requiring a public authority to take any action specified in a compliance notice it has issued. What are the possible sanctions for public authorities if they fail to comply with a High Court order?

## **Meaning of environmental law (section 29)**

Q7. Environmental law is a key definition in the Bill. It covers legislation wholly or mainly relating to environmental protection that has been, or could be, made by the Senedd. Do international conventions and agreements on the environment fall within the definition of 'environmental law' under the Bill?

Q8. In exercising its functions, the OEGW will be required to determine on a case by case basis whether legislation constitutes environmental law under the Bill. Are you confident that this is workable and feasible in practice? For example, is it reasonable to expect the OEGW to enforce the law and potentially escalate it to the High Court on the basis of its own assessment of whether a provision is within the Senedd's legislative competence under section 29(3)(b) of the Bill?

Q9. The Statement of Policy Intent ("SOPI") for the subordinate legislation powers under the Bill states that in instances of uncertainty or disagreement, it may be necessary for the courts to ultimately decide whether provision constitutes 'environmental law'. What assessment has been made of the impact of this on the justice system?

Q10. The Welsh Ministers have a power under section 29(4) of the Bill to make regulations specifying whether provision is, or is not, within the definition of 'environmental law'. Please explain why this power is necessary, and whether you intend to routinely use it to identify which legislation, or parts of legislation, constitute 'environmental law'.

Q11. The SOPI states that, if exercised, the power in section 29(4) of the Bill would be considered to "substantially affect provisions of the Bill by adding, amending or removing provisions which can be considered 'environmental law' for the purposes of the Act, and which has a substantial bearing on the scope of the Office of Environmental Governance's oversight powers". To what extent could this power be used to exclude provision that currently falls under the definition of 'environmental law' as drafted under the Bill?

Q12. Why is there no duty to consult the OEGW in relation to regulations to be made under section 29(4)?

## **Meaning of public authority (section 30)**

Q13. The definition of 'public authority' in the Bill has been defined by reference to Devolved Welsh Authorities in section 157A of the Government of Wales Act 2006, and various other bodies in

Schedule 7B to the Act. How did you decide which bodies should be caught under this definition, and why has it not been drafted by reference to any body providing functions of a public nature in Wales?

Q14. The majority of the public authorities under the Bill are listed in Schedule 9A to the Government of Wales Act 2006 as introduced by section 157A. However, under section 157A, there is also a statutory test for additional public bodies to constitute Devolved Welsh Authorities. Therefore, are you content that the scope of the definition of 'public authorities' under the Bill is sufficiently certain, and to what extent do you expect further public bodies to qualify as 'public authorities' under the statutory test?

### **Biodiversity targets (sections 33 to 38)**

Q15. The Welsh Ministers have a power to set targets in respect of 'any matter' relating to biodiversity in Wales. Objectively, this is a very wide power. What are the limits on the exercise of this power?

Q16. The numerous amendments made to section 6 of the Environment (Wales) Act 2016 by sections 33-36 of the Bill have arguably made it less accessible to the reader. There are two separate definitions of 'public authority' in the same section for separate purposes, and separate duties for the Welsh Government and other public authorities in relation to the same section 6 plans and reports without clear headings. Are you open to revisiting the amendments made by the Bill to section 6 of the 2016 Act with a view to improving its accessibility and readability?

Q17. Under new section 6C, the Welsh Ministers must lay draft regulations with biodiversity targets in priority areas within three years of Royal Assent. The Senedd's Climate Change, Environment and Infrastructure Committee previously described this proposed timescale as "not acceptable" and "deeply concerning". What is the justification for this deadline?

Q18. Would it be feasible to introduce draft regulations with targets sooner than this, and would you consider amendments to that effect at stage 2?

Q19. The express requirement to take action to contribute to meeting the biodiversity targets applies to public authorities that have been 'designated' in regulations by the Welsh Ministers. Why does the Bill not include a general duty on public authorities to comply with biodiversity targets?

Q20. Each public authority proposed for designation must be consulted, along with such other persons considered appropriate by Welsh Ministers. Up to 100 public bodies constitute 'public authorities' under the Bill. What proportion of these bodies do you envisage being designated?

Q21. Under the Bill, the Welsh Ministers are required to ensure the biodiversity targets are met. Why does the Bill not impose an express duty on the OEGW to monitor and enforce this obligation?

Q22. The requirement to set biodiversity targets will fall to the Welsh Government in the seventh Senedd. As drafted, the biodiversity requirements in the Bill could be satisfied by laying regulations in 2029 setting only four targets without any requirement to designate any public authority in relation to such targets. Are you satisfied that this is sufficiently robust, and if so, why?

### **Trade and Co-operation Agreement**

Q23. The Explanatory Memorandum states that the Bill will help to implement the commitments set out in the UK-EU Trade and Cooperation Agreement. Please elaborate and explain how the Bill will do this.

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

8 July 2025

Dear Huw,

## Environment (Principles, Governance and Biodiversity Targets) (Wales) Bill

Thank you for attending the Committee's 26 June meeting to give evidence on the Environment (Principles, Governance and Biodiversity Targets) (Wales) Bill (the Bill). To further support our scrutiny of the Bill, we would be grateful if you could respond to the questions below.

### Part 1: Environmental objective and principles

#### *Duty to apply the environmental principles*

Sections 3 and 4 place a duty on the Welsh Ministers and Natural Resources Wales to "have 'special regard' to environmental principles when making policy in relation to Wales". For the purpose of sections 3 and 4, "'policy' includes proposals for legislation, but does not include an administrative decision in relation to a particular person or case."

Further, the Explanatory Memorandum (EM) states:

*"certain public authorities may develop policy proposals for the Welsh Ministers in specific areas. These matters will be considered on a case-by-case basis as to whether they would fall within scope of Welsh Ministers' policy making, as defined by the Bill."*

1. Can you clarify whether 'making policy' is intended to encompass outputs by the Welsh Government which are not strictly legislation (such as guidance, statements, non-statutory codes of conduct and directions)?

2. What criteria will be used to determine whether policy proposals developed by public authorities fall within scope of Welsh Ministers' policy making?

Section 5 places a duty on public authorities (defined in subsection (4)) to have regard to the environmental principles when carrying out functions in connection with Strategic Environmental Assessments (SEAs), and to integrate environmental protection into the carrying out of those functions.

3. In practice, what proportion of public authorities defined in section 5(4) constitute 'responsible authorities' under the Environmental Assessment of Plans and Programmes (Wales) Regulations 2004, and are thereby required to undertake SEAs?

4. What arrangements will be put in place to ensure that public authorities who are subject to the duty are complying with it? How is this provided for in the Bill?

### *Environmental principles and integrating environmental protection statement*

Section 7 sets out the procedural requirements for the 'environmental principles and integrating environmental protection statement' (the 'statement'). Section 7(1) provides that, before publishing the statement, the Welsh Ministers must consult specified persons. Section 7(2) provides that the Welsh Ministers must lay a copy of the statement before Senedd Cymru.

The Bill does not make provision for Senedd scrutiny of the statement. In contrast, UK and Scottish legislation provides the respective Parliaments with an opportunity to scrutinise comparable documents (i.e. the UK Government's policy statement on environmental principles and the Scottish Government's guidance on environmental principles and associated duties).

5. Why have you chosen not to make provision for Senedd scrutiny of the statement, given its significance?

## **Part 2: The Office of Environmental Governance Wales (OEGW)**

### *Establishment of the OEGW*

7. In appearing before the Committee on 26 June, you estimated the OEGW would be fully operational between 18 to 24 months after the Act receives Royal Assent. Can you provide further details of the planned work schedule, including key milestones?

8. How will you ensure a smooth transition from the interim environmental protection measures, headed by the by the Interim Environmental Protection Assessor for Wales, to a fully operational OEGW?

### *Investigations and compliance notices*

Section 15 of the Bill provides that the OEGW may investigate whether a public authority *is failing or has at any time failed* to comply with environmental law. However, the OEGW can only serve a compliance notice (under section 16) if it considers that the public authority *is failing* to comply with environmental law.

9. Can you clarify why the power for the OEGW to investigate historic cases of non-compliance is needed if the OEGW is subsequently unable to take enforcement action?

### *Meaning of "environmental law"*

Section 29 provides the meaning of "environmental law". Section 29(4) enables the Welsh Ministers, by regulations, to provide that a devolved provision specified in the regulations is, or is not, within the definition of "environmental law" (and therefore within scope of the OEGW). According to the EM, this is "to ensure the definition of environmental law can be future proofed and updated with the latest developments in respect of international and domestic policy".

Section 46 of the Environment Act 2021 provides a comparable power for the Secretary of State in relation to the definition of "environmental law" under that Act. Before making regulations, the Secretary of State must consult the Office for Environmental Protection (the equivalent to the OEGW) and any other persons they consider appropriate.

10. Can you expand on why you consider the power in section 29(4) of the Bill is needed?

11. What criteria will be used to determine whether a devolved provision is, or is not, within the definition of 'environmental law' in the exercise of the power under section 29(4)?

12. What consideration did you give to including a requirement on the Welsh Ministers to consult before making regulations under section 29(4)?

### *Overlapping functions*

During your appearance before us on 26 June 2025, we asked you about potential overlap between the functions of the OEGW and the UK Climate Change Committee (UKCCC). You said:

"we're confident...that there's going to be limited overlap between the OEGW and the UK Climate Change Committee. They're established under different legislative frameworks, and they have fundamentally different purposes."

However, the White Paper highlights a risk that the OEGW's target monitoring functions could duplicate those of other bodies, such as the UKCCC.

13. Can you clarify whether the Bill enables the OEGW to monitor, report and provide advice on climate change targets set under the Environment (Wales) Act 2016?

14. Given that the UK CCC is not listed in paragraph 1(1)(e) of Schedule 2, how does the Bill ensure that the “limited overlap” of functions between the OEGW and UKCCC will be managed effectively?

15. The Environment Act 2021 requires the Office for Environmental Protection and the UKCCC to prepare a memorandum of understanding on how they intend to cooperate. What consideration did you give to including comparable provision in the Bill?

### *Relationship with other environmental governance bodies*

16. Do you envisage the OEGW working in collaboration/cooperation with the Office for Environmental Protection, for example, if a matter being investigated under section 15 also touches on ‘reserved’ environmental law?

17. The Office for Environmental Protection and Environmental Standards Scotland are required to consult counterparts in the other UK nations if they consider that a particular exercise of their functions may be relevant to the exercise of the functions of their counterparts. Why have you chosen not to place an equivalent requirement on the OEGW?

### *Compliance notices*

Section 16 enables the OEGW to serve a compliance notice on a public authority if it considers that the authority is failing to comply with environmental law. The compliance notice must specify one or more action the authority must take in order to address the failure and the period within which each action must be taken. The period specified must be at least 30 days from the day on which the notice was served.

Section 17 enables the OEGW to serve an ‘urgent’ compliance notice where it considers action “needs to be urgently taken to prevent or mitigate an imminent risk of serious damage to the environment or to human health”. The notice may specify actions to be taken within a 7 to 30-day period.

Section 18 makes provision for the OEGW to review compliance notices, including ‘urgent’ compliance notices. The OEGW is required to review any such notice if requested to do so by the public authority on whom the notice was served. While the Bill does not specify the grounds on which a request for a review can be made, the EM states the grounds “must be material and not frivolous”.

18. Why do you consider it necessary to enable the OEGW to serve ‘urgent’ compliance notices?

19. Under what circumstances do you envisage an ‘urgent’ compliance notice being issued? Can you provide an example(s)?

20. Why do you consider it necessary to enable a public authority to request a review of a compliance notice?

21. Why have you chosen not to specify in the Bill the grounds on which a request for a review can be made?

22. Is there a danger that a request for the review of an 'urgent' compliance notice could delay action "that needs to be taken urgently to prevent or mitigate an imminent risk of serious damage to the environment or to human health"? How does the Bill safeguard against this?

### Part 3: Biodiversity targets

#### *Target-setting*

The Bill provides that before setting or amending biodiversity targets, the Welsh Ministers must be satisfied that those targets can be met (new section 6D of the Environment (Wales) Act 2016 (the 2016 Act) to be inserted by section 33).

23. Is there a danger that this will result in less ambitious targets?

24. In practice, how will the Welsh Ministers satisfy themselves that proposed targets can be met?

25. The Bill enables the Welsh Ministers to revoke or lower targets. Why do you consider this power is needed?

The Bill sets out the circumstances under which a target can be revoked or lowered (new section 6H of the 2016 Act to be inserted by section 33), including:

"because of changes in circumstances since the existing target was set, the environmental, social, economic or other costs of meeting it would be disproportionate to the benefits".

26. In practice, how will the Welsh Ministers determine whether the environmental, social, economic or other costs of meeting a target would be disproportionate to the benefits?

#### Designation of public authorities

The Bill enables the Welsh Ministers to designate in regulations public authorities that must take action to contribute towards achieving the targets(s) (new section 6F of the 2016 Act to be inserted by section 33).

27. What criteria will the Welsh Ministers use to determine whether a public authority should be designated in relation to a target?

28. Is it the intention to simultaneously lay regulations setting targets under new section 6B and designating relevant public authorities under new section 6F?

## The new section 6 plans (under the 2016 Act)

The White Paper proposal was for “a statutory long term Wales Nature Recovery Strategy, outlining the approach to delivery of the statutory targets as well as the Welsh Government’s response to the Global Biodiversity Framework”. There is no provision in the Bill for such a strategy, rather a requirement on the Welsh Ministers to set out in their section 6 plan (under the 2016 Act) the action they propose to take to ensure that the biodiversity targets are met and when they propose to take that action. In appearing before the Committee, you explained this change of approach was to avoid duplication, adding:

*“The section 6 plan will serve as the Welsh biodiversity strategy...This provides that clear, strategic pathway for us, for public bodies, for stakeholders and wider society to seek that reversal of biodiversity decline. It's very transparent, it's very effective in terms of monitoring and evaluation, and we can track progress through it.”*

29. What opportunity will there be for stakeholders to influence the development of the new section 6 plan? How does the Bill provide for this?

30. Can you clarify whether the intention is for the section 6 plan to replace the Nature Recovery Action Plan (NRAP)?

- If so, is it the intention for the section 6 plan to include wider actions in response to the Global Biodiversity Framework?
- If not, can you explain how the section 6 plan and the NRAP will relate to one another?

It would be helpful to receive a response as soon as possible, and by 5 August at the latest.

I am copying this letter to Mike Hedges MS, Chair of the Legislation, Justice and Constitution Committee.

Regards,



Llyr Gruffydd MS,  
Chair, Climate Change, Environment and Infrastructure Committee

Croesewir gohebiaeth yn Gymraeg neu Saesneg | We welcome correspondence in Welsh or English.

## **The Welsh Government's Legislative Consent Memorandum and Supplementary Legislative Consent Memorandum (Memorandum No.2) on the Planning and Infrastructure Bill**

### **Welsh Government response to the Legislation, Justice and Constitution Committee's reports**

**9 July 2025**

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In May and June 2025, the Legislation, Justice and Constitution Committee submitted reports on the Welsh Government's Legislative Consent Memorandum and Supplementary Legislative Consent Memorandum (Memorandum No.2) on the Planning and Infrastructure Bill (the Bill).

The May report includes 4 recommendations and 2 conclusions, and the June report includes 2 conclusions. This is the Welsh Government's response to those recommendations and conclusions.

### **1. Introduction**

The Legislation, Justice and Constitution Committee (LJCC) issued a report on 28 May in response to the Welsh Government's Legislative Consent Memorandum on the Bill. The report included 4 recommendations and 2 conclusions. On 18 June, the Committee issued a report in response to the Welsh Government's Supplementary Legislative Consent Memorandum (Memorandum No.2) on the Bill. This report included 2 conclusions.

I thank the members of the Legislation, Justice and Constitution Committee for their reports and I have set out my response to the recommendations and conclusions for each report below.

## **2. Response to the recommendations and conclusions in the Legislation, Justice and Constitution Committee report issued May 2025**

### **Recommendation 1**

The Committee recommends that:

The Cabinet Secretary should confirm the date on which:

- the Welsh Government became aware of the UK Government's legislative proposals that are being taken forward in the Bill;
- discussion on the Bill began with the UK Government;
- the Cabinet Secretary became aware of the issues that have materialised as regards clauses 24, 28 and 38.

### **Response: Accept**

My officials became aware of the development of various policy proposals through engagement with UK Government officials last summer. UK Government policy officials contacted my officials to learn from our approach and experience of legislation, including planning committees and significant infrastructure projects.

More formal discussions on the content of the Bill began in November 2024, including sharing initial drafts of the relevant legislation.

Officials first provided briefing on the identified issues to myself and relevant colleagues in December 2024 for clauses 24, 38 and February 2025 for clause 28.

Financial Implications – None

### **Recommendation 2**

The Committee recommends that:

The Cabinet Secretary should explain how the Bill's drafting was influenced by the Welsh Government.

### **Response: Accept**

See the response to recommendation 1 which outlines the engagement undertaken by Welsh Government Officials. This engagement, including the sharing of a number of draft clauses, enabled officials to influence drafting ahead of introduction. This included changes to ensure there would be no adverse effects on infrastructure consenting powers and were able to identify areas of

concern prior to introduction of the Bill. However, it was not until the final drafting was tabled that formal analysis could be undertaken and the issues raised in the Legislative Consent Memorandum were identified. My colleagues and I agreed that our officials continue to engage with UK Government officials, this has resulted in amendments to the Bill at Report stage (Gov 93 to Gov 98<sup>1</sup>) which ensure clauses 32 (clause 28 on introduction) and clause 42 (clause 38 on introduction) now work for Wales. Work is continuing on clause 28 (clause 24 on introduction) to ensure this clause is consistent with the existing processes we have in Wales.

Financial Implications – None

### **Recommendation 3**

The Committee recommends that:

The Cabinet Secretary should clarify and confirm our understanding, as set out in paragraphs 40 to 43 of our report, of the precise number of powers in the Bill delegated to the Welsh Ministers, as well as the number delegated to the Secretary of State to the act in devolved areas and how many of these require the consent of the Welsh Ministers before being used.

### **Response: Accept**

#### **Powers delegated to the Welsh Ministers**

There are eight new delegated powers that are being given to the Welsh Ministers in the Bill.<sup>2</sup> Subject to the additional clause identified below, I agree with the list of delegated powers for the Welsh Ministers as set out in paragraphs 40 to 43 of your report.

I consider that the following additional clause also delegates a new power to the Welsh Ministers:

- clause 92 (now clause 106) provides the Welsh Ministers (as the confirming authority) with a power to appoint an Inspector to confirm decisions on Compulsory Purchase Orders made under the New Towns Act 1981 or acquiring authorities where there are no objections. The provisions also provide for powers for the Welsh Ministers to revoke its appointment of an

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<sup>1</sup> [planning\\_rm\\_rep\\_0603.pdf](#)

<sup>2</sup> These are clause 24 (now clause 28), clause 25 (now clause 29), clause 30 (now clause 34), clause 33 (now clause 37), clause 36 (now clause 40), clause 42 (now clause 46), clause 89 (now clause 103), clause 92 (now clause 106).

Inspector at any time and determine the case themselves or appoint another Inspector.

### **Powers delegated to the Secretary of State to act in relation to devolved areas**

I consider that there are five powers delegated to the Secretary of State to act in relation to devolved areas:

- clause 4(4) (now clause 7(2)) – which provides the Secretary of State with a power to issue guidance relating to local impact reports which must be considered by a local authority (where the development is in Wales).
- clause 4(5) (now clause 7(3)) – which provides the Secretary of State with a power to issue guidance relating to representations from public authorities.
- clause 5(7) – which provides the Secretary of State with a power to issue guidance to applicants setting out best practice for pre-application steps.
- clause 34 ((now clause 38) subject to the comments detailed below) – which enables the Secretary of State to set rules regarding deadlines for decisions via regulations.
- clause 41 (now clause 45) – which provides the Secretary of State with a regulation making power that may amend an Act of Parliament or an Act or measure of the Senedd (although any such regulations may only make amendments that are consequential to clauses 34 to 44 of the Bill).

#### Clause 34 (now clause 38)

Although clause 34 (now clause 38) provides the Secretary of State with a power to set rules regarding deadlines for decisions via regulations in a devolved area, this is because the rule and regulation making powers conferred by the TWA 1992 have not been transferred to the Welsh Ministers<sup>3</sup>.

As the Welsh Ministers do not have rule making powers, it is appropriate for the power to be conferred on the Secretary of State on this occasion. However, the rule making functions of the Secretary of State are exercisable only with the agreement of the Welsh Ministers<sup>4</sup>. As your report notes, this has been reflected in the Bill, as clause 34 (now clause 38) provides that any rules that will apply in Wales, may only be made with the consent of the Welsh Ministers.

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<sup>3</sup> See article 2(a) and Schedule 1 to the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672)

<sup>4</sup> See article 5 and Schedule 2 to the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672).

Financial Implications – None

#### **Recommendation 4**

The Committee recommends that:

The Cabinet Secretary should, in consultation with the Counsel General and Minister for Delivery, confirm whether the Bill has implications for the Welsh Government’s proposals and scheduling to consolidate the existing planning law as it applies in Wales.

#### **Response: Accept**

The Bill amends various Acts of the UK Parliament. Those Acts are not ones that will be restated as part of the planning consolidation exercise, so the amendments made by the Bill will not affect the content of the Planning (Wales) Bill.

In a small number of cases the Planning (Consequential Provisions) (Wales) Bill and the Bill will both need to make consequential amendments to the same provisions of another Act. Where that is the case the Government is preparing the Planning (Consequential Provisions) (Wales) Bill to take account of the amendments to be made by the Bill. Any further amendments to the Bill will be kept under review and could be dealt with at the Detailed Committee Consideration stage for the Planning (Wales) Bill, if necessary. I do not anticipate there being an issue in timings of these Bills and my officials are continuing to engage with UK officials on the timescales for the Bill.

Financial Implications – None

#### **Conclusion 1**

We agree with the Welsh Government’s assessment, as set out in the Memorandum, of the provision within the Bill which requires the consent of the Senedd in accordance with Standing Order 29.

#### **Response:**

Many thanks to the Committee for its consideration of the LCM. I am pleased that the Committee agrees with the Welsh Government’s analysis of the provision in the Bill which requires the consent of the Senedd.

**Conclusion 2**

We consider that clauses 83 to 87 and 89 to 92 require notification to the Senedd under Standing Order 30.1, as these provisions modify the functions of the Welsh Ministers.

**Response:**

My assessment of these provisions is that they make relevant provision for the purpose of Standing Order 29 and are included in the LCM. Standing Order 30.1 expressly excludes from its remit “a relevant provision within Standing Order 29.1”. Therefore, I do not consider that a Written Statement under Standing Order 30.1 is required in relation to these clauses.

### **3. Response to the conclusions in the Legislation, Justice and Constitution Committee report issued June 2025**

#### **Conclusion 1**

We continue to agree with the Welsh Government's assessment, as set out in the Memorandum and Memorandum No. 2, of the provisions (and amendments to those provisions) within the Bill which requires the consent of the Senedd in accordance with Standing Order 29; but this is subject to our views set out in conclusion 2.

#### **Response:**

I am pleased that the Committee continues to agree with our assessment of the provisions of the Bill.

#### **Conclusion 2**

We consider that Gov NC43 and Gov NC44 require notification to the Senedd under Standing Order 30.1, as these provisions modify the functions of the Welsh Ministers.

#### **Response:**

For the same reasons as set out in my response to Conclusion 2 of the Committee's report on the LCM issued in May 2025, I do not consider that a Written Statement under Standing Order 30.1 is required in relation to these amendments.

Jayne Bryant AS/MS  
Ysgrifennydd y Cabinet dros Lywodraeth Leol a Thai  
Cabinet Secretary for Local Government and Housing

Agenda Item 5.3

Llywodraeth Cymru  
Welsh Government

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

11 July 2025

Dear Mike,

I write to you in relation to the recent conflict between Israel and Iran in June. In response, the UK Government arranged assisted departures to evacuate British nationals residing in Israel, the West Bank, the Gaza Strip or East Jerusalem via chartered flights. The evacuation has now ended, but in the meantime, we need to prepare for those who have returned to the UK.

The changes the UK Government intends to make to disapply the habitual residence test, with effect from 17 July, will give those arriving from the affected areas immediate access to benefits, including housing and homelessness assistance. These changes require an urgent response to ensure parity in aligning the housing rules in Wales. I have therefore, instructed my officials to undertake the necessary actions to reflect the UK Government legislative change in Wales as a matter of urgency.

The Allocation of Housing and Homelessness (Eligibility) (Wales) (Amendment) Regulations 2025 made under the affirmative procedure, will be laid before the Senedd on 14 July 2025. Due to the urgency of this situation and to ensure the law in Wales aligns with the changes made at a UK level, to avoid those arriving in Wales being disadvantaged, I will be seeking the Senedd's agreement to suspend Standing Orders to enable the Regulations to be debated on 15 July 2025, before the end of term.

It is unfortunate that the timing of the Regulations mean the Committee will not be able to undertake their usual scrutiny ahead of the debate, as would normally be afforded. However, I am sure the Committee would agree that they are necessary in providing support to the people fleeing the violence and conflict and affording them an opportunity to seek housing or homelessness assistance in Wales without undue delay.

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

Bae Caerdydd • Cardiff Bay  
Caerdydd • Cardiff  
CF99 1SN

[Gohebiaeth.Julie.James@llyw.cymru](mailto:Gohebiaeth.Julie.James@llyw.cymru)  
[Correspondence.Julie.James@gov.Wales](mailto:Correspondence.Julie.James@gov.Wales)

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

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

I am copying this letter to the Llywydd given my wish to suspend Standing Orders.

Yours sincerely,

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

**Jayne Bryant**

Ysgrifennydd y Cabinet dros Lywodraeth Leol a Thai  
Cabinet Secretary for Local Government and Housing

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# Agenda Item 8

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

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# Agenda Item 10

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

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# Agenda Item 12

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

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# Submission to the Senedd Legislation, Justice, and Constitution, and Culture and International Relations Committees

**July 2025**

This paper is submitted by Wales Council for Voluntary Action (WCVA), further to Committee staff drawing to our attention the discussion at the Culture, Communications, Welsh Language, Sport and International Relations Committee session on 2 April 2025, during which WCVA's role and engagement with the Welsh Government in relation to the UK–EU Trade and Cooperation Agreement (TCA) were referenced.

We welcome the opportunity to provide clarification and additional context regarding our involvement in this area, including recent and ongoing engagement with Welsh Government and our role on the UK Government's Domestic Advisory Group (DAG).

## Background

In November 2023, WCVA gave evidence to the Legislation, Justice and Constitution Committee's inquiry into UK–EU governance, which was later published in the Committee's report. In that evidence, we highlighted the need to establish clear mechanisms to support greater coordination and engagement between Welsh civil society and government in relation to Wales–EU matters (such as the reinstatement of the EU Advisory Group).

Our Vice-President, Tom Jones, met with the First Minister, Mark Drakeford MS, to raise concerns about the limited capacity of Welsh civil society to engage meaningfully in the UK–EU civil society structures established under the TCA. The First Minister acknowledged these challenges and invited us to pursue the matter with his successor.

On 3 February 2025, WCVA wrote to First Minister Eluned Morgan MS, restating our concerns and formally requesting a meeting with the First Minister. This letter set out:

- The need to continue discussions held with the previous First Minister about the voluntary sector's role in projecting Wales's progressive and outward-looking identity.
- The importance of ensuring the sector can sustain its links with European partners and contribute to UK–EU TCA structures, including the DAG and CSF.
- The challenges around our capacity as the only Wales specific member of the DAG and the potential need for resource facilitate coordination and engagement in this space.

We are not aware of any new structures having been put in place, and while we have maintained ongoing contact with Welsh Government on various matters, we have not had formal, regular engagement specifically on the TCA during this period. We recognise that this may in part reflect wider changes within Welsh Government in 2024, as well as ongoing reviews of how formal sector engagement mechanisms operate between the sector and the Welsh Government under the Third Sector Scheme.

## Recent Developments

We welcome the steps taken by Welsh Government very recently to re-engage on this agenda:

- In June 2025, WCVA has met with both the Cabinet Secretary for Social Justice, Jane Hutt MS, and the Cabinet Secretary for Economy, Rebecca Evans MS, where the UK–EU relationship and the role of the voluntary sector were discussed.
- Welsh Government also facilitated a constructive meeting between WCVA and Nick Thomas-Symonds MP, in his role as the UK Government's lead on UK–EU relations.
- We were invited to explore a potential application under Agile Cymru to support sector activity in this space.
- Welsh Government officials have indicated that membership of the Trade Policy Advisory Group (TPAG) could be an avenue for our continued involvement. However, as set out in our earlier correspondence, WCVA's capacity to participate in all trade fora is limited, particularly as the dedicated third sector resource we had come to an end and no alternate funding was put in place.

Given this, we have suggested that Ministerial Meetings under the Third Sector Scheme, which are intended to take place regularly could be resumed in the economy portfolio. As one part of their agenda, these would offer a practical and proportionate mechanism for information exchange and coordination around Wales's engagement with the UK–EU relationship. These meetings have not yet resumed following the change in administration

but we believe they could provide a valuable channel for civil society input into future developments.

WCVA remains committed to working constructively with Welsh Government and others in this space. We hope this note helps clarify our current engagement and supports the Committees' work in ensuring inclusive and coordinated governance in the context of the TCA.

Charles Whitmore

Head of Strategic Partnerships

Email: [cwhitmore@wcva.cymru](mailto:cwhitmore@wcva.cymru)

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# 26C. STANDING ORDER 26C – Consolidation Acts of the Senedd

## Form and Introduction of Consolidation Bills

- 26C.1. A Consolidation Bill is a Bill introduced by a member of the government for the purpose of consolidating existing primary legislation, secondary legislation, and common law.
- 26C.2. A Consolidation Bill may:
- (i) restate existing legislation with any changes of structure, language or format appropriate for the purpose of improving the presentation of the law and ensuring consistency with current drafting practice;
  - (ii) clarify the application or effect of existing law;
  - (iii) remove or omit provisions which are obsolete, spent or no longer of practical utility or effect;
  - (iv) make minor changes to existing law for the purposes of achieving a satisfactory consolidation; and
  - (v) make other changes to the law which the Law Commission of England and Wales recommends are appropriate for inclusion within a Consolidation Bill;
  - (vi) include appropriate transitional and savings provisions, and consequential amendments and repeals of existing legislation (including amendments to ensure the existing legislation continues to operate correctly in relation to England).
- 26C.3. The Presiding Officer, having consulted the Business Committee, may issue written guidance to Members on the interpretation of Standing Orders 26C.1 and 26C.2, and the operation of Standing Order 26C generally.
- 26C.4. A Consolidation Bill may be introduced on a working day in a sitting week.
- 26C.5. A Consolidation Bill must be introduced by being laid.
- 26C.6. A Consolidation Bill must not be laid unless it is in proper form in accordance with any determinations made by the Presiding Officer.
- 26C.7. A Consolidation Bill must on its introduction be accompanied by a statement in English and Welsh by the Presiding Officer which must:

- (i) indicate whether or not the provisions of the Consolidation Bill would be, in his or her opinion, within the legislative competence of the Senedd; and
- (ii) indicate any provisions which, in his or her opinion, would not be within the legislative competence of the Senedd and the reasons for that opinion.

26C.8. A Consolidation Bill must be introduced in both English and Welsh.

## **Documentation to Accompany a Consolidation Bill**

26C.9. At the same time as the Member in charge introduces a Consolidation Bill, he or she must also lay an Explanatory Memorandum which must:

- (i) state that in his or her view the provisions of the Consolidation Bill would be within the legislative competence of the Senedd;
- (ii) set out the reasons for introducing the Consolidation Bill;
- (iii) state that the Consolidation Bill contains no provisions other than those permitted under Standing Order 26C.2;
- (iv) include tables showing the origins of provisions in the Consolidation Bill, and the destinations in the Consolidation Bill of the existing provisions it consolidates;
- (v) explain how the Consolidation Bill makes any changes of the kind permitted under Standing Order 26C.2(ii) to (v);
- (vi) summarise objectively what each of the provisions of the Consolidation Bill is intended to do (to the extent that it requires explanation or comment) and give other information necessary to explain the effect of the Consolidation Bill;
- (vii) confirm that the provisions of the Consolidation Bill give rise to no additional significant expenditure payable out of the Welsh Consolidated Fund, and where it gives rise to additional expenditure, set out the best estimates for this;
- (viii) set out the potential impact (if any) on the justice system in England and Wales of the provisions of the Consolidation Bill (a “justice impact assessment”), in accordance with section 110A of the Act; and
- (ix) where the Consolidation Bill contains any provision charging expenditure on the Welsh Consolidated Fund, incorporate a report of the Auditor General setting out his or her views on whether the charge is appropriate.

- 26C.10. The Explanatory Memorandum to the Consolidation Bill must state precisely where each of the requirements of Standing Order 26C.9 can be found within it, by means of an index or otherwise.
- 26C.11. The Consolidation Bill must be accompanied by a statement by the Member in Charge, based on the advice of the Counsel General (where the Member in Charge is not the Counsel General) and, where relevant, the Law Commission, endorsing the accuracy of the Explanatory Memorandum and certifying that in the Member in Charge's view the Bill is a Consolidation Bill within the meaning of Standing Order 26C.1 and 26C.2.

## **Responsible Committee**

- 26C.12. In proposing the remits of committees under Standing Order 16.2 or 16.3, the Business Committee must ensure that there is a committee (referred to within Standing Order 26C as "the responsible committee") with responsibility for the functions specified in Standing Order 26C.

## **Timetable of Consideration of a Consolidation Bill**

- 26C.13. The Business Committee must establish and publish a timetable for the consideration of a Consolidation Bill, except for any stage taken in plenary (which must be arranged under the provisions of Standing Order 11.12).
- 26C.14. The Business Committee may make such subsequent changes to a timetable established under Standing Order 26C.13 as it considers appropriate but must give reasons for such changes.

## **Initial Consideration**

- 26C.15. Once a Consolidation Bill has been introduced, the Business Committee must refer the Consolidation Bill to the responsible committee for initial consideration.
- 26C.16. Once the Business Committee refers the Consolidation Bill to the responsible committee under Standing Order 26C.15, that responsible committee must consider and report on whether the Bill should proceed as a Consolidation Bill.
- 26C.17. In considering whether a Bill should proceed as a Consolidation Bill or not, the responsible committee may consider:
- (i) whether the Committee is satisfied that the scope of the consolidation is appropriate;

- (ii) whether the Committee is satisfied that the relevant enactments have been included within the consolidation;
- (iii) whether the Bill correctly consolidates the enactments or changes their substantive legal effect only to the extent allowed by Standing Order 26C.2;
- (iv) whether the Bill consolidates the law clearly and consistently;
- (v) any other matters it considers relevant to Standing Order 26C.

26C.18. Not earlier than five working days after either:

- (i) the responsible committee has reported on whether the Bill should proceed as a Consolidation Bill; or
- (ii) the deadline by which the responsible committee is required to report has passed,

the Member in charge of the Bill may propose that the Senedd agree that the Bill should proceed as a Consolidation Bill.

26C.19. If the Senedd agrees that the Bill should proceed as a Consolidation Bill, the Bill proceeds to Detailed Committee Consideration.

26C.20. If the Senedd does not agree that the Bill should proceed as a Consolidation Bill, the Bill falls.

26C.21. Initial Consideration is completed when the Senedd agrees that the Bill should proceed as a Consolidation Bill or the Consolidation Bill falls at Initial Consideration.

## **Detailed Committee Consideration**

26C.22. Detailed Committee Consideration must be undertaken by the responsible committee.

26C.23. Detailed Committee Consideration starts on the first working day after Initial Consideration is completed.

26C.24. At least 15 working days must elapse between the start of Detailed Committee Consideration and the date of the first meeting at which the responsible committee considers amendments to the Consolidation Bill.

26C.25. A Consolidation Bill may be amended in Detailed Committee Consideration proceedings.

- 26C.26. Amendments to be considered at Detailed Committee Consideration proceedings may be tabled by any Member, from the first day on which Detailed Committee Consideration starts.
- 26C.27. Amendments are to be disposed of in the order in which the sections and schedules to which they relate arise in the Consolidation Bill, unless the committee considering Detailed Committee Consideration proceedings has decided otherwise.
- 26C.28. Only a Member who is a member of the committee considering Detailed Committee Consideration proceedings may participate in those proceedings for the purpose of:
- (i) moving or seeking agreement to withdraw an amendment; or
  - (ii) voting.
- 26C.29. An amendment tabled by a Member who is not a member of the committee considering Detailed Committee Consideration proceedings, may be moved by a member of the committee.
- 26C.30. When all amendments at Detailed Committee Consideration proceedings have been disposed of, any member of the committee may without notice move that the committee consider further amendments at further Detailed Committee Consideration proceedings. Such a motion may not be debated or amended.
- 26C.31. If a motion under Standing Order 26C.30 is agreed to, any member of the government may table amendments to the Consolidation Bill to be moved at the further Detailed Committee Consideration proceedings.
- 26C.32. Amendments under Standing Order 26C.31 are only admissible if, in addition to the criteria in Standing Order 26C.82, they are for the purpose of clarifying a provision of a Consolidation Bill (including ensuring consistency between the English and Welsh texts) or giving effect to commitments given at the earlier Detailed Committee Consideration proceedings.
- 26C.33. Where any amendment is tabled to a section of or schedule to the Consolidation Bill, once the final amendment to that section or schedule has been disposed of, that section or schedule as amended, or otherwise, is deemed to be agreed by the committee for the purpose of Detailed Committee Consideration proceedings.
- 26C.34. If no amendment is tabled to a section of or schedule to the Consolidation Bill, then that section or schedule is deemed agreed by the committee for the purpose of Detailed Committee Consideration proceedings.

- 26C.35. Detailed Committee Consideration proceedings are completed when the last amendment has been disposed of or the last section or schedule has been deemed agreed, whichever is the later.
- 26C.36. After the completion of Detailed Committee Consideration proceedings, the responsible committee must report on the outcomes of its detailed consideration, and whether in its view the Consolidation Bill should proceed to Detailed Senedd Consideration or to Final Stage.
- 26C.36A. Detailed Committee Consideration is completed when:
- (i) Detailed Committee Consideration proceedings are completed; and
  - (ii) either the responsible committee has reported on the outcomes of its detailed consideration or the deadline by which the responsible committee is required to report in accordance with Standing Order 26C.13 has passed.
- 26C.37. If a Consolidation Bill is amended at Detailed Committee Consideration proceedings, the Member in charge must prepare a revised Explanatory Memorandum, unless the committee considering Detailed Committee Consideration proceedings resolves that no revised Explanatory Memorandum is required.
- 26C.38. Any revised Explanatory Memorandum prepared under Standing Order 26C.37 must be laid at least five working days before the date of Final Stage proceedings or, where relevant, the first Detailed Senedd Consideration proceedings.

## **Detailed Senedd Consideration**

- 26C.39. If the responsible Committee at Detailed Committee Consideration reports that the Senedd should consider amendments at Detailed Senedd Consideration, the Consolidation Bill proceeds to Detailed Senedd Consideration, unless a motion that the Consolidation Bill should proceed directly to Final Stage is agreed by the Senedd.
- 26C.40. If the responsible committee has reported on the Detailed Committee Consideration of the Consolidation Bill and has recommended that the Consolidation Bill proceed to Final Stage, or if the deadline for the committee to report has passed, the Consolidation Bill proceeds to Final Stage, unless a motion that the Senedd consider amendments at Detailed Senedd Consideration is agreed by the Senedd.

- 26C.41. The Senedd must consider a motion tabled under Standing Order 26C.39 or 26C.40. Such a motion may be tabled by any Member, and may be debated but not amended.
- 26C.42. Detailed Senedd Consideration starts either:
- (i) two sitting weeks after the responsible Committee at Detailed Committee Consideration reports that the Senedd should consider amendments at Detailed Senedd Consideration (and no motion under Standing Order 26C.39 that the Consolidation Bill should proceed directly to Final Stage is agreed by the Senedd in the meantime); or
  - (ii) the day after a motion under Standing Order 26C.40 that the Senedd consider amendments at Detailed Senedd Consideration is agreed by the Senedd.
- 26C.43. At least 15 working days must elapse between the start of Detailed Senedd Consideration and the date of the first meeting of the Senedd that considers Detailed Senedd Consideration proceedings.
- 26C.44. Detailed Senedd Consideration proceedings of a Consolidation Bill must be considered by the Senedd in plenary.
- 26C.45. A Consolidation Bill may be amended in Detailed Senedd Consideration proceedings.
- 26C.46. Amendments to be considered at Detailed Senedd Consideration proceedings may be tabled by any Member from the first day on which Detailed Senedd Consideration starts.
- 26C.47. The Presiding Officer may select those amendments which are to be taken at Detailed Senedd Consideration proceedings.
- 26C.48. The Presiding Officer may in exceptional circumstances accept an amendment at Detailed Senedd Consideration proceedings of which less notice has been given than is required under Standing Order 26C.83. Such an amendment is referred to as a “late amendment”.
- 26C.49. Amendments are to be disposed of in the order in which the sections and schedules to which they relate arise in the Consolidation Bill, unless the Senedd has decided otherwise on a motion of the Minister with responsibility for government business.
- 26C.50. The Senedd may, on a motion without notice of the Minister with responsibility for government business, agree to one or more time-limits that are to apply to debates on amendments (as they have been grouped by the Presiding Officer).

- 26C.51. If a motion under Standing Order 26C.50 is agreed to, debates on those groups of amendments must be concluded by the time-limits specified in the motion, except to the extent considered necessary by the Presiding Officer:
- (i) as a consequence of the non-moving of an amendment leading to a change in the order in which groups are debated; or
  - (ii) to prevent any debate on a group of amendments that has already begun when a time-limit is reached from being unreasonably curtailed.
- 26C.52. When all amendments selected at Detailed Senedd Consideration proceedings have been disposed of, any member of the government may without notice move that the Senedd consider further amendments at further Detailed Senedd Consideration proceedings. Such a motion may not be debated or amended.
- 26C.53. If a motion under Standing Order 26C.52 is agreed to, any member of the government may table amendments to the Consolidation Bill to be moved at the further Detailed Senedd Consideration proceedings.
- 26C.54. Amendments under Standing Order 26C.53 are only admissible if, in addition to the criteria in Standing Order 26C.82, they are for the purpose of clarifying a provision of a Consolidation Bill (including ensuring consistency between the English and Welsh texts) or giving effect to commitments given at the earlier Detailed Senedd Consideration proceedings.
- 26C.55. Where any amendment is tabled to a section of or schedule to the Consolidation Bill, once the final amendment to that section or schedule has been disposed of, that section or schedule as amended, or otherwise, is deemed agreed by the Senedd for the purpose of Detailed Senedd Consideration proceedings.
- 26C.56. If no amendment is tabled to a section of or schedule to the Consolidation Bill, then that section or schedule is deemed agreed by the Senedd for the purpose of Detailed Senedd Consideration proceedings.
- 26C.57. Detailed Senedd Consideration is completed when the last amendment has been disposed of or the last section or schedule has been deemed agreed, whichever is the later.

## Final Stage

- 26C.58. A motion that the Consolidation Bill be passed may be tabled by any Member, but may not be considered until either:
- (i) at least two sitting weeks after either:
    - (a) the responsible committee has reported on Detailed Committee Consideration of the Consolidation Bill and has recommended that the Consolidation Bill should proceed to Final Stage; or
    - (b) the deadline for the responsible committee to report has passed;(and no motion under Standing Order 26C.40 that the Senedd should consider amendments at Detailed Senedd Consideration is agreed by the Senedd in the meantime); or
  - (ii) at least five working days after either;
    - (a) a motion that the Consolidation Bill should proceed directly to Final Stage is agreed by the Senedd under Standing Order 26C.39; or
    - (b) the completion of Detailed Senedd Consideration proceedings, where undertaken.
- 26C.59. A motion under Standing Order 26C.58 must be tabled at least one working day before it is debated.
- 26C.60. A motion that a Consolidation Bill be passed may not be amended.
- 26C.61. No motion that a Consolidation Bill be passed may be moved unless the text of the Consolidation Bill is available in both English and Welsh.
- 26C.62. No motion that a Consolidation Bill be passed may be moved until the Presiding Officer has stated, in accordance with section 111A(3) of the Act, whether or not in the Presiding Officer's view any provision of the Consolidation Bill relates to a protected subject matter.
- 26C.63. Where the Presiding Officer has made a statement that in the Presiding Officer's view any provision of the Consolidation Bill relates to a protected subject matter, the Bill is only passed if the number voting in favour of it is at least two-thirds of the total number of Senedd seats.
- 26C.64. A recorded vote must be taken on a motion that a Consolidation Bill be passed.

26C.65. No motion under Standing Order 12.31(ii) may be moved in any Final Stage proceedings.

## **Reconsideration of Consolidation Bills Passed**

26C.66. Any Member may by motion propose that the Senedd reconsider the Consolidation Bill if:

- (i) the Supreme Court decides on a reference made in relation to the Consolidation Bill under section 112 of the Act that the Consolidation Bill or any provision of it would not be within the legislative competence of the Senedd; or
- (ii) an order is made in relation to the Consolidation Bill under section 114 of the Act.

26C.67. If the Senedd agrees to a motion under Standing Order 26C.66, Reconsideration Stage starts on the first working day after that motion is agreed to by the Senedd.

26C.68. Standing Orders 26C.43 to 26C.47 and 26C.49 to 26C.57 apply to Reconsideration Stage proceedings. References to “Detailed Senedd Consideration” and “further Detailed Senedd Consideration” should be construed as references to “Reconsideration Stage” and “further Reconsideration Stage” accordingly.

26C.69. A Consolidation Bill may not be amended at Reconsideration Stage unless in addition to the criteria in Standing Order 26C.82(i), (ii) and (iv), and in the opinion of the Presiding Officer, the amendments are solely for the purpose of resolving the issue which is the subject of:

- (i) the decision of the Supreme Court; or
- (ii) the Order under section 114 of the Act.

26C.70. After all amendments have been disposed of at Reconsideration Stage proceedings, and subject to Standing Order 26C.71, any Member may without notice move that the Senedd approves a Consolidation Bill amended on reconsideration. Such a motion may not be amended and a recorded vote must be taken on the motion.

26C.71. No motion that a reconsidered Consolidation Bill be approved may be moved until the Presiding Officer has stated, in accordance with section 111A(3) of the Act, whether or not in the Presiding Officer’s view any provision of the Consolidation Bill relates to a protected subject matter.

26C.72. Where the Presiding Officer has made a statement that in the Presiding Officer's view any provision of the Consolidation Bill relates to a protected subject matter, the Consolidation Bill is only passed if the number voting in favour of it is at least two-thirds of the total number of Senedd seats.

## **Reconsideration of Bills Rejected**

26C.73. Any Member may by motion propose that the Senedd reconsider the Consolidation Bill if the Supreme Court decides on a reference made under section 111B(2)a of the Act in relation to a Consolidation Bill rejected by the Senedd, that no provision of the Consolidation Bill that is subject to the reference relates to a protected subject-matter.

26C.74. If the Senedd agrees to a motion under Standing Order 26C.73, Reconsideration Stage starts on the first working day after that motion is agreed to by the Senedd.

26C.75. A Consolidation Bill reconsidered in accordance with Standing Order 26C.73 may not be amended.

26C.76. At Reconsideration Stage in accordance with Standing Order 26C.73, any Member may table a motion that the Consolidation Bill be approved. Such a motion may not be amended and a recorded vote must be taken on the motion.

26C.77. No motion under Standing Order 26C.76 may be moved until the Presiding Officer has stated, in accordance with section 111A(3) of the Act, whether or not in his or her view any provision of the Consolidation Bill relates to a protected subject-matter.

## **General Provisions in Relation to Amendments to Consolidation Bills**

26C.78. Standing Orders 26C.79 to 26C.87 apply to amendments in Detailed Committee Consideration, Detailed Senedd Consideration proceedings or on Reconsideration, except that Standing Order 26C.82(iii) does not apply to amendments on Reconsideration.

26C.79. The Presiding Officer must determine the proper form of amendments to a Consolidation Bill.

26C.80. No amendment, other than a late amendment, may be considered unless it has been tabled at least five working days before it is considered.

- 26C.81. Any Member may add his or her name to an amendment (other than a late amendment) by notifying the Clerk at any time until the end of the working day before the amendment is due to be considered.
- 26C.82. An amendment is not admissible if:
- (i) it is not in its proper form in accordance with Standing Order 26C;
  - (ii) it is not relevant to the Consolidation Bill or the provisions of the Consolidation Bill which it would amend;
  - (iii) it would cause the Bill to cease to be a Consolidation Bill as defined by Standing Orders 26C.1 and 26C.2; or
  - (iv) it is inconsistent with a decision already taken at the Stage at which the amendment is proposed.
- 26C.83. An amendment may be tabled to an amendment and, if selected, must be disposed of before the amendment which it would amend and Standing Orders 26C.78 to 26C.87 must apply accordingly.
- 26C.84. Subject to Standing Order 26C.28, an amendment (other than a late amendment) may be withdrawn by the Member who tabled it at any time before the day on which it is considered but only with the unanimous agreement of any Members who have added their names to the amendment. If such agreement is not obtained, the amendment becomes an amendment in the name of the Member who first added his or her name to the amendment and who does not agree to the amendment being withdrawn.
- 26C.85. The chair of a committee considering Detailed Committee Consideration proceedings or the Presiding Officer, as the case may be, may group amendments for the purposes of debate as he or she sees fit. An amendment debated as part of a group may not be debated again when it comes to be disposed of.
- 26C.86. If a Member who tabled an amendment does not move the amendment when that amendment comes to be debated, the amendment may be moved:
- (i) in Detailed Committee Consideration proceedings, by a member of that committee; or
  - (ii) in Detailed Senedd Consideration proceedings or on Reconsideration, by any other Member.
- 26C.87. An amendment which has been moved may be withdrawn by the Member who moved it, but only:

- (i) in a committee considering Detailed Committee Consideration proceedings, if no member of that committee objects; or
- (ii) in Detailed Senedd Consideration proceedings or on Reconsideration, if no Member objects.

## **His Majesty's and Duke of Cornwall's Consent**

26C.88. If a Consolidation Bill contains any provision, or is amended so as to include any provision, that would, if contained in a Bill for an Act of the United Kingdom Parliament, require the consent of His Majesty, or the Duke of Cornwall, the Senedd must not debate the question whether the Consolidation Bill be passed (or approved following Reconsideration) unless such consent to such a provision has been signified by a member of the government at a meeting of the Senedd.

## **Notification of Royal Assent to Acts of the Senedd**

26C.89. The Clerk must notify the Senedd of the date of Royal Assent to an Act of the Senedd.

## **Fall, Rejection or Withdrawal of Bills**

26C.90. Subject to Standing Order 26C.73, if a Consolidation Bill falls or is rejected by the Senedd, no further proceedings may be taken on that Consolidation Bill, and another Consolidation Bill which, in the opinion of the Presiding Officer, is in the same or similar terms must not be introduced under this Standing Order in the same Senedd within the period of 6 months from the date on which the Consolidation Bill fell or was rejected.

26C.91. A Consolidation Bill falls if it has not been passed or approved by the Senedd before the end of the Senedd in which it was introduced.

26C.92. A Consolidation Bill may be withdrawn at any time by the Member in charge but must not be withdrawn after Initial Consideration except with the agreement of the Senedd.

# **Guidance to support the operation of Standing Order 26C on Consolidation Bills**

Issued by the Llywydd under  
Standing Order 26C.3 following  
consultation with the Business  
Committee

October 2021



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The Welsh Parliament is the democratically elected body that represents the interests of Wales and its people. Commonly known as the Senedd, it makes laws for Wales, agrees Welsh taxes and holds the Welsh Government to account.

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**Welsh Parliament**

**Cardiff Bay**

**CF99 1SN**

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# Consolidation Bills

- 1.** A Consolidation Bill may be introduced by a member of the Government for the purpose of consolidating existing primary legislation, secondary legislation, and common law (Standing Order 26C.2).
- 2.** This guidance is issued by the Llywydd under Standing Order 26C.3 and is intended to be read alongside Standing Order 26C generally, and Standing Order 26C.2 especially. It provides further detail on the nature of consolidation bills and the extent to which they may revise, update and change existing law.

## The purpose of a Consolidation Bill

- 3.** The purpose of a Consolidation Bill is to improve access to the law by:
  - bringing together all, or most, of the (generally primary) legislation on a specific subject or topic to improve accessibility, and
  - modernising its form and drafting, to make it easier to understand and apply.
- 4.** The purpose of a Consolidation Bill is not to bring about policy reform of any significance. Developing and scrutinising a Consolidation Bill should therefore be a legal, technical process that focusses on the consolidation of the existing law rather than the merits of the policies enshrined in it.

## The extent of what a Consolidation Bill may do

- 5.** A Consolidation Bill may result in proposed legislation which looks very different to the original text. In order to present the existing law that applies in Wales in a modern and accessible form, it may be appropriate to make significant presentational changes that do not change the effect of that law.
- 6.** A Consolidation Bill may propose changes to the law only of the types stipulated in Standing Order 26C.2. Further detail on the provisions of Standing Order 26C.2, together with relevant examples of what those provisions mean in practice, are included in the Annex to this guidance.

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**7.** The process of consolidation is complex and likely to reveal inconsistencies and anomalies in existing legislation. A modern and accessible restatement of existing law may also necessitate, or benefit from, minor amendments. Such amendments may, however, only be minor and should not be contentious. Any other change falling outside of this definition must be pursued through a reform Bill and considered by the Senedd following the usual legislative procedure under Standing Order 26.

## Documentation to accompany a Consolidation Bill

**8.** At the same time as the Member in charge introduces a Consolidation Bill, he or she must also lay an Explanatory Memorandum (EM) which includes those things specified in Standing Order 26C.9. One of those provisions (SO 26C.9(iv)) requires the EM to include tables of origin and destination in order to help explain how the law has been re-presented. The EM must also include drafters' notes explaining the approach that has been taken in drafting the Bill. In addition a set of Explanatory Notes to each Consolidation Bill must be prepared.

# Annex to the guidance

Details of the provisions contained in Standing Order 26C.2 – with examples of use:

## Standing Order 26C.2(i)

A Consolidation Bill may restate existing legislation with any changes of structure, language or format that are considered appropriate for the purpose of improving the presentation of the law and ensuring consistency with current drafting practice

1. Changes permitted under Standing Order 26C.2(i) may include:
  - a. renumbering and rearranging provisions (for example, dividing or combining existing sections or Parts, or moving material between sections and Schedules);
  - b. expressing provisions in a way that reflects their actual legal effect (for example adopting terminology that reflects devolution and other transfers of functions that have taken place since the existing legislation was passed);

### Examples:

- in addition to devolution and transfer of functions, the Consolidation Bill should be expected to reflect all other legal changes that have altered the meaning of the existing legislation. For example, wherever the maximum fine that a magistrates' court could impose for an offence would have been £5,000 before 12 March 2015, it was converted into an unlimited fine by the Legal Aid, Sentencing and Punishment of Offenders Act 2012. So earlier provisions creating liability to a maximum fine of £5,000 would now be restated as creating liability to "a fine";
- there may have been changes in the law since the existing legislation was enacted, which mean that the words that are required to achieve a particular legal effect are different from those that were required when

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the existing legislation was drafted. For example, the Legislation (Wales) Act 2019 reversed the presumption that Acts of the Senedd do not bind the Crown, so the provision that needs to be made to ensure that a Consolidation Bill binds the Crown to the same extent as the original legislation is likely to be different.

- c. changing the language of legislation that exists only in English to facilitate the production of a coherent bilingual Bill;
- d. adopting gender neutral language and modernising language in any other way (including by omitting redundant wording);
- e. adding, removing or changing labels and headings;

### Examples:

- a Consolidation Bill may replace labels used in existing legislation with ones that give a better sense of what is being referred to. For example, the Law Commission has noted that planning legislation uses a number of labels that might be regarded as misleading or uninformative, such as “planning contravention notice” and “appointed person”;
  - existing legislation may use labels and headings that are not needed in a restatement of the law for Wales because their only purpose is to distinguish between “English” and “Welsh” cases. Labels of this kind may be removed or replaced with more suitable terms;
  - legislation may contain labels that are no longer useful because of changes in circumstances. For example, the Law Commission have observed that the distinction between a “local planning authority” and a “mineral planning authority” in planning legislation is not needed in Wales because they are always the same authority (whereas they may be different under the two-tier system of local government that still applies to most of England).
- f. adding new tables, formulae or other ways of presenting information;
  - g. adding navigational aids such as overviews and signposting provisions (including signposts to legislation not included in the consolidation but relevant to it);

- h. setting out in full provisions of other legislation that are incorporated into the consolidated legislation;

**Example:**

- if Act A provides that certain provisions of Act B apply to it, it will often be more accessible to repeat those provisions in full in the restatement of Act A (particularly if any modifications are needed to make them work properly in the context of Act A).
- i. adding, removing or changing punctuation or conjunctions; and
- j. correcting typographical errors, incorrect cross-references and similar obvious mistakes.

**2.** ‘Current drafting practice’, as referred to in Standing Order 26C.2, means the legislative drafting practice for the time being used by the Office of the Legislative Counsel.

## Standing Order 26C.2(ii)

A Consolidation Bill may clarify the application or effect of existing law

**3.** If the application or effect of existing provisions is unclear (because their drafting creates doubt or ambiguity, such as uncertainty about when a period of time ends or about which bodies are subject to a duty), a Consolidation Bill may clarify the intended meaning, for example by spelling out more clearly when a particular provision or definition applies. Where the existing legislation is bilingual, clarification may include reconciling any ambiguities in either language or both.

**4.** Clarification may involve filling in gaps in the legislation, for example by including definitions of terms that the existing legislation does not define, or by spelling out that the application of a provision is limited to the particular cases in which it is relevant.

**Example:**

- this may include clarifying the effect of transfers of functions “in relation to Wales” by providing a clearer territorial limit in a Consolidation Bill

(and a corresponding territorial limit in any enactment which forms part of the consolidation but which will continue to apply to England after the Consolidation Bill is passed).

**5.** Clarification of intent may also involve rectifying the position where the wording of existing provisions does not reflect the meaning they are understood to have in practice, or where different enactments make provision about the same matter which is or may be contradictory.

### **Example:**

- the Co-operative and Community Benefit Societies Act 2014 (a consolidation Act of the UK Parliament) removed a requirement for there to be “special reasons” for registering a society, to reflect how the provisions were applied in practice and were originally intended to be applied. This was not about inconsistency in the legislation itself.

**6.** Where a Consolidation Bill seeks to clarify the meaning of existing provisions in any of the ways outlined above, it should do so in the way that best reflects the meaning that the provisions are understood to have, or that the legislature is believed to have intended.

**7.** A Consolidation Bill may also incorporate the effect of case law about the meaning of the existing legislation, or rules of common law that are closely related to the statutory provisions, in order to provide a more complete restatement of the existing law. A Consolidation Bill is not intended to codify free-standing rules of common law, but it may be appropriate to incorporate case law that affects the operation of existing legislation, for example by clarifying its meaning or by expanding or limiting its effect in a way that is not set out on its face.

### **Example:**

- in restating an offence of possessing salmon caught at a time when fishing was not permitted, the Salmon and Freshwater Fisheries (Consolidation) (Scotland) Act 2003 included a defence which had not been set out in the previous legislation but which had been recognised by the courts.

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## Standing Order 26C.2(iii)

A Consolidation Bill may remove or omit provisions which are obsolete, spent or no longer of practical utility or effect;

**8.** Omitting a provision means it may be repealed for Wales and/or not included in the Consolidation Bill;

**9.** There is some overlap between obsolete provisions, spent provisions, and provisions which are no longer of practical utility or no longer of practical effect. In general:

- a. an obsolete provision would include a provision which is out-of-date, for example because it is about bodies, persons or things which are no longer in existence or use;
- b. a spent provision is one which applies to a situation which can no longer exist, such as a provision conferring a function which cannot be used again (for example, because the original legislation provided for one action to be taken and this has been done, or the conditions for use can no longer be met); and
- c. a provision no longer has practical effect if, in practice, circumstances have rendered the provision irrelevant or unnecessary. This includes:
  - i. provisions which are no longer necessary as legal provision is available elsewhere (either within the Consolidation Bill or in other legislation applicable in Wales) which has an equivalent legal effect.
  - ii. provisions that were never commenced and there is no likelihood that they ever will be commenced in Wales; or if the provision was commenced but never used and there is no prospect of the provision being used in Wales; or it was commenced and used, but has not been for a significant period and there is no expectation of future use; or the provision may have been superseded by other Acts, provisions or circumstances (Note: although powers are given to Ministers, 'likelihood' here is not just whether current Ministers might intend to use a power, but whether there is a realistic likelihood of the power being used by any government.)

### Examples:

- the Town and Country Planning Act 1990 contains various provisions about pre-1948 breaches of planning control that were relevant when the first Town and Country Planning Act came into force. The Law Commission have observed that most of these no longer have any practical effect and could be omitted from a consolidation;
- the Housing Act 1985 (a consolidation Act of the UK Parliament) repealed a previous power to amend local Acts, as 15 years had passed without the power being exercised;
- the Co-operative and Community Benefit Society Act 2014 (a consolidation Act of the UK Parliament) did not replicate provisions of the Industrial and Provident Societies Act 1965 which referred to people who had made a nomination under the Act before 1 January 1914, on the basis that nobody who had made such a nomination would still be alive in 2014;
- the uncommenced repeal of “or (2)” in section 60(3) of the Industrial and Provident Societies Act 1965 Act was not reproduced in the Co-operative and Community Benefit Society Act 2014 as there was no intention of commencing the repeal (the repeal was contained in a 1992 Act);
- the Co-operative and Community Benefit Societies Act 2014 removed a specific offence of making a false statutory declaration on the basis that there was already a general offence of making false statutory declarations that covered the same conduct.

## Standing Order 26C.2(iv)

A Consolidation Bill may make minor changes to existing law for the purposes of achieving a satisfactory consolidation;

**10.** This could include:

- a. resolving inconsistencies in the application of the law in different cases, where the reasons for a difference are no longer applicable or cannot be identified;

## **Examples:**

- removing or reconciling inconsistencies in regulation making powers across different provisions;
  - ensuring that where a matter is dealt with on the face of one Act, but by subordinate legislation in another Act, both can be dealt with in primary or secondary legislation (as may be appropriate);
  - ensuring like cases are treated in the same way in the Consolidation Bill, for example by reconciling any inconsistencies between provisions which have come from different enactments or by extending general provisions or definitions in one of the existing Acts to cover all of the enactments being consolidated;
  - in cases where notice must be given in writing, and some existing legislation states the requirement for writing expressly but some does not, the requirement to give notice in writing can be set out in all of the provisions (or none of them if it is so obvious as to not need stating).
- b. correcting mistakes or anomalies in the legislation;
- c. ensuring the consolidated legislation would be compatible with the Convention rights. This may include incorporating the effect of case law which has rendered the existing provision(s) compatible with Convention rights; or amending or omitting an existing provision or making new provision where it is clear such a change is necessary to ensure that the law is compatible with the Convention;
- d. providing that the consolidated legislation will operate correctly in relation to Wales taking account of any cross-border issues between England and Wales;

## **Example:**

- the consolidation of legislation relating to the National Health Service in England and Wales reproduced the law separately for England and Wales in the National Health Service Act 2006 and the National Health Service (Wales) Act 2006. Both Acts provided a territorial limit for the

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exercise of functions and made provision about certain cross-border issues.

- e. ensuring consistency in and between the English language and Welsh language texts of the Bill;
- f. moving provisions from subordinate legislation to primary legislation (and occasionally from primary to subordinate legislation) or changing the form of subordinate legislation or the procedure that applies to it, to improve the consistency or coherence of the relevant body of legislation;

### Examples:

- where provisions about a particular issue are contained partly in primary legislation and partly in subordinate legislation, it may be appropriate to move provisions from one level to the other, so that everything about that issue is in the same place. For example, if regulations or orders deal with an important issue affecting how the legislation works, material in the regulations or orders might be more appropriately restated in the Bill;
- where there is a power to use subordinate legislation to modify the operation of primary legislation, and all the necessary modifications have already been made, it may be appropriate to incorporate the modifications into the restatement of the primary legislation, and the power to make modifications may not be needed;
- where forms or other points of detail are set out in primary legislation, it may be appropriate to provide for them to be specified in regulations instead, particularly if they are likely to need regular updating. Or it may be appropriate simply to require people to use forms published by Ministers or other public bodies, rather than including the forms in legislation;
- it may be appropriate to replace powers to make directions of general application (as opposed to directions addressed to specific individuals) with powers to make regulations;
- where an existing power to make subordinate legislation is not subject to any Senedd procedure, but such a power would nowadays be

expected to attract Senedd procedure, a Consolidation Bill may restate the power with an appropriate procedure. A Consolidation Bill may also remove other inconsistencies and anomalies in procedural provisions.

## Standing Order 26C.2(v)

A Consolidation Bill may make other changes to the law which the Law Commission of England and Wales recommend are appropriate for inclusion within a Consolidation Bill

**11.** Under Standing Order 26C.2(v) changes to the law which do not fall within the other paragraphs of that Standing Order may be included in a Consolidation Bill on the recommendation of the Law Commission. For a change to be made under paragraph (v), the Law Commission must not only recommend that the change is made, but must also identify the change as one that it would be appropriate to make in a Consolidation Bill.

**12.** Paragraph (v) does not mean that Consolidation Bills can be used to give effect to all law reform proposals made by the Law Commission. It is only intended to cover changes to the law which it would be convenient to make at the same time as consolidating the existing law. Such changes should not involve significant new policy nor be controversial. Examples of this type of change could include amending a set of procedural requirements to ensure that they work better in practice, or simplifying them to remove redundant steps from the procedure.

## Standing Order 26C.2(vi)

A Consolidation Bill may include appropriate transitional and savings provisions, and consequential amendments and repeals of existing legislation (including amendments to ensure the existing legislation continues to operate correctly in relation to England);

**13.** Standing Order 26C.2(vi) includes:

- a. making consequential amendments to legislation that is not incorporated, or is incorporated only in part, in the Consolidation Bill.

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This includes making sure that the legislation left behind continues to operate satisfactorily with no change in legal effect (or no more change than is required by the consolidation). It may involve making extensive amendments to the legislation to remove provisions that apply to Wales and to make clear that some or all of its provisions will in future apply only to England;

- b. providing a power to make further consequential amendments to legislation that are needed as a result of the consolidation;
- c. repeals necessary to deal with consolidation, including repeals of obsolete and spent provisions, and missed amendments and repeals (i.e. ones which should have been included in earlier Acts);
- d. savings and transitional provisions.

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# Agenda Item 16

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

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

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