

Mick Antoniw MS
Counsel General and Minister for Constitution

21 December 2022

Dear Mick

Corrections to Welsh Subordinate Legislation

In recent weeks, my Committee has received a number of Welsh Government responses to our reports on subordinate legislation made (or to be made) by the Welsh Ministers in which it has been stated that errors will be corrected by way of correction slips sought from the SI Registrar or that corrections will be made before the instrument is made or published on legislation.gov.uk.

Most notably, this has occurred in relation to [The Food and Feed \(Miscellaneous Amendments\) \(Wales\) \(EU Exit\) Regulations 2022](#), [The Trade in Animals and Related Products \(Amendment and Legislative Functions\) and Animal Health \(Miscellaneous Amendments\) \(Wales\) \(EU Exit\) Regulations 2022](#), and [The Marketing of Seeds and Plant Propagating Material \(Wales\) \(Amendment\) \(EU Exit\) Regulations 2022](#).

As regards the Marketing of Seeds and Plant Propagating Material (Wales) (Amendment) (EU Exit) Regulations 2022 (a made negative instrument), we received an initial response to our report on 2 November, in which we were told that a correction slip would be sought from the SI Registrar to address two technical issues we raised in our report. On 8 December, we received a follow-up response in relation to the first technical point in our report which stated "The S.I. Registrar has now confirmed that a correction slip is not appropriate to remedy the title change. A correcting S.I will, therefore, be made instead of a correction slip." Subsequently, the Welsh Government has made [amending Regulations](#).

In relation to the Trade in Animals and Related Products (Amendment and Legislative Functions) and Animal Health (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2022 (a draft affirmative instrument), the Welsh Government response to our report received on 13 December stated that 12

errors would be corrected “on making”. Two further errors were identified as requiring an amending instrument. In the debate on these Regulations on 13 December the Minister referred to the 12 errors being “corrected on publication”.

Finally, in relation to the Food and Feed (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2022 (a draft affirmative instrument), the Welsh Government response confirmed that two technical issues would be corrected by way of a correction slip, while the remaining three would require a correcting instrument. The Deputy Minister confirmed this position during the Senedd debate on these Regulations on 13 December.

Our consideration of the above named Regulations, and the responses we have received from the Welsh Government, raise questions about the Welsh Government’s own processes for determining how and when corrections to Welsh subordinate legislation can and should be made.

We would be grateful if you would provide specific details of the guidance and procedures the Welsh Government follows when deciding whether it should make a correcting statutory instrument, correct an error on making/publication, or apply to the SI Registrar for a correction slip. In particular please confirm:

1. What criteria are considered by Welsh Government when deciding whether to seek a correction slip from the SI Registrar?
2. Is “correction on making” the same as “correction on publication”? At what point, precisely, during the process of making and publishing an instrument are such corrections made? Is the correction on making / publishing accompanied by any Welsh Government or National Archives document that is publicly available identifying the corrections?
3. What criteria are considered by Welsh Government when deciding whether an error should be corrected on making/publication?
4. Does the SI Registrar have a role in deciding whether an error may be corrected on making/publication, or is the decision taken by the relevant Welsh Minister on the advice of Welsh Government officials?
5. Where an error is identified in a draft affirmative instrument before the Senedd debate has taken place, what criteria are used to decide whether to rely on a correction slip (as in the Food and Feed (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2022) or on the process of correction on making/publication (as in the Trade in Animals and Related Products (Amendment and Legislative Functions) and Animal Health (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2022)?

We are writing to the SI Registrar to similarly ask what rules are followed in determining whether to agree to a correction slip or, if relevant, whether to agree to requests to make corrections on making/publication of an instrument.

I would be grateful to receive a response by 18 January 2023.

I am copying this letter to Lesley Griffiths MS, Minister for Rural Affairs and North Wales, and Trefnydd, and to Lynne Neagle MS, Deputy Minister for Mental Health and Wellbeing.

Yours sincerely,

Huw Irranca-Davies

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Chair

