

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



**Llywodraeth Cymru**  
**Welsh Government**

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

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

21<sup>st</sup> July 2023

Dear Huw,

Thank you for your letter of the 7 July regarding *the Windsor Framework (Retail Movement Scheme: Public Health, Marketing and Organic Product Standards and Miscellaneous Provisions) Regulations 2023*. I can confirm that this is the first in a series of five instruments currently planned, which are progressing against variable timelines.

I have reviewed the Committees questions following your meeting on 3 July, my answers are set out in the following Annex.

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

Yours sincerely,

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

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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.

## Annex

Questions from the Legislation, Justice and Constitution Committee

***Question 1: You told us that you received a letter from the Minister of State for Environment, Food and Rural Affairs, the Rt Hon Lord Benyon, asking for the Welsh Ministers' consent to these Regulations. Can you confirm when Lord Benyon wrote to you. In your letter to us on 2 December 2022, you committed to include the date of correspondence with UK Ministers in letters to Senedd Committees.***

***Question 2: Please can you share with us the relevant correspondence with Lord Benyon. Again, in your letter to us on 2 December 2022, you said you would aim to provide copies of correspondence with the UK Government to the appropriate Senedd Committees.***

Response:

The Minister of State for Biosecurity, Marine and Rural Affairs, the Rt Hon Lord Benyon, wrote to the Minister for Rural Affairs and North Wales, and Trefnydd on 23 May 2023, to request the Welsh Ministers consent to the draft Windsor Framework (Retail Movement Scheme: Public Health, Marketing and Organic Product Standards and Miscellaneous Provisions) Regulations 2023.

Enclosed is a copy of the aforementioned letter and the response regarding this specific instrument.

***Question 3: You told us that the Regulations intersect with devolved policy. Have you made an assessment of the devolved/reserved split? If so please can you provide details of that assessment?***

***Question 4: Did you consider bringing forward your own Regulations to deal with matters within devolved competence?***

Response.

It is considered appropriate for this UK Government statutory instrument to apply to Wales as the instrument delivers on international obligations which are fixed as agreed in the Windsor Framework. Agreement was reached by the UK and the EU and announced on 27 February 2023. It was verified in Decision no. 1/2023 of the Joint Committee established by the Agreement on the Withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community. It is appropriate for the regulations to be made by the UK Government to ensure a coherent and consistent statute book.

Whilst this instrument concerns subject matter that is devolved in relation to Wales (including food standards, and plant health standards), Part 2 relates to the amendment of GB-wide legislation and Part 3 of this instrument specifically concerns the application of law in Northern Ireland. It is the view of the Welsh Government that the Welsh Ministers do not have sufficient powers to make this instrument separately in relation to Wales.

It is possible that amendments to GB-wide legislation in Part 2 of this instrument, insofar as they make provisions applying in relation to Wales, could have been implemented separately in relation to Wales. Although the Welsh Government's general principle is that the law relating to devolved matters should be made and amended in Wales, on this occasion, it is considered appropriate for this instrument to apply on a UK-wide basis as there is no policy divergence between the Welsh and other UK governments in this matter. This ensures a coherent and consistent statute book with the amendments to the GB-wide legislation being accessible in a single instrument. I consider that legislating separately for Wales would be neither the most appropriate way to give effect to the necessary changes nor a prudent use of Welsh Government resources given other important priorities.

***Question 5: Can you confirm that the development of these Regulations was taken through the relevant common framework processes.***

Response:

Officials have utilised the Plant Health Common Framework to work jointly with UK Government on this amendment. In addition, policy officials are in discussion with DEFRA over the governance arrangements to ensure Welsh interests and views on the Retail Movement Scheme are considered and addressed. A proposed Memorandum of Understanding will set out how the agreement process will operate for any future possible changes to the Scheme. Welsh Government officials, along with officials from the Scottish Government, Department of Agriculture, Environment and Rural Affairs in Northern Ireland and the Food Standards Agency, are members of the Defra-chaired Programme and Project Control Board and the overarching Northern Ireland Programme Board which oversee the implementation of the Windsor Framework.

The 2023 Regulations have been prepared and are subject to on-going discussions between UK and Welsh Government officials. Draft Statutory Instruments and associated documents in relation to these regulations have been shared or are the process of being shared. There has been a long history of joint working within this area, and this has been reflected in the drafting of this instrument.

***Question 6: Has the UK Government written to you about the four other sets of Regulations referred to as NID/011, NID/012, NID/013, and NID/015 in the Scottish Government's letter?***

**b. If the UK Government has not written to you about the other Regulations, what action will you now take?**

**c. If the UK Government has written to you about the other Regulations, why does your letter of 30 June only refer to the Windsor Framework (Retail Movement Scheme: Public Health, Marketing and Organic Product Standards and Miscellaneous Provisions) Regulations 2023 (NID/014)?**

**d. Were you aware of the timings regarding the Regulations which are the subject of your letter?**

**e. Were you aware that the 2023 Act would result in the Regulations which are the subject of your letter no longer being subject to the affirmative procedure?**

Response:

The letter from the Rt Hon Lord Benyon Minister for Biosecurity, Marine and Rural Affairs is enclosed. This instrument ( the Windsor Framework (Retail Movement Scheme: Public Health, Marketing and Organic Product Standards and Miscellaneous Provisions) Regulations 2023 - NID/014) is one of five, which will ensure that green lane goods can legally enter the NI market while complying with GB standards on public health, marketing, and organics (where EU standards are being disapplied under Article 1(2) and Annex I of the EU's draft legal text) and will include the necessary enforcement and sanction measures to ensure compliance.

The Welsh Governments aim was to ensure the Committee had sufficient time to consider each instrument, once drafts had become available and had undergone an in-depth review prior to being considered by Welsh Ministers. As the instruments are to be introduced under varying timetables, the DEFRA drafting is at variable stages. It was considered appropriate and helpful to the Committee to make the instruments available to you, as soon as they were in a position, where they could be approved by Welsh Ministers.

To this end, at the time of writing to the Committee, NID014 was still scheduled to be introduced under the affirmative procedure. It was subsequently converted to the negative procedure given that the passage of the Retained EU Law Bill had removed the affirmative trigger following its Royal Assent.

The remaining instruments will be shared with the Committee as soon as they undergo the same process.

***Question 7: Are you aware of further implementing legislation being prepared to implement the Windsor Framework and as described by the Framework's accompanying documents? If so, please can you provide details, including timings.***

The table below contains each of the instruments under preparation and the current timings we have been provided with (if any further legislation emerges, we will endeavour to inform the Committee accordingly). Please note the laying dates have been subject to change:

Ref	Name	Powers	Procedure	Laying
NID/013	The Windsor Framework (Enforcement etc.) Regulations 2023	Section 8C	Draft affirmative	04 Sept 2023
NID/014	The draft Windsor Framework (Retail Movement Scheme: Public Health, Marketing and Organic Product Standards and Miscellaneous Provisions) Regulations 2023	Section 8C	Made Negative	30 Aug 2023
NID/011	The Windsor Framework (Retail Movement Scheme) Regulations 2023	Section 8C	Made Negative	8 Aug 2023
NID/012	The Windsor Framework (Plant Health) Regulations 2023	Section 8C	Made Negative	30 Aug 2023

NID/015	The Windsor Framework (Financial Assistance) (Marking of Retail Goods) Regulations 2023	Section 8C	Made Negative	30 Aug 2023
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Department  
for Environment  
Food & Rural Affairs

The Rt Hon Lord Benyon  
Minister for Biosecurity, Marine and Rural Affairs

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London  
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5th Floor, Tŷ Hywel  
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Ref  
NID/011/012/013/014/015

23 May 2023

Dear Lesley,

**DEFRA SI PROGRAMME**

I am writing to seek your formal consent in respect of five Statutory Instruments (SIs) due to be laid in July and August 2023. These SIs intersect with devolved policy and will apply to Wales. Details of these SIs are provided in **Annex A**.

As these Regulations will make provisions that could be made by Welsh ministers in exercise of your own powers, I am writing to ask for your consent to the devolved provisions contained within them. This is in line with the UK Government's commitment that it will not normally use the powers set out in the legislation to make provisions that could be made by a devolved administration without the consent of the relevant devolved administration(s).

I would like to express my continued appreciation for the positive cooperation that exists between our officials that has enabled this work to progress so effectively to date. Should any changes to this forward look occur, my officials will continue to keep yours updated. Please do not hesitate to get in touch if you need further information.

I am copying this letter to Julie James MS who I understand may have an interest in some of these SIs.

Yours sincerely,

**THE RT HON LORD BENYON**

List of Defra SIs with devolved policy whose application extends to Wales and consent is being sought.

Legislative ID	Title	Enabling powers	Parliamentary procedure	Anticipated laying date	Application	DA clearance	Policy area
NID/013	The Windsor Framework (Enforcement etc.) Regulations 2023	EUWA Section 8c	Draft affirmative	Monday 17 July	England Wales Scotland Northern Ireland	Consent	Windsor Framework
NID/014	The Windsor Framework (Retail Movement Scheme; Public Health, Marketing and Organics Standards) Regulations 2023	EUWA Section 8c	Draft affirmative	Monday 17 July	England Wales Scotland Northern Ireland	Consent	Windsor Framework
NID/011	The Windsor Framework (Retail Movement Scheme) Regulations 2023	EUWA Section 8c	Made negative	Tuesday 8 August	England Wales Scotland Northern Ireland	Consent	Windsor Framework
NID/012	The Windsor Framework (Plant Health) Regulations 2023	EUWA Section 8c	Made negative	Wednesday 30 August	England Wales Scotland Northern Ireland	Consent	Windsor Framework
NID/015	The Windsor Framework (Sanitary and Phytosanitary Grant Scheme) Regulations 2023	EUWA Section 8c	Made negative	Wednesday 30 August	England Wales Scotland Northern Ireland	Consent	Windsor Framework

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**Llywodraeth Cymru**  
**Welsh Government**

The Rt Hon Lord Benyon Minister for Biosecurity,  
Marine and Rural Affairs  
UK Government  
Department for Environment, Food and Rural Affairs  
Seacole Building  
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30<sup>th</sup> June 2023

Dear Richard,

Thank you for your letter of 23 May informing me of the UK Government's intention to lay the draft Windsor Framework (Retail Movement Scheme: Public Health, Marketing and Organic Product Standards and Miscellaneous Provisions) Regulations 2023.

I am giving consent to the application of the Regulations in Wales, in terms of the latest versions of the Regulations which I understand will be laid before the UK Parliament on 17 July 2023.

Yours sincerely,

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