

SL(6)392 – The Water Resources (Control of Agricultural Pollution) (Wales) (Amendment) (No. 2) Regulations 2023

Background and Purpose

The Water Resources (Control of Agricultural Pollution) (Wales) Regulations 2021 (the 2021 Regulations) seek to tackle the causes of water pollution from agricultural activities across Wales.

The 2021 Regulations impose limits on the application of organic manure: regulation 4 of the 2021 Regulations limits the amount of nitrogen in livestock manure that may be applied to a holding (whether directly by an animal or by spreading) to 170kg multiplied by the area of the holding in hectares.

For holdings that were not previously in a nitrate vulnerable zone, regulation 4 was subject to a transitional period. For such holdings, regulation 4 was originally intended to apply from **30 April 2023**. In April 2023, that deadline was changed to **31 October 2023**. Now, these Regulations change that date again, extending the transitional period by a further 2 months so that holdings that were not previously situated in a nitrate vulnerable zone will have to comply with the 170kg limit from **1 January 2024**.

Because of the change in dates, the associated record-keeping requirements in regulation 36 of the 2021 Regulations are also amended.

These Regulations do not change the application of the 170kg limit to holdings that were previously in a nitrate vulnerable zone.

Procedure

Negative

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

Technical Scrutiny

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

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



In regulation 2(3)(a), there is a slight difference between the English and Welsh text that could potentially lead to a difference in interpretation. In the English text, the new text states “any year beginning 1 January”, but the translation has conveyed the meaning as “any year beginning on 1 January”. In the Explanatory Note, it does state in both language texts that regulation 2(3) amends regulation 4 so that the limit of nitrogen in livestock manure applies to each 12-month period “beginning with 1 January”.

The Welsh Government’s drafting guidelines recommend avoiding the use of “on” when describing the beginning or ending of periods of time – see [Writing Laws for Wales](#) 8.3 and 8.4. This is because the use of “on” may cause doubt as to whether the period of time will begin or end at a particular time on that day. The drafting guidelines recommend the use of “with” for clarity and to avoid any ambiguity.

However, we note this difference between the English and Welsh text when describing the beginning and ending of periods already exists in the bilingual text of the 2021 Regulations in a few places.

Merits Scrutiny

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

Welsh Government response

A Welsh Government response is required.

Legal Advisers

Legislation, Justice and Constitution Committee

18 October 2023



Senedd Cymru

Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad

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Welsh Parliament

Legislation, Justice and Constitution Committee