

# **SL(6)486 – The Well-being of Future Generations (Wales) Act 2015 (Public Bodies) (Amendment) Regulations 2024**

## **Background and Purpose**

Section 6(1) of the Well-being of Future Generations (Wales) Act 2015 (the Act) lists certain persons who are “public bodies” for the purposes of Part 2 and Part 3 of the Act.

These Regulations add 8 further persons to the list of public bodies in section 6(1). These are:

- Welsh Ambulance NHS Trust;
- Digital Health and Care Wales;
- Health Education and Improvement Wales;
- Social Care Wales;
- Welsh Revenue Authority;
- Transport for Wales;
- Centre for Digital Public Services Limited; and
- Qualifications Wales.

Regulation 3 makes provision to specify that the additional public bodies must set and publish well-being objectives by 31 March 2025.

Regulation 4 makes provision for the examination and report by the Auditor General for Wales in relation to the additional public bodies.

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

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

The preamble states that “the Welsh Ministers have consulted with the Future Generations Commissioner for Wales, the Auditor General for Wales and the public bodies listed under regulation 2, as required under section 52(4) of the Act”. This is misleading as the requirement in section 52(4) is for the Welsh Ministers to consult with:



- (a) *the Commissioner;*
- (b) *such other persons as the Welsh Ministers consider appropriate;*
- (c) *if the regulations amend section 6(1) so as to add a person, that person.*

There is no requirement to consult with the Auditor General for Wales specifically. It would be clearer to state that the Welsh Ministers have consulted with “such other persons as they consider appropriate” rather than specifically referring to the Auditor General for Wales by name in the preamble.

It would also be clearer to state that the Welsh Ministers have consulted with the persons that have been added to section 6(1), rather than referring to the “public bodies” that have been “listed under regulation 2”. Paragraph 43 of the Explanatory Memorandum sets out the consultation requirements more accurately.

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

The Regulations make reference to “section 6” of the Act (for example, in the headings to, and text of, regulations 3 and 4). It would be clearer to state “section 6(1)” in each case as this is the specific provision of the Act which the Welsh Ministers have the power to amend.

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

Regulation 2(2) inserts “Welsh Ambulance Services University NHS Trust” into section 6(1) of the Act. However, the legal name given by the amended article 2 of the amended Welsh Ambulance Services National Health Service Trust (Establishment) Order 1998/678 uses “National Health Service” rather than NHS in the name. It is unclear, therefore, why “Welsh Ambulance Services University National Health Service Trust” was not used in regulation 2(2).

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

In regulation 2(3), it is unclear why the new paragraph which is inserted after paragraph (d) of section 6(1) is referenced as “(dd)”, rather than “(da)”. There is a paragraph “(ba)” that has previously been inserted after paragraph (b) (by SI 2021/1360 (W.356)). The use of “(dd)” may create an expectation that there are already paragraphs (da) to (dc) in section 6(1).

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

The heading of regulation 4 should refer to the “Auditor General for Wales” instead of referring to the “Auditor General”.

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

It is unclear why there are references to “public bodies added to section 6 of the Act”. The enabling powers allow the Welsh Ministers to add “persons” to section 6(1) so that they will be included within the meaning of public body for the purposes of Part 2 and 3 of the Act.



Both Transport for Wales and the Centre for Digital Public Services Limited are registered companies which are being added to section 6(1). Parts 2 and 3 of the Act will only apply to their functions of a public nature.

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

In regulation 4(2), the description of the modification would be clearer if the words “of section 15” were repeated after the reference to “for subsection (6)” because there are references to both section 6 and 15 in regulation 4(2).

## Merits Scrutiny

The following 2 points are identified for reporting under Standing Order 21.3 in respect of this instrument.

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

Paragraphs 4 to 8 of the Explanatory Memorandum include “matters of special interest to the Legislation, Justice and Constitution Committee”. These paragraphs state as follows:

4. *The Legislation, Justice and Constitution Committee will wish to note:*
5. *The Public Accounts Committee (fifth Senedd) carried out an inquiry Barriers to the successful implementation of the Well-being of Future Generations (Wales) Act 2015 between May 2020 and March 2021. The Committee’s report Delivering for Future Generations: the story so far was published on 17 March 2021 and a Plenary Debate was held on 24 March 2021. The report included a recommendation (Recommendation 7) for the Welsh Government to carry out a review of the public bodies that are subject to the Act. The work of the Public Accounts Committee in 2020-21 outlined that acting in accordance with the sustainable development principle is an alternative, better way of working rather than an additional way of working. In practice this means enhancing existing arrangements for objective setting, monitoring, reporting, and decision making, as well as training and development for decision makers.*
6. *The remit of the Senedd’s Equality and Social Justice Committee includes the examination of legislation and scrutiny of expenditure, administration and policy for matters encompassing the implementation of the Act. In their Report on the annual scrutiny of the Future Generations Commissioner (An Update April 2022), the Committee were pleased that the Welsh Government is taking forward the Public Accounts Committee’s recommendation to review the number of bodies that are subject to the Act.*
7. *The Senedd Public Accounts and Public Administration Committee recently published a report Scrutiny of Accounts: The Future Generations Commissioner for Wales 2022-23 (March 2024), which included a recommendation for the Future Generations Commissioner to advise whether he will be able to continue to provide reassurances*



*regarding the support provided by the public bodies team to the additional public bodies to be added to the Act, for which his office used its reserves to fund in 2022-23.*

8. *The Senedd Finance Committee in their scrutiny of the then Social Partnership and Public Procurement (Wales) Bill, which places a social partnership duty on the public bodies listed in section 6(1) of the Act, included in their Stage 1 Report (November 2022) a recommendation (Recommendation 10) asking the Welsh Government to report back on the outcome of the review of the bodies subject to the Act. These regulations implement, in part, recommendations of Senedd Committees.*

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

The title of the instrument may confuse some readers. The use of the word “(Amendment)” in the title may make some readers think that there may be previous instrument, “The Well-being of Future Generations (Wales) Act 2015 (Public Bodies) Regulations XXXX” which has been amended by these Regulations.

### **Welsh Government response**

A Welsh Government response is required.

#### **Legal Advisers**

**Legislation, Justice and Constitution Committee**

**5 June 2024**



Senedd Cymru

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

—

Welsh Parliament

**Legislation, Justice and Constitution Committee**