

Government Response: The Well-being of Future Generations (Wales) Act 2015 (Public Bodies) (Amendment) Regulations 2024

Technical Scrutiny point 1: The Government notes the points raised with regard to the persons referred to in the preamble with whom the Welsh Ministers must consult in order to fulfil the requirements of section 52(4) of the Well-being of Future Generations (Wales) Act 2015 (“the Act”). Specific reference was made to the Auditor General for Wales to comply with section 52(4)(b) due to regulation 4 which directly affects the Auditor General for Wales examination period under section 15 of the Act. Reference was made to the persons added by regulation 2(2) again to indicate what persons had specifically been consulted in accordance with section 52(4)(c). Whilst the Government accepts that just reference to “such other persons as the Welsh Ministers consider appropriate” and “if the regulations amend section 6(1) so as to add a person, that person” would have sufficed, the Government’s view is that the preamble makes it sufficiently clear that section 52(4) has been complied with and therefore considers that no amendment is required.

Technical Scrutiny point 2: The Government does not believe the existing drafting of regulations 3 and 4 is ambiguous and considers the drafting of both regulations to be sufficiently clear. The Government does not, consequently, consider any changes to regulations 3 and 4 necessary in this regard.

Technical Scrutiny point 3: The Government has considered whether the reference to “Welsh Ambulance Services University NHS Trust” in regulation 2(2) should refer to “Welsh Ambulance Services University National Health Service Trust” in light of the amended Welsh Ambulance Services National Health Service Trust (Establishment) Order 1998 (S.I. 1998/678). However, the Government decided to refer to “NHS” as opposed to “National Health Service” due to “NHS” being used throughout the Act, including in section 6(1)(d). At no point in the Act is NHS provided for in full apart from where the Act refers to the National Health Service (Wales) Act 2006. In the Government’s view therefore it is more consistent with the Act to refer to “Welsh Ambulance Services University NHS Trust” and there is no ambiguity as to which body is captured. Consequently, the Government does not consider an amendment is needed.

Technical Scrutiny point 4: The Government accepts that in regulation 2(3) it would be more consistent with the Act to insert a new paragraph “(da)” as opposed to “(dd)”. Whilst this does not alter the legal effect, the Government will seek to amend this prior to the making of the instrument.

Technical Scrutiny point 5: The Government notes that the heading to regulation 4 refers to “the Auditor General” as opposed to “the Auditor General for Wales” however the Government disagrees that the heading should refer to “the Auditor General for Wales” because that heading reflects the heading to section 15 of the Act “The sustainable development principle: Auditor General's examinations”.

Further, section 15 of the Act continually refers to “the Auditor General” in relation to the examination period. Consequently, the Government does not consider an amendment is needed.

Technical Scrutiny point 6: The Government acknowledges that the references to “public bodies added to section 6 of the Act” could be to “persons added to section 6 of the Act” in reflection of the enabling power at section 52(1) which makes reference to “person”. However, section 6 of the Act is entitled “meaning of “public body”” and section 6(1) states that each of the specified persons is a “public body” for the purposes of Parts 2 and 3 of the Act. The Government, consequently, considers that the reference to “public bodies added to section 6 of the Act” is sufficiently clear and that no amendments are needed in this respect.

The Government accepts that both Transport for Wales and the Centre for Digital Public Services Limited are registered companies which are being added to section 6(1) and the Explanatory Memorandum makes it clear that Parts 2 and 3 of the Act will only apply to their functions of a public nature. However, those companies will be referred to as a “public body” for the purpose of Parts 2 and 3 of the Act due to being added to section 6(1). The references throughout the instrument are therefore referring to the persons that will be a “public body” for the purpose of Parts 2 and 3.

Technical Scrutiny point 7: The Government is content that it is clear regulation 4(2) modifies section 15 and notes that there is no section 6(6) in the Act. The Government does not consider an amendment is needed.

Merit Scrutiny Point 2: The Government has considered whether the title of the instrument could lead to confusion but on analysis is content that the title gives an accurate indication of the nature of the instrument.

Corrections to be made prior to making the Statutory Instrument

CORRECTIONS MADE TO THE WELSH TEXT PRIOR TO MAKING	CORRECTIONS MADE TO THE ENGLISH TEXT PRIOR TO MAKING
Rheoliadau Deddf Llesiant Cenedlaethau'r Dyfodol (Cymru) 2015 (Cyrff Cyhoeddus) (Diwygio) 2024	The Well-being of Future Generations (Wales) Act 2015 (Public Bodies) (Amendment) Regulations 2024
<i>The reference to paragraph (dd) in regulation 2(3) will be amended to (da).</i>	<i>The reference to paragraph (dd) in regulation 2(3) will be amended to (da).</i>