

SL(6)501 – The Digital Government (Welsh Bodies) Regulations 2024

Background and Purpose

Part 5 of the Digital Economy Act 2017 ("the 2017 Act") allows persons listed in the Schedules to the Act to share information for specific purposes.

Section 56(1) of the 2017 Act allows information to be shared (by a specified person with certain other persons) for the purpose of preventing fraud against public authorities.

Part 2 of Schedule 8 contains a list of Welsh bodies who are specified for the purposes of section 56(1).

These Regulations remove the Higher Education Funding Council for Wales from the list in the 2017 Act and replace it with the Commission for Tertiary Education and Research.

Procedure

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

No points are identified for reporting under Standing Order 21.2 in respect of this instrument.

Merits Scrutiny

Two points are identified for reporting under Standing Order 21.3 in respect of this instrument.

1. 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 Explanatory Notes to the Regulations state as follows in relation to a Regulatory Impact Assessment:

"The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with these Regulations..."

However, the Explanatory Memorandum accompanying the Regulations appears to be inconsistent. Section 6 (Regulatory Impact Assessment (RIA)) states as follows:



“As these Regulations make factual amendments to update subordinate legislation and the amendments do not alter the policy (or its impact) in any significant way or how it is applied in a given situation, an RIA is not required. This is in line with the policy set out in the Welsh Ministers’ code of practice for carrying out regulatory impact assessments for subordinate legislation. However, the RIA to accompany TERA at its introduction to the Senedd assessed the potential costs and benefits associated with establishing the Commission.”

2. 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 Explanatory Memorandum accompanying the Regulations states the following in section 2 (Matters of special interest to the Legislation, Justice and Constitution Committee):

“The Legislation, Justice and Constitution Committee will wish to note that these Regulations amend the 2017 Act.”

Welsh Government response

A Welsh Government response is required to point 1, above.

Committee Consideration

The Committee considered the instrument at its meeting on 8 July 2024 and reports to the Senedd in line with the reporting points above.

