

Julie James MS

Counsel General and Minister for Delivery

16 January 2025

Dear Julie

Statutory instruments considered by the Legislation, Justice and Constitution Committee

You will be aware that the Committee has been monitoring when and how the Welsh Government corrects errors in Welsh statutory instruments that have been identified by the Committee in its reports to the Senedd.

At our meeting on 13 January 2025, we discussed the statutory instruments considered by the Committee during 2024 where the Welsh Government has indicated that it will bring forward an amending instrument to rectify errors the Committee has identified.

Our discussion also included the Committee's consideration of The Trade in Animals and Related Products (Amendment and Legislative Functions) and Animal Health (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2022, and the subordinate legislation which was expected in 2024 relating to a healthy food environment.

The Committee agreed that it will write to the relevant Welsh Ministers in relation to instruments where it would appear that amending instruments are overdue.

In addition, the Committee agreed that its analysis should be shared with you for information. The analysis we considered is included in the enclosed Annex.

The Committee's intention is to routinely update its analysis and discuss on a termly basis what, if any, action may be required.



Yours sincerely,

Mike Hedges

Mike Hedges

Chair



Senedd Cymru
Welsh Parliament

ANNEX

	SI number, and date laid	SI title	Relevant reporting points, and Welsh Government response	Amending SI laid?	Notes and relevant correspondence	Welsh Government department / policy area	Status
1.	292, 22 Nov 2022	<u>The Trade in Animals and Related Products (Amendment and Legislative Functions) and Animal Health (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2022</u>	25 – “In Direction 2009/156, in relation to the query as to why Article 5(5)(a) is not listed, the Government have reviewed and confirm that it has been omitted by oversight and should be included in the list of functions in the Schedule. The Government proposes remedying this by amending statutory instrument early in 2023.”	No	<u>Latest letter from the Welsh Government, 18 October 2024:</u> ““You request a definitive timetable for introducing an amendment Statutory Instrument (SI) to resolve Reporting Point 25. My officials are working to introduce this within the next six months.” 6 months will expire in mid-April 2025	Rural affairs	Due within next 6 months
2.	427, 5 Dec 2023	<u>The Building Control Profession (Charges) (Wales) Regulations 2023</u>	3 - “We will insert the missing wording into the Welsh regulation when the Regulations are next updated, we	No		Climate Change	Promised but no timeframe specified

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			do not have a timeframe for this currently."				
3.	431, 12 Dec 2023	<u>The Education (Student Finance) (Miscellaneous Amendments) (No. 3) (Wales) Regulations 2023</u>	2 – "we will look to make a future amendment to assist the reader in the next appropriate instrument, that is likely to be made in the autumn." 6 – "We agree that there is a historical error that requires correction and will look to make the necessary amendments in the next appropriate instrument. We anticipate that being in the autumn." 7 – "We agree that this is an error and will look to make the necessary amendment in the	No	Corrections should have been made in the autumn of 2024. See <u>SL(6)510</u> The Committee's advisers believe that points 7 and 8 were resolved via a correction slip in August 2024, although this was not drawn to the attention of the Committee.	Education	Overdue

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			next appropriate instrument. We anticipate that being in the autumn." 8 – "We agree that the omission of the italicised Welsh definitions following the corresponding English definitions is an error and will be corrected in the next appropriate instrument. We anticipate that being in the autumn."				
4.	437, 20 Dec 2023	<u>The National Health Service (General Medical Services Contracts) (Wales) (Amendment) Regulations 2023</u>	5-8 – "The Welsh Government notes this point and will make an amendment to the principal Regulations when the opportunity arises."	No	<u>Letter to the Welsh Government</u> , 31 January 2024, and <u>Letter from the Welsh Government</u> , 19 February 2024	Health	Promised but no timeframe specified

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					See also <u>SL(6)504</u> and <u>SL(6)542</u>		
5.	441, 10 Jan 2024	<u>The Firefighters' Pension Schemes and Compensation Scheme (Amendment) (Wales) Order 2024</u>	3 – “The Welsh Government notes that the text of the Welsh and English provisions of new rule 5C(7) (inserted by paragraph 6(3) of Schedule 1 to the Order) produce opposite meanings. The English text identified is correct, and the equivalent Welsh text should read “Where the authority do not hold records of that person’s pay for that period...” (emphasis added). The Welsh text will be amended accordingly	Yes <u>SL(6)530</u> laid 23 Sept 2024	<u>Letter to the Welsh Government</u>, 7 February 2024, and <u>Letter from the Welsh Government</u>, 22 February 2024 In laying SL(6)530, the <u>Welsh Government wrote</u> to the Committee re: reporting point 6 on SL(6)441: “On reflection I think it is more appropriate to allow that heading	Social Partnership	Amending SI laid

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			at the next available opportunity.”		in the Welsh language text to remain. The amendment required to address Technical Scrutiny point 3 is best dealt with by amending the Firefighters’ Pension Scheme (Wales) Order 2007. So, to address Technical Scrutiny point 6, we would additionally have to amend the Firefighters’ Pension Schemes and Compensation Scheme (Amendment) (Wales) Order 2024. Given that the heading in issue is inoperative, and it is not carried through to the amended		
			6 – “The Welsh Government notes that there is a difference in the headings for paragraph 1 of Schedule 2 to the Order, between the Welsh and English texts. The reference to “Part 1” in the English text is correct, and the Welsh translation should reflect that. The Welsh text will be amended accordingly at the next appropriate opportunity.”				

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					instrument (the Firefighters' Compensation Scheme (Wales) Order 2007), any benefit to be gained in making such an amendment would be negligible and I do not consider it would be proportionate."		
6.	444, 15 Jan 2024	<u>The Independent Schools (Prohibition on Participation in Management) (Wales) Regulations 2024</u>	1 – "The Welsh Government notes the Committee Report and agrees that it would have been helpful to refer to the definition in section 167A(6)(b) of the Education Act 2002. The Independent Schools (Prohibition on Participation in Management) (Wales) Regulations 2024 Regulations will be	No		Education	Promised but no timeframe specified

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			amended to address this point at the next available opportunity."				
7.	453, 2 Feb 2024	<u>The Official Controls (Import of High-Risk Food and Feed of Non-Animal Origin) (Amendment of Commission Implementing Regulation (EU) 2019/1793) (Wales) Regulations 2024</u>	1 – "A further statutory instrument is planned that will substitute an updated Annex 2 to that Regulation; that instrument is anticipated to be made in the fourth quarter of 2024."	Yes <u>SL(6)552</u> , laid 27 Nov 2024		Wellbeing	Amending SI laid
8.	454, 9 Feb 2024	<u>The National Health Service Joint Commissioning Committee (Wales) Regulations 2024</u>	2 – "The Welsh Government agrees that including a definition of these bodies would have been more precise, however, in context, the intention and legal effect is clear and correct. We will take the opportunity the	No		Health	Promised but no timeframe specified

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			next time the Regulations are amended to address this issue as necessary." 4 – "The Welsh Government agrees that including a definition of Integrated Care Board may have been more precise, however, in context, the intention and legal effect is clear and correct. We will take the opportunity the next time the Regulations are amended to address this issue as necessary." 5 – "The Welsh Government agrees that the reference to section 11 of the Act				

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			within Schedule 2, in paragraph 6(1)(a) was unnecessary, however, the provision has the correct legal effect. We will take the opportunity the next time the Regulations are amended to address this issue as necessary." 6 - "The Welsh Government agrees with the point raised by the Committee, however, the intention and legal effect is clear and correct. We will take the opportunity the next time the Regulations are amended to address this issue as necessary."				

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9.	457, 20 Feb 2024	<u>The Special Schools Residential Services (Service Providers and Responsible Individuals) (Wales) Regulations 2024</u>	3 – “A small alteration to the wording may assist the reader, but this is not an urgent amendment required to the regulations and will be reviewed at the earliest opportunity to amend. ”	No		Social Services	Promised but no timeframe specified
10.	466, 8 March 2024	<u>The Education (Pupil Exclusions and Appeals) (Pupil Referral Units) (Wales) (Amendment) Regulations 2024</u>	3 – “The Welsh Government acknowledges that there is an error in the Welsh text of the Schedule to the Education (Pupil Exclusions and Appeals) (Maintained Schools) (Wales) Regulations 2003 (“the Maintained School Regulations”). The reporting point does not relate to an error	No	Corrections should have been made by the end of 2024.	Education	Overdue

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			in the Education (Pupil Exclusions and Appeals) (Pupil Referral Units) (Wales) (Amendment) Regulations 2024 ("the 2024 PRU Regulations") but to an error in the Maintained School Regulations. The purpose and effect of the 2024 PRU Regulations is to change the law in relation to PRUs. We will make the necessary amendment to the Maintained Schools Regulations to correct the error the next time those Regulations are amended, which is anticipated to be later this year."				

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11.	470, 11 March 2024	<u>The Home Energy Efficiency Schemes (Wales) (Amendment) Regulations 2024</u>	2 – “We note the merit points concerning regulation 6 of the Regulations and the historical error in regulation 9(1)(a) of the principal Regulations. However, we do not think the current drafting creates any uncertainty or lack of clarity to the reader such that any amendments are required at this stage, but these errors will be corrected the next time the principal Regulations are amended.”	No		Climate Change	Promised but no timeframe specified
12.	489, 29 May 2024	<u>The Education (Co-ordination of School Admission Arrangements and Miscellaneous Amendments)</u>	2 – “The Welsh Government agrees with the reporting point. Whilst we do not consider that the minor error will	Yes <u>SL(6)536</u> , laid 9 Oct 2024		Education	Amending SI laid

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		<u>(Wales) Regulations 2024</u>	mislead anyone the 2024 Regulations will be amended to address the point before the end of the current Senedd Cymru term at the latest and sooner if possible." 6 – "The Welsh Government agrees that a better approach would be to rely on the definition of "working day" in the Legislation (Wales) Act 2019. The 2024 Regulations will be amended to address the point before the end of the current Senedd Cymru term at the latest and sooner if possible." 8 – "The Welsh Government agrees				

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			with the reporting point which arose as a result of reliance on an error on the legal database, Lexis. Whilst we do not consider that the minor error will mislead anyone the 2024 Regulations will be amended to address the point before the end of the current Senedd Cymru term at the latest and sooner if possible."				
			10 – "The Welsh Government agrees with the reporting point. The 2024 Regulations will be amended to address the point before the end of the current Senedd Cymru term at the latest and sooner if possible."				

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			11 – “The Welsh Government agrees with the reporting point. The 2024 Regulations will be amended to address the point before the end of the current Senedd Cymru term at the latest and sooner if possible.” 12 – “The Welsh Government agrees with the reporting point. The 2024 Regulations will be amended to address the point before the end of the current Senedd Cymru term at the latest and sooner if possible.”				
13.			2 – “The Government agrees with the point raised and we will	No	<u>Letter to the Welsh Government</u> , 1 July	Finance	Overdue

	SI number, and date laid	SI title	Relevant reporting points, and Welsh Government response	Amending SI laid?	Notes and relevant correspondence	Welsh Government department / policy area	Status
	493, 11 June 2024	<u>The Procurement (Wales) Regulations 2024</u>	amend this via a statutory instrument that is intended to be made in the Autumn ahead of this regulation coming into force." 6 – "The Government notes the reporting point and whilst we think the intended meaning is clear here, we will look to amend this by adding 'or' via a statutory instrument that is intended to be made in the Autumn ahead of this regulation coming into force, this amendment will be included in that instrument." 7 – "The Government agrees with the reporting point on		2024, and <u>Letter from the Welsh Government</u>, 2 September 2024 2 September letter states "I can confirm this work is being progressed and Regulations to update the names will be laid in September 2024 with the intention that, subject to the will of the Senedd, they will be made in October to commence on 28 October 2024."		

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			regulation 28(2)(e)(vi), we will look to amend this via a further statutory instrument intended to be made in the Autumn ahead of this regulation coming into force. Regulation 41(3) signposts the reader to the provision which requires contracting authorities to publish contracts as modified or modifications in certain cases.” 9 – “The Government agrees the reporting point in respect of regulation 46(3)(b) and (c) and regulation 49, we will look to amend this via a further statutory instrument intended to be made in the Autumn ahead				

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			of these regulations coming into force and these amendments will be included within that instrument."				
14.	503, 26 June 2024	<u>The Cockle Fishing Management and Permitting (Specified Area) (Wales) Order 2024</u>	3 – "In relation to point a), the Welsh Government accepts the point raised and will take steps to correct this. The Welsh Government is satisfied these minor differences do not undermine the legal effect of the instrument. In relation to point b), a line of text has been erroneously omitted from the definition. An amendment will be brought forward to rectify this."	No	The Welsh Government response to the report concluded – "The Welsh Government aim to bring forward legislation which will make the required corrections by Spring 2025." The SI breached the 21 day rule - <u>letter to Llywydd</u>, 26 June 2024	Rural Affairs	Due within next 6 months

	SI number, and date laid	SI title	Relevant reporting points, and Welsh Government response	Amending SI laid?	Notes and relevant correspondence	Welsh Government department / policy area	Status
			5 – “In article 8(3) the intention is to refer to the period of any given permit period and not to the definition of the “single permit period”. The term “permit period” takes its ordinary meaning. The Welsh Government are satisfied no additional definition is required. However, steps will be taken to ensure equivalence between the English and Welsh texts.” 7 – “The Welsh Government agrees with the point raised. An amendment will be brought forward to rectify this.”				

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			10 – “The Welsh Government agrees with the point raised and will take steps to correct this typographical error.”				
			11 – “The Welsh Government agrees with the reporting point and will take steps to address this. “Bernir” is the better term and “barnu” is the glossary term for “deem”.”				
			14 – “The Welsh Government agrees with the reporting point and steps will be taken to correct the omission.”				
			15 – “The Welsh Government agrees with the reporting				

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			point and steps will be taken to remove remaining references to "cockle" from Byelaw 13A of the Byelaws of the former North Western and North Wales Sea Fisheries Committee." 16 – "The Welsh Government agrees with the reporting point and steps will be taken to correct the reference to the Byelaws." 17 – "In relation to article 9(4), the Welsh Government agrees with the reporting point and steps will be taken to replace the verb "will". In relation to article 12(1)(b) and (c), the Welsh				

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			Government agrees with the reporting point and steps will be taken to replace the verb "will". In relation to article 16(2), the Welsh Government agrees with the reporting point and steps will be taken to replace the verb "will". 20 – "As indicated in the Explanatory Memorandum, maps have been made available online. Maps of the individual fisheries are also provided with permit conditions. However, the point is noted and the Welsh Government will consider an				

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			amendment to the Order to add clarity."				
15.	504, 28 June 2024	<u>The National Health Service (General Medical Services Contracts) (Prescription of Drugs Etc.) (Wales) (Amendment) Regulations 2024</u>	2 – "The Welsh Government is grateful to the Committee for raising this point and accepts further clarity is required. We will seek to make the provision clearer at the next available opportunity, and within the next 12 months."	Yes <u>SL(6)542</u> , laid 25 Oct 2024		Health	Amending SI laid
16.	507, 18 July 2024	<u>The Agricultural Tenancies (Requests for Landlord's Consent or Variation of Terms) (Wales) Regulations 2024</u>	3 – "The Welsh Government notes the point raised, but do not consider it to have any practical impact on the operation of the provision or instrument. However, as amending regulations are required to address reporting point 6, we	No	Corrections should have been made by the end of 2024.	Rural Affairs	Overdue

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			will take that opportunity to amend the provision.”				
			5 – “The Welsh Government notes the point raised, but do not consider it to have any practical impact on the operation of the provision or instrument. However, as amending regulations are required to address reporting point 6, we will take that opportunity to amend the provision.”				
			6 – “The Welsh Government notes the point and will amend these Regulations to achieve a consistent reference to a “period of 4 months”. This will				

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			be addressed by amending regulations which we aim to introduce before the end of 2024."				
			7 – "The Welsh Government notes the point raised, but do not consider it to have any practical impact on the operation of the provision or instrument. However, as amending regulations are required to address reporting point 6, we will take that opportunity to amend the provision."				
17.	510, 19 July 2024	<u>The Education (Student Finance) (Miscellaneous Amendments)</u>	1 – "We agree that there is a historical error and an error made by these Regulations that	No	The corrections are not technically overdue, but the same issues were raised during the	Education	Due within next 6 months (but see entry no.3)

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		<u>(Wales) Regulations 2024</u>	require correction and will look to make the necessary amendments in the next appropriate instrument. We anticipate that being in early 2025.” 4 – “We agree that there is a historical error that requires correction and will look to make the necessary amendment in the next appropriate instrument. We anticipate that being in early 2025.”		scrutiny of 431 (see entry no.3 above).		
18.	516, 11 Sept 2024	<u>The Listed Buildings and Conservation Areas (Procedure and Interest Rate)</u>	4, 5, 6 – WG response did not suggest amending the SI, but see correspondence	Yes <u>SL(6)555</u> , laid 29 Nov 2024	<u>Letter to the Welsh Government</u> , 11 October 2024, and <u>Letter from the Welsh</u>	Culture	Amending SI laid

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		<u>(Wales) Regulations 2024</u>			<u>Government</u> , 24 October 2024 24 October letter states “we will address these points in a correcting instrument before the end of the year ”		
19.	517, 11 Sept 2024	<u>The Historic Environment (Wales) Act 2023 (Consequential Provision) (Secondary Legislation) Regulations 2024</u>	1 – “The Welsh Government notes the point and will consider whether to make any change when drafting the amending Regulations referred to in point 6.” 3 – “The Welsh Government accepts the point. It is suitable for a correction slip but given the response to point 6 we will seek to include it in an amending instrument	Yes <u>SL(6)555</u> , laid 29 Nov 2024			Amending SI laid

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			before the end of the year.” 6 – “The Welsh Government accepts the point and will make an amending instrument before the end of the year.” 8 – “The Welsh Government accepts that it would be preferable to maintain the chronological order of the list. But the Welsh Government also notes that the amendment achieves the intended legal effect. Given the response to point 6, we will address the point in an amending instrument before the end of the year.”				

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			9 – “The Welsh Government notes the point. The Welsh Government agrees that it is clear from the context that the intention is to refer to regulation 4(1) to (7) and regulation 5. Given the response to point 6 we will seek to include an amendment in an amending instrument before the end of the year.”				
20.	538, 18 Oct 2024	<u>The Nutrition and Health Claims (Wales) (Amendment) Regulations 2024</u>	The original response from the Welsh Government said correction slips would be sought. 2 – “The Welsh Government agrees that the term “specified provision of the	No	<u>Letter to the Welsh Government</u> , 28 November 2024, and <u>Letter from the Welsh Government</u> , 6 January 2025	Wellbeing	Due within next 6 months

	SI number, and date laid	SI title	Relevant reporting points, and Welsh Government response	Amending SI laid?	Notes and relevant correspondence	Welsh Government department / policy area	Status
			Regulation” in the modified text of the 1990 Act has not been given a meaning. We are investigating with the SI Registrar the possibility of making the change by correction slip. 3 – “The Welsh Government agree that the location of the modification to the 1990 Act is not correctly described and the numbering of “(1B)” should instead refer to “(1A)”. We are investigating with the SI Registrar the possibility of making the change by correction slip. 6 – “The Welsh Government agrees that the modification		The Deputy Minister’s letter of 6 January states that “the Welsh Government will now prepare further amending regulations to be laid early in the new year to correct all three points within one Statutory Instrument to aid in the accessibility of the law”		

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			to section 37(1) inserted by paragraph 5 of the new Schedule in relation to “unauthorised” is incorrect and should instead be “authorised”. We are investigating with the SI Registrar the possibility of making the change by correction slip.”				
21.	544, 8 Nov 2024	<u>The Animal Health (Miscellaneous Fees) (Amendment and Revocation) (Wales) Order 2024</u>	1 – “The Welsh Government accepts that there is an inconsistency between the wording of the entries in Column 1 of Table 1 and will take steps to correct this when the instrument is next amended. However, the Welsh Government is satisfied	No		Rural Affairs	Promised but no timeframe specified

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			that this difference does not undermine the legal effect of the instrument. The wording replicates that of the Animal Gatherings (Fees) (Wales) Order 2018 (the "2018 Order"), which is amended by this instrument. The 2018 Order makes provision for the determination of fees payable to the Welsh Ministers for the issue, amendment or renewal of licences for animal gatherings under the Animal Gatherings (Wales) Order 2010, amongst other provisions. At present, the prescribed fees included in the 2018 Order are scheduled to be				

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			reviewed in 2026. However, in the meantime, should the powers under section 84(1) of the Animal Health Act 1981 be exercised by statutory instrument to prescribe other fees, the Welsh Government will consider amending Column 1 of Table 1 in that earlier instrument, if appropriate."				
22.	NA	Healthy food environment regulations	NA	NA	<u>Latest letter</u>, 1 July 2024 1 July letter states that the Welsh Government intended to lay the Regulations before the end of 2024. "The intention is for there to be a 12-	Health	Overdue

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					month implementation period, which would allow industry the time to make the necessary changes before, subject to Senedd approval, the coming into force of the regulations towards the end of 2025"		