

SL(6)785 – [The Digital Waste Tracking \(Wales\) Regulations 2026](#)

Background and Purpose

These Regulations establish a digital waste tracking system, applicable in Wales, the purpose of which is to track controlled waste. They place mandatory requirements on operators of permitted facilities where controlled waste is received for the recording of information about that waste and the entering of information into the digital system.

Controlled waste is household, industrial or commercial waste and has the meaning given in section 75(4) to (8) of the Environmental Protection Act 1990. Certain waste is excluded from the scope of the Regulations, such as household or other controlled waste deposited at Household Waste Recycling Centres (HWRCs).

Digitally excluded operators of a permitted facility are also exempt from the digital requirements in the Regulations and are instead required to make, keep and, if requested by Natural Resources Wales, provide written records of specified information.

The Explanatory Memorandum (“EM”) explains that, in order to “ensure the effective introduction of the digital system”, all four governments across the UK are planning to implement mandatory requirements in phases. These Regulations are implementing the first phase of the introduction of mandatory digital waste tracking only. In relation to future phases, the EM states:

“A second phase will see the making of a further instrument that will impose mandatory requirements on other waste industry operators once the digital system is sufficiently developed, including commercial waste received at HWRCs. This second phase will see the digital tracking of waste movements from sites where the waste is produced through to waste receiving sites, including while the waste is in transport.”

The Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs, Huw Irranca-Davies MS, issued a [written statement](#) in relation to these Regulations on 3 March 2026.

Procedure

Senedd approval procedure.

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

In regulation 2, in the definition of “*digitally excluded operator number*”, reference is made to the unique identifying number assigned to a digitally excluded operator by Natural Resources Wales under regulation 10(2)(a). However, no regulation 10(2)(a) exists in these Regulations and it appears that this should instead be a reference to regulation 9(2)(a).

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

In regulation 4(6), the term “*digital waste tracking number*” (emphasis added) is used. However, this term is not defined and its use in regulation 4(6) is the only instance of its use in the Regulations. The context suggests that the term “*digital waste record number*” (emphasis added), defined in regulation 2, should have been used instead.

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

Regulation 9(2) imposes a duty on Natural Resources Wales regarding digitally excluded operator numbers. Regulation 9(2) of the English text says that the duty must be complied with “on receiving an application”. Regulation 9(2) of the Welsh text says that the duty must be complied with “ar ôl cael cais”, i.e. “after receiving an application”.

The Welsh Government is asked to explain what it means to comply with a duty “on” receiving an application, and what it means to comply with a duty “after” receiving an application, and whether any unintended consequences arise from the apparent inconsistency between the two languages.

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

In the English text, paragraph 4 of Schedule 1 cross-refers to paragraph 2(1)(d). However, in the Welsh text, paragraph 4 of Schedule 1 cross-refers to paragraph 3(1)(d).

While we note the inconsistency, it is clear from the context that the Welsh text is correct.

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

In the English text, paragraph 12 of Schedule 2 says that, in certain circumstances, Natural Resources Wales **may** decide whether to impose a variable monetary penalty. However, in the Welsh text, paragraph 12 of Schedule 2 says that, in the same circumstances, Natural Resources Wales **must** decide whether to impose a variable monetary penalty.



This appears to be an inconsistency between the English text and the Welsh text.

It also raises a question as to why the wording of paragraph 4(1) of Schedule 2 has not been replicated in paragraph 12(1) of Schedule 2 (or vice versa), given that both paragraphs deal with similar enforcement scenarios albeit in relation to fixed monetary penalties and variable monetary penalties respectively.

Paragraph 12(1) of Schedule 2 is drafted on the basis that Natural Resources Wales may/must decide whether to impose the monetary penalty in the notice of intent, with or without modifications. On the other hand, paragraph 4(1) of Schedule 2 is drafted on the basis that Natural Resources Wales may serve a “final notice” imposing a monetary penalty, without expressly referring to a requirement to make a decision.

The Welsh Government is asked to explain whether, in its view, that difference in drafting is likely to affect the clarity of those enforcement scenarios in paragraphs 4 and 12 of Schedule 2.

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

Paragraphs 2 and 10 of Schedule 2 provide that Natural Resources Wales must serve on a person a “notice of intent” where it proposes to impose a fixed monetary penalty or a variable monetary penalty respectively on that person. Accordingly, a person who has received a notice of intent may discharge liability within 28 days of receiving the notice of intent by paying the amount specified, in accordance with paragraphs 4(1) and 12(1) of Schedule 2.

Paragraphs 2(2) and 10(2) of Schedule 2 set out the information that must be included in a notice of intent proposing to impose a fixed or variable monetary penalty respectively. It is noted that, in those provisions, there is no requirement for a notice of intent to set out how payment may be made, despite the indication in paragraphs 4(1) and 12(1) of Schedule 2 that liability may be discharged by a person through payment.

The Welsh Government is asked to clarify how a person will be made aware of their ability to discharge liability through payment of the specified amount upon receipt of a notice of intent, and the method for making payment, without a requirement in the Regulations for the provision of this information in a notice of intent.

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

Paragraph 15(2) of Schedule 2 states that a person may not be convicted of a related offence (unless the contravention is a continuing act or omission) if they pay a **variable** monetary penalty or discharge liability for a **fixed** monetary penalty within 28 days of the notice of intent being served.



However, as this provision and the other provisions within Part 2 of Schedule 2 relate to variable monetary penalties, it would appear that the reference in paragraph 15(2) to a **fixed** monetary penalty should instead be a reference to a **variable** monetary penalty.

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(i) – that it imposes a charge on the Welsh Consolidated Fund or contains provisions requiring payments to be made to that Fund or any part of the government or to any local or public authority in consideration of any licence or consent or of any services to be rendered, or prescribes the amount of any such charge or payment

Regulation 5 makes provision in relation to the “*digital waste tracking system fee*”. That fee is set at £26 by regulation 5(1).

In accordance with regulation 5(2), the fee is payable to the “designated person” (defined in both regulations 2 and 3(1) as the Welsh Ministers) when the obligation to comply with the specified steps under regulation 4(4) first arises and then annually, on the anniversary of the obligation first arising, for each subsequent year in which the operator of a permitted facility is required to comply with that obligation.

9. Standing Order 21.3(i) – that it imposes a charge on the Welsh Consolidated Fund or contains provisions requiring payments to be made to that Fund or any part of the government or to any local or public authority in consideration of any licence or consent or of any services to be rendered, or prescribes the amount of any such charge or payment

Under Chapter 3 of Part 5 of the Regulations, Natural Resources Wales has the power to impose civil sanctions on persons where it is satisfied that, on the balance of probabilities, a person has contravened a relevant requirement. These sanctions include fixed monetary penalties and variable monetary penalties.

Regulation 21 provides that Natural Resources Wales must pay any penalty it receives under Part 5 into the Welsh Consolidated Fund.

Welsh Government response

A Welsh Government response is required in relation to the technical reporting points only.

Legal Advisers

Legislation, Justice and Constitution Committee

10 March 2026

