

Agenda Supplement – Legislation, Justice and Constitution Committee

Meeting Venue:

Committee Room 2, Senedd

Meeting date: 13 January 2025

Meeting time: 13.30

For further information contact:

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Committee Clerk

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Hybrid – Supplementary Pack

Please note the documents below are in addition to those published in the main Agenda and Reports pack for this Meeting

2 Evidence session with the Counsel General and Minister for Delivery on the Legislation (Procedure, Publication and Repeals) (Wales) Bill

(13.30 – 14.30)

(Pages 1 – 21)

[Legislation \(Procedure, Publication and Repeals\) \(Wales\) Bill, as introduced](#)
[Explanatory Memorandum](#)
[Responses to the Committee's consultation on the Bill](#)

Julie James MS, Counsel General and Minister for Delivery

Dylan Hughes, First Legislative Counsel, Welsh Government

Claire Fife, Policy Advisor to the Counsel General and Head of the Legislative
Codes Office, Welsh Government

Attached Documents:

LJC(6)-02-25 – Paper 3 – Briefing paper

LJC(6)-02-25 – Paper 4 – Legal Advice Note

6 Inter-Institutional Relations Agreement

(14.50 – 14.55)



6.3 Correspondence from the Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs: The Common Organisation of the Markets in Agricultural Products (Marketing Standards and Organic Products) (Transitional Provisions) (Amendment) Regulations 2025

(Pages 22 – 23)

Attached Documents:

LJC(6)-02-25 – Paper 31 – Written Statement by the Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs, 10 January 2025

6.4 Written Statement and correspondence from the Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs: The Official Controls (Plant Health) and Phytosanitary Conditions (Amendment) Regulations 2025

(Pages 24 – 28)

Attached Documents:

LJC(6)-02-25 – Paper 32 – Written Statement by the Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs, 9 January 2025

LJC(6)-02-25 – Paper 33 – Letter from the Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs, 10 January 2025

11 Supplementary Legislative Consent Memoranda on the Water (Special Measures) Bill: Consideration of draft report

(15.25 – 15.55)

(Pages 29 – 74)

Attached Documents:

LJC(6)-02-25 – Paper 23 – Draft report

LJC(6)-02-25 – Paper 34 – Representation of watercourses in Wales

LJC(6)-02-25 – Paper 35 – Legal Advice Note

LJC(6)-02-25 – Paper 36 – Supplementary Legislative Consent Memorandum (Memorandum No. 4) on the Water (Special Measures) Bill

LJC(6)-02-25 – Paper 37 – Supplementary Legislative Consent Memorandum (Memorandum No. 5) on the Water (Special Measures) Bill

13 Subordinate legislation laid in English only

(16.10 – 16.20)

(Pages 75 – 78)

Attached Documents:

LJC(6)-02-25 - Paper 25 - Paper

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WRITTEN STATEMENT BY THE WELSH GOVERNMENT

TITLE	The Common Organisation of the Markets in Agricultural Products (Marketing Standards and Organic Products) (Transitional Provisions) (Amendment) Regulations 2025
DATE	10 January 2025
BY	Huw Irranca-Davies MS, Deputy First Minister and Cabinet Secretary for Climate Change & Rural Affairs

Members of the Senedd will wish to be aware that I am giving consent to the Secretary of State exercising a subordinate legislation-making power in a devolved area in relation to Wales.

Agreement was sought by Baroness Hayman to make a Statutory Instrument (SI) titled The Common Organisation of the Markets in Agricultural Products (Marketing Standards and Organic Products) (Transitional Provisions) (Amendment) Regulations 2025 to apply in relation to Great Britain.

The above titled SI will be made by the Secretary of State in exercise of powers conferred by article 89(a) of Regulation (EU) No 1308/2013 and Section 38(5) of the Agriculture Act 2020 on official controls and other official activities.

The SI amends the below Regulations:

- Retained Council Regulation (EC) No 834/2007 on organic production and labelling of organic products (EUR 2007/834);
- Retained Commission Regulation (EC) No 543/2008 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 as regards the marketing standards for poultry meat (EUR 2008/543);
- Retained Commission Regulation (EC) No 1235/2008 laying down detailed rules for the implementation of Council Regulation (EC) No 834/2007 as regards the arrangements for imports of organic products from third countries (EUR 2008/1235);
- Retained Commission Regulation (EC) No 1295/2008 on the importation of hops from third countries (EUR 2008/1295);

- Retained Regulation (EU) No 1308/2013 of the European Parliament and of the Council establishing a common organisation of the markets in agricultural products (EUR 2013/1308);
- The Hops Certification Regulations 1979, in respect of Great Britain (S.I. 1979/1095).

These regulations expired on 31 January 2025, to allow the extension of the existing transitional provisions for Marketing Standards and Organic Products to 1 February 2027.

The regulations were laid before Parliament on 9 January 2025 to come into force on 1 February 2025.



WRITTEN STATEMENT

BY

THE WELSH GOVERNMENT

TITLE	The Official Controls (Plant Health) and Phytosanitary Conditions (Amendment) Regulations 2025
DATE	09 January 2025
BY	Huw Irranca-Davies MS, Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs

Members of the Senedd will wish to be aware that we are giving consent to the Secretary of State exercising a subordinate legislation-making power in a devolved area in relation to Wales.

Agreement was sought by the Parliamentary Under Secretary of State, Baroness Hayman of Ullock to make the Official Controls (Plant Health) and Phytosanitary Conditions (Amendment) Regulations 2025 ('the Regulations').

The Regulations apply to Wales, England and Scotland. The Regulations are to be made in exercise of powers within Regulation (EU) 2016/2031 ('the Plant Health Regulation') and Regulation (EU) 2017/625 ('the Official Controls Regulation'). In accordance with those Regulations, the Secretary of State approached the Welsh and Scottish Ministers for consent to the application of the Regulations to Wales and Scotland respectively. In accordance with the Official Controls Regulation the Secretary of State has conducted a consultation (a summary of which appears in the Explanatory Memorandum to the Regulations).

The Regulations protect biosecurity and support trade between Great Britain and third countries by introducing or amending protective measures against pests of plants. They also amend certain official control measures to ensure the application of plant health rules and carry out technical updates to legislation.

Part 2 of the Regulations amend the Official Controls Regulation to align goods (specific fruit and vegetables) that are exempt from the requirement for pre-notification with those that are exempt from the requirements for certain official

controls to be performed when those goods are imported into Great Britain from an EU Member State, Liechtenstein or Switzerland. This brings the Official Controls Regulation into line with Commission Implementing Regulation (EU) 2019/2072 ('the Phytosanitary Conditions Regulation').

Part 3 of the Regulations amend Commission Implementing Regulation (EU) 2019/1014 ('the BCP Minimum Requirements Regulation') to define large plants, plant products and other large objects and inserts new Article 6A to provide the additional requirements for unloading areas and inspection areas for those goods. Part 4 of the Regulations contains regulations 5 to 12 and amends the Phytosanitary Conditions Regulation. Regulations 5 and 6 update the list of quarantine pests in Annex 2 and the list of provisional GB quarantine pests in Annex 2A. *Heterobasidion irregulare* is removed from the provisional list and added to the list of quarantine pests. *Diaporthe phaseolorum* var. *sojae* from the category "Bacteria" into the category "Fungi and oomycetes". Various pest names are amended to ensure those pests are identified by their most up to date name.

Regulations 7 and 8 update names of various pests in the list of regulated non-quarantine pests and their respective plants and the list of measures to prevent the presence of regulated non-quarantine pests on specific plants to ensure consistency with internationally recognised names. Regulations 9 and 10 update the names of pests in Annexes 7 and 8 to ensure consistency with internationally recognised names. Regulation 9 also adds a requirement in Annex 7 for certain imported plants for planting to have been grown in a registered place of production. It adds additional requirements to prevent the spread of *Popillia japonica* Newman and permits *Capsicum* plants where they are produced from untested seeds when intended for final users not involved in plant production. The import requirements for Tobacco streak virus black raspberry latent strain, Raspberry leaf curl virus and Cherry rasp leaf virus are clarified. Entries are added regarding products from *Abies* spp. Mill., *Calocedrus decurrens* Torrey, *Juniperus* spp. L., *Larix* spp. Mill., *Picea* spp. Mill., *Pinus* spp. L., *Pseudotsuga menziesii* (Mirbel) Franco.

Regulation 11 updates the lists in Annex 11 in respect of phytosanitary certificate requirements to re-categorise certain fruits and vegetables arriving from the EU and Switzerland and "Pinales" is reclassified as "Pinopsida".

Regulation 12 updates the list of plants, plant products and other objects for which UK Plant passports are required to ensure consistency with the internationally recognised name for conifers.

Part 5 of the Regulations amend the Plant Health (Amendment etc.) (EU Exit) Regulations 2020 in respect of exemptions from the requirement for plant health certification to ensure consistency with the pre-notification requirements following amendments to the Phytosanitary Conditions Regulation and the Official Controls Regulation.

The Regulations are subject to the negative procedure and were laid before the UK Parliament on 8 January 2025. There is no policy divergence between the Welsh and UK Government in this matter and the Regulations amend legislation that was

not made bilingually. The Regulations neither impact on the legislative competence of the Senedd nor the executive competence of the Welsh Ministers.

Although the Welsh Government's general principle is the law relating to devolved matters should be made by the Welsh Ministers, on this occasion, it is considered appropriate for the Regulations to be made by the Secretary of State. The Regulations relate to a devolved area, however, they impact on the biosecurity of Wales, England and Scotland which has traditionally been approached as a joint concern. Plant pests and diseases have no respect for the borders between countries. Much of the Regulations relate to the importation of plants and plant products. Most of these goods which enter Wales come through English ports.

Introducing separate regulations in Wales, England and Scotland may cause an additional burden on the Animal and Plant Health Agency, business, traders and growers. Regulating on a Wales, England and Scotland basis assists those stakeholders who must comply with the requirements within the legislation to maintain our biosecurity.

The Regulations and accompanying Explanatory Memorandum, setting out the detail of the provenance, purpose and effect of the amendments is available here: [The Official Controls \(Plant Health\) and Phytosanitary Conditions \(Amendment\) Regulations 2025](#).

Huw Irranca-Davies AS/MS
Y Dirprwy Brif Weinidog ac Ysgrifennydd y Cabinet dros Newid
Hinsawdd a Materion Gwledig Deputy First Minister and Cabinet
Secretary for Climate Change and Rural Affairs



Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref: MA/HIDCC/10547/24

Mike Hedges MS
Chair
Legislation, Justice and Constitution Committee
Welsh Parliament
Cardiff Bay
Cardiff
CF99 1SN

10 January 2025

Dear Mike,

I refer to my letter to you of 23 December 2024. I wish to inform the Committee I have given my consent to the Secretary of State to make the Official Controls (Plant Health) and Phytosanitary Conditions (Amendment) Regulations 2025 ('the Regulations'). I have laid a Written Statement which can be found [here](#).

The Regulations apply to Wales, England and Scotland. The Regulations are subject to the negative procedure and were laid before Parliament on 8 January 2025 with a commencement date of 30 January 2025.

Although the Welsh Government's general principle is that the law relating to devolved matters should be made by the Welsh Ministers, on this occasion, it is considered appropriate for the Regulations to be made by the Secretary of State. The Regulations relate to a devolved area, however, they impact on the biosecurity of Wales, England and Scotland which has traditionally been approached as a joint concern. Plant pests and diseases have no respect for the borders between countries. Much of the Regulations relate to the importation of plants and plant products. Most of these goods which enter Wales come through English ports. Introducing separate regulations in Wales, England and Scotland may cause an additional burden on the Animal and Plant Health Agency, business, traders and growers. Regulating on a Wales, England and Scotland basis assists those stakeholders who must comply with the requirements within the legislation to maintain our biosecurity.

There is no policy divergence between the Welsh and UK Government in this matter and the Regulations amend legislation that was not made bilingually.

Bae Caerdydd • Cardiff Bay
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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

I have written similarly to Llŷr Gruffyd MS, the Chair of the Climate Change, Environment, and Infrastructure (CCEI) Committee.

Yours sincerely,

A handwritten signature in black ink, consisting of several fluid, overlapping strokes that form a stylized representation of the name 'Huw Irranca Davies'.

Huw Irranca Davies AS/MS

Y Dirprwy Brif Weinidog ac Ysgrifennydd y Cabinet dros Newid Hinsawdd a Materion Gwledig

Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs

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By virtue of paragraph(s) vii of Standing Order 17.42

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**SUPPLEMENTARY LEGISLATIVE CONSENT MEMORANDUM
(MEMORANDUM NO. 4)**

The Water (Special Measures Bill)

1. This Legislative Consent Memorandum (LCM) is laid under Standing Order (“SO”) 29.2. SO29 prescribes that a legislative consent memorandum must be laid, and a legislative consent motion may be tabled, before Senedd Cymru if a UK Parliamentary Bill makes provision in relation to Wales that has regard to devolved matters.
2. The Water (Special Measures) Bill (“the Bill”) was introduced in the UK Parliament, the House of Lords on 4 September 2024. I laid an LCM on 18 September 2024 and Supplementary LCMs on 4 and 27 November 2024.
3. The latest version of the Bill can be found at [Water \(Special Measures\) Bill \[HL\]](#).

Policy Objective(s)

4. The UK government introduced the Water (Special Measures) Bill to strengthen the powers of the regulator and address water pollution issues. The Bill was announced in the King’s Speech on 17 July and reflects the Labour Government’s manifesto commitment on cleaning up our waterways. The Bill is a response to the perceived widespread failures by the water sector in addressing pollution caused by sewage discharges and aging infrastructure. I have agreed that the provisions which relate to the regulation of the water industry should apply to Wales.

Summary of the Bill

5. The Bill is sponsored by the Department for the Environment, Food and Rural Affairs. The key provisions of the Bill cover measures which designed to strengthen the powers of water industry regulators, including Ofwat, Natural Resources Wales (NRW) and the Drinking Water Inspectorate (DWI). The changes implemented by the Bill are made by a combination of freestanding provisions and amendments to the Water Industry Act 1991 and the Water Resources Act 1991, which between them comprise a significant proportion of the existing legislation in respect of water.
6. I agreed, in principle, to extend the provision to Wales and sought powers equivalent to those of the Secretary of State for the Welsh Ministers through the Bill.

Update on position since the publication of the first Legislative Consent Memorandum

7. Regular engagement between the UK and the Welsh Government has been continuing throughout the Parliamentary passage of the Bill, including the amendments at Lords Report Stage.
8. The Welsh Government sought an amendment to extend Clause 2 (Pollution Incident Reduction Plans) to Wales, which was agreed at the Lords Report Stage, together with other government amendments affecting Clauses 2 and 13.

Non-government amendments agreed at Lords Report Stage

9. In addition to the 34 amendments tabled by government, which were all covered in SLCM No.3 and were agreed by the House, two opposition amendments also passed at Report Stage in the House of Lords. The Amendments affect Clause 1 (Rules about remuneration and governance).
10. Amendment 2 (Clause 1)
This amendment requires Ofwat, when exercising the rules making power under Clause 1, to try and do so in such a way as to require a relevant undertaker to report annually to the Authority on actual or planned financial structuring, commercial strategy and debt levels, amongst other finance related matters. The intention of the amendment is likely to be assisting regulators (Ofwat) to understand financial pressures and risks individual water companies are facing, allowing them to put in place early measures of intervention, if needed.
11. Amendment 11 (Clause 1)
Clause 1 amends the Water Industry Act 1991 and specifies additional duties in the new section of 35B on Rules about remuneration and governance under paragraphs 1(5) and 1(6). The amendment was not accompanied by a member's explanatory statement. The likely intention of the clause to be that (a) Ofwat must publish the first rules using the new power within six months of the Bill coming into force (b) when doing so they must pass a copy to the Secretary of State (c) those rules don't come into force until the Secretary of State makes regulations bringing them in and (d) such regulations are subject to the affirmative procedure in Parliament.

Welsh and UK Government views on the need for consent

12. The agreed non-government amendments do not change my view of the requirement for consent for those clauses they amend. This is due to those clauses relating to a devolved matter, namely the water industry.
13. The UK's Government's view is that amendments to Clause 1 require legislative consent from the Senedd. I agree with this assessment.

Reasons for making these provisions for Wales in the Water (Special Measures) Bill

14. The reasoning set out in the previous LCM on this Bill as to why it is appropriate for UK legislation to make provision for Wales in this Bill still stands. I again restate my arguments here for ease of reference.
15. The Bill will bring positive changes and support our overall aim to reduce water pollution in Wales. The Bill legislates on a range of issues and policy matters on which the UK Government and Welsh Government share clear aims and objectives.
16. Water is an inherently cross-border issue, and the issue of environmental impacts of water quality is one we cannot solve alone. Welsh Government has always taken a collaborative approach within Wales to improving water quality and governance in the sector, and this Bill is an opportunity to extend that cooperation cross-border.
17. Some regulations and laws also apply in both England and Wales. A coordinated approach across is essential to ensure regulatory consistency. Some elements of the Bill relate to reserved matters, notably on insolvency, therefore any legislation brought forward by the Senedd would not be as comprehensive as the current proposals.

Financial implications

18. The amendments do not introduce any additional financial obligations for the Welsh Government.

Conclusion

19. In my view it is appropriate to deal with these amendments to this UK Bill via a Legislative Consent Memorandum as the Bill's aims are wholly in line with Welsh Government policy, the matter is an inherently cross-border issue requiring collaboration and coordination between our two Governments.
20. The two amendments detailed were not proposed, developed or supported by Government. They are contrary to the policy objectives of Clause 1 and Amendment 11 and go against our Principles on UK Legislation. Therefore, further engagement is required with UK Government on the development of these amendments. I will provide the Senedd with further updates on the Welsh Government's position in relation to these amendments following that engagement.

Huw Irranca-Davies MS

Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs

December 2024

SUPPLEMENTARY LEGISLATIVE CONSENT MEMORANDUM (MEMORANDUM NO. 5)

The Water (Special Measures Bill)

1. This Legislative Consent Memorandum (LCM) is laid under Standing Order (“SO”) 29.2. SO29 prescribes that a legislative consent memorandum must be laid, and a legislative consent motion may be tabled, before Senedd Cymru if a UK Parliamentary Bill makes provision in relation to Wales that has regard to devolved matters.
2. The Water (Special Measures) Bill (“the Bill”) was introduced in the UK Parliament, the House of Lords on 4 September 2024. I laid an LCM on 18 September 2024 and Supplementary LCMs on 4 and 27 November and 4 December 2024.
3. The latest version of the Bill can be found at [Water \(Special Measures\) Bill \[HL\]](#).

Policy Objective(s)

4. The UK government introduced the Water (Special Measures) Bill to strengthen the powers of the regulator and address water pollution issues. The Bill was announced in the King’s Speech on 17 July and reflects the Labour Government’s manifesto commitment on cleaning up our waterways. The Bill is a response to the perceived widespread failures by the water sector in addressing pollution caused by sewage discharges and aging infrastructure. I have agreed that the provisions which relate to the regulation of the water industry should apply to Wales.

Summary of the Bill

5. The Bill is sponsored by the Department for the Environment, Food and Rural Affairs. The key provisions of the Bill cover measures which designed to strengthen the powers of water industry regulators, including Ofwat, Natural Resources Wales (NRW) and the Drinking Water Inspectorate (DWI). The changes implemented by the Bill are made by a combination of freestanding provisions and amendments to the Water Industry Act 1991 and the Water Resources Act 1991, which between them comprise a significant proportion of the existing legislation in respect of water.
6. I agreed, in principle, to extend the provision to Wales and sought powers equivalent to those of the Secretary of State for the Welsh Ministers through the Bill.

Update on position since the publication of the first Legislative Consent Memorandum

7. Regular engagement between the UK and the Welsh Government has been continuing throughout the Parliamentary passage of the Bill, including the amendments at Committee Stage in the House of Commons.
8. The UK Government has tabled two further amendments at Commons Committee stage to remove clauses added to the Bill during Lords Report stage via opposition vote. This SLCM addresses these UK Government amendments.

Provisions tabled by the UK Government for consideration at House of Commons Committee Stage for which consent is required

9. Amendment 1 affects Clause 1, page 2, leaving out lines 4 to 8. The amendment removes the requirement for rules made by Ofwat under clause 1 to include financial reporting requirements.
10. Amendment 2 affects Clause 1, page 4, line 33, leaving out subsections (5) and (6). The amendment removes the requirement for rules made by Ofwat under clause 1 to be brought into force by statutory instrument.

Welsh and UK Government views on the need for consent

11. The UK Government amendments do not change my view of the requirement for consent for those clauses they amend. This is due to those clauses relating to a devolved matter, namely the water industry.
12. The UK's Government's view is that amendments to Clause 1 require legislative consent from the Senedd. I agree with this assessment.

Reasons for making these provisions for Wales in the Water (Special Measures) Bill

13. The reasoning set out in the previous LCM on this Bill as to why it is appropriate for UK legislation to make provision for Wales in this Bill still stands. I again restate my arguments here for ease of reference.
14. The Bill will bring positive changes and support our overall aim to reduce water pollution in Wales. The Bill legislates on a range of issues and policy matters on which the UK Government and Welsh Government share clear aims and objectives.
15. Water is an inherently cross-border issue, and the issue of environmental impacts of water quality is one we cannot solve alone. Welsh Government has always taken a collaborative approach within Wales to improving water quality and governance in the sector, and this Bill is an opportunity to extend that cooperation cross-border.
16. Some regulations and laws also apply in both England and Wales. A coordinated approach across is essential to ensure regulatory

consistency. Some elements of the Bill relate to reserved matters, notably on insolvency, therefore any legislation brought forward by the Senedd would not be as comprehensive as the current proposals.

Financial implications

17. The amendments do not introduce any additional financial obligations for the Welsh Government.

Conclusion

18. In my view it is appropriate to deal with these amendments to this UK Bill via a Legislative Consent Memorandum as the Bill's aims are wholly in line with Welsh Government policy, the matter is an inherently cross-border issue requiring collaboration and coordination between our two Governments. Therefore, I recommend that the Senedd supports the proposals and gives its consent.

Huw Irranca-Davies MS

Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs

January 2025

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