

Agenda – Legislation, Justice and Constitution Committee

Meeting Venue:	For further information contact:
Video Conference via Zoom	P Gareth Williams
Meeting date: 13 December 2021	Committee Clerk
Meeting time: 13.30	0300 200 6565
	SeneddLJC@senedd.wales

Informal pre-meeting (13.00–13.30)

At its meeting on 6 December 2021 the Committee resolved under Standing Order 17.42(vi) to exclude the public from item 1 of the meeting on 13 December 2021.

1 Welsh Tax Acts etc. (Power to Modify) Bill: Technical briefing from the Welsh Government (subject to the Bill being introduced)

13.30 – 14.15

2 Introductions, apologies and substitutions

14.15

3 Instruments that raise no reporting issues under Standing Order 21.2 or 21.3

14.15 – 14.20

(Page 1)

Attached Documents:

LJC(6)–17–21 – Paper 1 – Statutory instruments with clear reports

Made Negative Resolution Instruments

3.1 SL(6)098 – The Non–Domestic Rating Contributions (Wales) (Amendment) Regulations 2021



[Regulations](#)

[Explanatory Memorandum](#)

4 Instruments that raise issues to be reported to the Senedd under Standing Order 21.2 or 21.3

14.20 – 14.25

Made Negative Resolution Instruments

4.1 SL(6)099 – The Government of Wales Act 2006 (Budget Motions and Designated Bodies) (Amendment) Order 2021

(Pages 2 – 3)

[Regulations](#)

[Explanatory Memorandum](#)

Attached Documents:

LJC(6)-17-21 – Paper 2 – Draft report

4.2 SL(6)103 – The Health Protection (Coronavirus, International Travel) (Wales) (Amendment) (No. 17) Regulations 2021

(Pages 4 – 8)

[Regulations](#)

[Explanatory Memorandum](#)

Attached Documents:

LJC(6)-17-21 – Paper 3 – Draft report

LJC(6)-17-21 – Paper 4 – Letter from Minister for Health and Social Services to the Llywydd, 5 December 2021

Made Affirmative Resolution Instruments

4.3 SL(6)101 – The Health Protection (Coronavirus Restrictions) (No. 5) (Wales) (Amendment) (No. 21) Regulations 2021

(Pages 9 – 12)

[Regulations](#)

[Explanatory Memorandum](#)

Attached Documents:

LJC(6)-17-21 – Paper 5 – Draft report

LJC(6)-17-21 – Paper 6 – Letter from the First Minister to the Llywydd, 2 December 2021

5 Papers to note

14.25 – 14.30

5.1 Correspondence from the Chair of the Finance Committee: Welsh Government Draft Budget 2022–23

(Pages 13 – 15)

Attached Documents:

LJC(6)-17-21 – Paper 7 – Letter from the Chair of the Finance Committee, 7 December 2021

5.2 Correspondence from the Minister for Rural Affairs and North Wales, and Trefnydd: The Sea Fisheries (Amendment etc.) (No. 2) Regulations 2021

(Pages 16 – 17)

Attached Documents:

LJC(6)-17-21 – Paper 8 – Letter from the Minister for Rural Affairs and North Wales, and Trefnydd, 8 December 2021

5.3 Correspondence from the Minister for Climate Change: Pesticides (Revocation) (EU Exit) Regulations 2022

(Pages 18 – 19)

Attached Documents:

LJC(6)-17-21 – Paper 9 – Letter from the Minister for Climate Change, 9 December 2021

5.4 Correspondence from the Minister for Finance and Local Government: Welsh Government response to the Committee's report on the Rating (Coronavirus) and Directors Disqualification (Dissolved Companies) Bill

(Pages 20 – 22)

Attached Documents:

LJC(6)-17-21 – Paper 10 – Letter from the Minister for Finance and Local Government, 9 December 2021

6 Motion under Standing Order 17.42 to resolve to exclude the public from the remainder of the meeting

14.30

7 Supplementary Legislative Consent Memorandum (Memorandum No. 3) on the Leasehold Reform (Ground Rent) Bill

14.30 – 14.40

(Pages 23 – 28)

[Supplementary Legislative Consent Memorandum \(Memorandum No. 3\) – The Leasehold Reform \(Ground Rent\) Bill](#)

[Reports on the Welsh Government’s Legislative Consent Memorandum and Memorandum No.2 on the Leasehold Reform \(Ground Rent\) Bill](#)

Attached Documents:

LJC(6)-17-21 – Paper 11 – Legal advice note

8 Briefing note on international agreements

14.40 – 14.50

(Pages 29 – 31)

Attached Documents:

LJC(6)-17-21 – Paper 12 – Briefing note

9 Common frameworks

14.50 – 15.00

10 Matters related to justice within the Committee’s remit – update

15.00 – 15.10

(Pages 32 – 38)

Attached Documents:

LJC(6)-17-21 – Paper 13 – Briefing

LJC(6)-14-21 – Paper 14 – Written statement from the Counsel General and
Minister for the Constitution, 9 December 2021

Statutory Instruments with Clear Reports 13 December 2021

SL(6)098 – The Non-Domestic Rating Contributions (Wales) (Amendment) Regulations 2021

Procedure: Made Negative

These [Regulations](#) amend the Non-Domestic Rating Contributions (Wales) Regulations 1992 (“the 1992 Regulations”).

Under Part 2 of Schedule 8 to the Local Government Finance Act 1988, billing authorities (in Wales, county and county borough councils) are required to make non-domestic rating contributions to the Welsh Ministers. The 1992 Regulations contain rules for the calculation of those contributions for Welsh billing authorities.

These Regulations substitute a new Schedule 4 (Adult Population Figures) in the 1992 Regulations for calculations relating to financial years beginning on or after 1 April 2022.

Parent Act: Local Government Finance Act 1988

Date Made: 29 November 2021

Date Laid: 30 November 2021

Coming into force date: 31 December 2021



Agenda Item 4.1

SL(6)099 - The Government of Wales Act 2006 (Budget Motions and Designated Bodies) (Amendment) Regulations 2021

Background and Purpose

This [Order](#) amends the Government of Wales Act 2006 (Budget Motions and Designated Bodies) Order 2018 which designates specified bodies in relation to the Welsh Ministers for the purpose of including within a Budget motion the resources expected to be used by those bodies.

This Order inserts thirty eight new bodies into the list of designated bodies contained within the Schedule to the 2018 Order.

Procedure

Negative.

The Order was made by the Welsh Ministers before it was laid before the Senedd. The Senedd can annul the Order within 40 days (excluding any days when the Senedd is: (i) dissolved, or (ii) in recess for more than four days) of the date it was laid before the Senedd.

Technical Scrutiny

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

Merits Scrutiny

One point is 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 Welsh Ministers had a choice of procedure for this instrument pursuant to sections 126A(9) and 126A(10) of the Government of Wales Act 2006 and chose the negative procedure, which appears to be appropriate.

Welsh Government response

A Welsh Government response is not required.

Legal Advisers

Legislation, Justice and Constitution Committee

8 December 2021



Senedd Cymru

Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad

—
Welsh Parliament

Pack Page 2

Legislation, Justice and Constitution Committee

Agenda Item 4.2

SL(6)103 - The Health Protection (Coronavirus, International Travel) (Wales) (Amendment) (No. 17) Regulations 2021

Background and Purpose

[The Health Protection \(Coronavirus, International Travel\) \(Wales\) \(Amendment\) \(No. 17\) Regulations 2021](#) (“the Regulations”) amend the Health Protection (Coronavirus, International Travel) (Wales) Regulations 2020 (“the International Travel Regulations”). The Public Health (Control of Disease) Act 1984, and regulations made under it, provide a legislative framework for health protection in England and Wales, and the Regulations are made in reliance on the powers in sections 45B, and 45P(2) of that Act.

The International Travel Regulations impose requirements on persons entering Wales after having been abroad. Non-exempt persons are prohibited from entering Wales where they have been in a country or territory listed in Schedule 3A (countries and territories subject to additional measures) to the International Travel Regulations within the last 10 days of arrival, pursuant to regulation 12E (additional measures applicable to persons travelling from a country or territory listed in Schedule 3A) of the International Travel Regulations.

Regulation 2 of these Regulations amends Schedule 3A to add Nigeria to the list of countries or territories to which regulation 12E applies.

This will mean that travellers from that destination would not be permitted to enter Wales but must enter through a port of entry in England or Scotland and go into a managed quarantine facility, and must take post-arrival PCR tests on day 2 and day 8.

Procedure

Negative.

The Regulations were made by the Welsh Ministers before they were laid before the Senedd. The Senedd can annul the Regulations within 40 days (excluding any days when the Senedd is: (i) dissolved, or (ii) in recess for more than four days) of the date they were laid before the Senedd.

Technical Scrutiny

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

Merits Scrutiny

The following 3 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

We note the breach of the 21-day rule (i.e. the rule that 21 days should pass between the date a “made negative” instrument is laid before the Senedd and the date the instrument comes into force), and the explanation for the breach provided by Eluned Morgan MS, Minister for Health and Social Services, in a letter to the Llywydd dated 5 December 2021. In particular, we note the following in the letter:

“Not adhering to the 21 day convention allows these Regulations to come into force at the earliest opportunity and continue the four nation approach to international travel; in view of the changing evidence on risk in relation to this disease this is considered necessary and justifiable in this case.”

We note also the following explanation in the Explanatory Memorandum:

“Due to the increasing number of COVID-19 Omicron variant cases being detected in Nigeria, and in view of the volumes of passengers travelling between that country and the UK, these Regulations amend the International Travel Regulations by adding Nigeria to the red list.”

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

We note the Welsh Government’s justification for any potential interference with human rights. In particular, we note the following paragraph in the Explanatory Memorandum:

“The amendments contained in these Regulations do not change the engagement under the International Travel Regulations of individual rights under the Human Rights Act 1998 and the European Convention on Human Rights; the Government considers that they are justified for the purpose of preventing the spreading of infectious diseases and/or the interference is permitted on the basis that it is in pursuit of a legitimate aim, namely of protecting public health, and are proportionate.”

3. 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

We note there has been no formal consultation on these Regulations. In particular, we note the following paragraph in the Explanatory Memorandum:

“Given the serious and imminent threat arising from coronavirus and the need for an urgent public health response, there has been no public consultation in relation to these Regulations.”

Welsh Government response

A Welsh Government response is not required.



Legal Advisers
Legislation, Justice and Constitution Committee
8 December 2021





Elin Jones, MS
Llywydd
Senedd Cymru
Cardiff Bay
CF99 1SN

5 December 2021

Dear Elin

**Health Protection (Coronavirus, International Travel) (Wales) (Amendment)
(No. 17) Regulations 2021**

In accordance with sections 4(1) and 11A(4) of the Statutory Instruments Act 1946 I am notifying you that this Statutory Instrument has not adhered to the 21 day convention and will come into force at 04:00 hours on 6 December 2021, before it can be laid. I intend to lay this and an accompanying Explanatory Memorandum on 7 December.

This statutory instrument amends the Health Protection (Coronavirus, International Travel) (Wales) Regulations 2020, so that Nigeria is added to the 'Red List' of countries.

Not adhering to the 21 day convention allows these Regulations to come into force at the earliest opportunity and continue the four nation approach to international travel; in view of the changing evidence on risk in relation to this disease this is considered necessary and justifiable in this case.

I am copying this letter to the Minister for Rural Affairs and North Wales, and Trefnydd, Huw Irranca-Davies MS, Chair of the Legislation, Justice and Constitution Committee, Siwan Davies, Director of Senedd Business, Sian Wilkins, Head of Chamber and Committee Services and Julian Luke, Head of Policy and Legislation Committee Service.

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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.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'M. E. Morgan'.

Eluned Morgan AS/MS

Y Gweinidog Iechyd a Gwasanaethau Cymdeithasol
Minister for Health and Social Services

SL(6)101 - The Health Protection (Coronavirus Restrictions) (No. 5) (Wales) (Amendment) (No. 21) Regulations

Background and Purpose

These [Regulations](#) are made in response to the threat to public health which is posed by the incidence and spread of COVID-19.

These Regulations make specific provision to respond to the emergence of the Omicron variant of COVID-19, which was designated a variant of concern by the World Health Organisation on 26 November.

These Regulations enable NHS Wales Test, Trace, Protect contact tracers to require people to self-isolate as a result of close contact of a case suspected or confirmed as having the Omicron variant.

The provisions for domestic self-isolation have been updated to reflect the emerging situation and to slow community transmission of the disease. The Regulations reflect changes being introduced by the UK Government for England. The existing provision exempting close contacts from self-isolation providing they have completed a full course of an authorised vaccine, have taken part in a clinical vaccine trial, are medically unable to be vaccinated or are under the age of 18, will not apply if a person is notified that they are a close contact of a suspected or confirmed case of the Omicron variant.

As a result, anyone in Wales who is notified by NHS Test, Trace, Protect (or other specified bodies) that they are a close contact of a suspected or confirmed case of the Omicron variant will be legally required to self isolate regardless of their age or vaccination status.

These Regulations amend The Health Protection (Coronavirus Restrictions) (No. 5) (Wales) Regulations 2020 (the "Principal Regulations"), with effect from the beginning of 3 December 2021, to provide as follows:

- where an adult has been notified that they had close contact with a person who has tested positive for coronavirus which is or may be the Omicron variant, the adult must self-isolate for 10 days (unless regulation 10 of the Principal Regulations apply) regardless of their vaccination status.
- where an adult is notified that a child for whom they are responsible has been a close contact of someone who has tested positive for coronavirus which is or may be the Omicron variant, the child must isolate for 10 days (unless regulation 10 of the Principal Regulations apply).



The Principal Regulations are also being amended to clarify that a “contact tracer” includes Public Health Wales NHS Trust and the Secretary of State so that they may notify people of positive test results.

Procedure

Made Affirmative.

The Regulations were made by the Welsh Ministers before they were laid before the Senedd. The Senedd must approve the Regulations within 28 days (excluding any days when the Senedd is dissolved or in recess for more than four days) of the date they were made for them to continue to have effect.

Technical Scrutiny

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

Merits Scrutiny

The following 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

We note the Welsh Government’s justification for any potential interference with human rights. In particular, we note the following paragraph in the Explanatory Memorandum:

“Whilst the principal Regulations, as amended by these Regulations, engage individual rights under the Human Rights Act 1998 and the European Convention on Human Rights, the Government considers that they are justified for the purpose of preventing the spreading of infectious diseases and/or the interference is permitted on the basis that it is in pursuit of a legitimate aim, namely of protecting public health, and are proportionate.

Article 5 (right to liberty), Article 8 (right to respect for private and family life), Article 9 (freedom of thought, conscience and religion), Article 11 (freedom of assembly and association) and Article 1 of the First Protocol (protection of property) are engaged by the principal Regulations.

Each of these is a qualified right, which permits the Welsh Ministers to interfere with the exercise of the rights if necessary in a democratic society in the interests of public safety or for the protection of health. All such restrictions and requirements must be justified on the basis that they are in pursuit of a legitimate aim, namely of protecting public health, and are proportionate. Any interference with these rights also needs to be balanced with the State’s positive obligations under Article 2 (right to life). The adjustment of the restrictions and requirements under the principal Regulations by these Regulations is a proportionate response to the spread of coronavirus. It balances the need to maintain an appropriate response to the threat posed by coronavirus



against the rights of individuals and businesses, in a manner which remains proportionate to the need to reduce the rate of transmission of the coronavirus, taking into account the scientific evidence.”

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

We note there has been no formal consultation on these Regulations. In particular, we note the following paragraphs in the Explanatory Memorandum:

“Given the serious and imminent threat arising from coronavirus and the need for an urgent public health response, there has been no public consultation in relation to these Regulations.”

3. 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

We note there is no equality impact assessment for these Regulations and ask the Welsh Government to explain what arrangements it has made, in respect of these Regulations, to publish reports of equality impact assessments in accordance with regulation 8(1)(d) of the Equality Act 2010 (Statutory Duties) (Wales) Regulations 2011.

Welsh Government response

A Welsh Government response is required to point 3, above.

Legal Advisers

Legislation, Justice and Constitution Committee

8 December 2021





Elin Jones MS
Llywydd
Senedd Cymru
Cardiff Bay
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CF99 1SN

2 December 2021

Dear Elin,

The Health Protection (Coronavirus Restrictions) (No. 5) (Wales) (Amendment) (No. 21) Regulations 2021

I have today made these Regulations under sections 45C(1) and (3)(c), 45F(2) and 45P(2) of the Public Health (Control of Disease) Act 1984, which come into force at the beginning of 3 December 2021. I attach a copy of the statutory instrument and I intend to lay this and an accompanying Explanatory Memorandum once the statutory instrument has been registered.

In accordance with the procedure set out in section 45R of the Public Health (Control of Disease) Act 1984, this instrument must be approved by the Senedd by 19 January 2022 in order for it to remain in effect. In these circumstances I understand Standing Order 21.4A is relevant and the Business Committee may establish and publish a timetable for the responsible committee or committees to report. It may be helpful to know that I intend to hold the plenary debate for this item of subordinate legislation on 14 December 2021.

I am copying this letter to the Minister for Rural Affairs and North Wales, and Trefnydd, Huw Irranca-Davies MS, Chair of the Legislation, Justice and Constitution Committee, Siwan Davies, Director of Senedd Business, Sian Wilkins, Head of Chamber and Committee Services and Julian Luke, Head of Policy and Legislation Committee Service.

MARK DRAKEFORD

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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.

Chair, Children, Young People, and Education
Committee
Chair, Health and Social Care Committee
Chair, Economy, Trade, and Rural Affairs Committee
Chair, Climate Change, Environment, and
Infrastructure Committee
Chair, Equality and Social Justice Committee
Chair, Culture, Communications, Welsh Language,
Sport, and International Relations Committee
Chair, Local Government and Housing Committee
Chair, Legislation, Justice and Constitution Committee

07 December 2021

Dear Committee Chairs

Welsh Government Draft Budget 2022-23

On 16 July 2021, I wrote to you to share the Finance Committee's thinking in relation to our programme of engagement for the forthcoming Welsh Government's Draft Budget and our approach to scrutiny. I am now writing to provide an update on this work.

Engagement

Between 17 September and 26 November 2021, the Finance Committee undertook a consultation seeking information on the Draft Budget on behalf of all Committees. The consultation responses are available on the Finance Committee webpage.



In addition, a series of focus groups were held to gather the views and experiences of citizens of Wales who are service users within particular fields or impacted directly by draft budget decisions.



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A report summarising the key themes and issues from these focus groups will be available mid-December and the link will be circulated to your Committee clerks.

Budget focus

It is likely that the 2022-23 Draft Budget will continue to be impacted by the recovery from the Covid-19 pandemic. In addition, the Finance Committee has identified a number of areas which we would like to see the focus of scrutiny, these are:

- *how resources should be targeted to support economic recovery and what sectors in particular need to be prioritised;*
- *to what extent alleviating climate change should be prioritised in supporting economic recovery;*
- *how budget allocations support aspirations of the Net Zero Wales plan;*
- *Welsh Government policies to reduce poverty and gender inequality;*
- *approach to preventative spending and how is this represented in resource allocations (preventative spending = spending which focuses on preventing problems and eases future demand on services by intervening early);*
- *sustainability of public services, innovation and service transformation;*
- *how evidence is driving Welsh Government priority setting and budget allocations;*
- *how the Welsh Government should use taxation powers and borrowing;*
- *support for businesses, economic growth and agriculture post-EU transition;*
- *what are the key opportunities for Government investment to support 'building back better' (i.e. supporting an economy and public services that better deliver against the well-being goals in the Well-being of Future Generations Act).*

We hope that the consultation and engagement work will complement and inform the work of policy Committees and I would encourage you to use some of the areas outlined above as the focus for your budget scrutiny.

If you have any questions about any aspect of the Draft Budget process, please feel free to contact me or the Clerk to the Finance Committee, Owain Roberts, 0300 200 6388, seneddfinance@senedd.wales.



Yours sincerely

A handwritten signature in black ink, appearing to read 'Peredur Owen Griffiths', written in a cursive style.

Peredur Owen Griffiths MS
Chair of the Finance Committee

Croesewir gohebiaeth yn Gymraeg neu Saesneg.
We welcome correspondence in Welsh or English.





Llywodraeth Cymru
Welsh Government

Our ref / MA/LG/3874/21

Huw Irranca-Davies, MS
Chair of Legislation, Justice and Constitution Committee

Cc: Counsel General and Minister for the Constitution

08 December 2021

Dear Huw,

The Sea Fisheries (Amendment etc.) (No. 2) Regulations 2021

The above named regulations (the "2021 Regulations") relate to measures which apply to fisheries, fish stocks and technical matters extending beyond the Welsh Zone. In order for them to be effective they need to apply on a UK basis and apply to all vessels operating in UK waters.

In particular the 2021 Regulations:

- Makes amendments to the landing obligations contained in retained EU and the four discard plans which specify exemptions from the landing obligation ("discard exemptions"). The 2021 regulations make amendments to the individual discard exemptions and extends their application from January 2022 for a further three years;
- Extends the application of the Multiannual Programme for the collection and management of fisheries data (Commission Implementing Decision (EU) 2019/909 and Commission Delegated Decision (EU) 2019/910 (as amended in retained EU law)) for a further three years to the end of December 2024;
- Make amendments to provisions regulating seabass fisheries, extending and increasing the level of European seabass which may be caught as bycatch to the Scottish and Northern Irish zones of the British fishery limits. This will allow fish to be landed which were previously wastefully discarded. The mesh size that may be used in static nets to take seabass in the English Channel is also being increased;

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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.

- Revokes the now expired article 12a of the retained Council Regulation (EU) 2020/123 (fixing fishing opportunities in Union and non-Union waters) relating to the closed season for sandeel fishing in UK waters. Management of sandeel fisheries will be exercised by fishing vessel licence conditions in future;
- Updates the UK Illegal, Unreported and Unregulated (IUU) Fishing Vessel List to align with decisions made by Regional Fisheries Management Organisations (RFMOs) of which the UK is now a member as an independent Coastal State.

I am writing to let you know I have given my consent to the Secretary of State to make the 2021 Regulations so the provisions therein apply in Wales. I understand the 2021 Regulations will be laid before the Houses of Parliament on 9 December and the SI will be subject to the negative procedure.

In these circumstances when there is a need to maintain regulatory fisheries frameworks across the UK, it is appropriate I consent to the UK Government legislating on our behalf on the several and wide ranging number of matters traversed by the 2021 Regulations. Should I withhold consent, these matters would need to be made through legislation made by the Welsh Government.

I am copying this letter to the Counsel General and Minister for the Constitution and writing in similar terms to the Chair of the Environment, Trade and Rural Affairs Committee.

Regards,

A handwritten signature in cursive script that reads "Lesley Griffiths". The signature is written in black ink and is positioned below the "Regards," text.

Lesley Griffiths AS/MS
Y Gweinidog Materion Gwledig a Gogledd Cymru, a'r Trefnydd
Minister for Rural Affairs and North Wales, and Trefnydd



Huw Irranca-Davies MS Chair,
Legislation, Justice and Constitution Committee
Senedd Cymru
SeneddLJC@senedd.wales

09 December 2021

Dear Huw,

I am writing to inform the Committee of the intention to consent to the UK Government making and laying the Pesticides (Revocation) (EU Exit) Regulations 2022 by 18 January.

I have received a letter from Victoria Prentis MP, Minister for State for Farming, Fisheries and Food asking for consent in respect of this legislation. This Regulation intersects with devolved policy and will apply to Wales. The provisions could be made by Welsh Ministers in exercise of our own powers. The Regulation will extend to England, Scotland and Wales and a similar request for consent has been sent to Scottish Ministers.

The Regulations will be made in exercise of the powers conferred by section 8(1) of the European Union (Withdrawal) Act 2018 (c. 16) in order to address failures of retained EU law to operate effectively and other deficiencies (in particular under section 8(2)(a)) arising from the withdrawal of the UK from the European Union.

These Regulations revoke redundant retained direct EU legislation which forms part of the plant protection product ("PPP") and maximum residue level ("MRL") regulatory regimes, so that these regimes can continue to operate effectively following the end of the implementation period. The revocations concern direct EU legislation which came into force towards the end of the implementation period (and so was not addressed by the earlier EU Exit SIs) and which is given effect in Great Britain through transitional provisions in the earlier EU Exit SIs and the national statutory registers. As a result, the retained direct EU legislation to be revoked is no longer required.

Although the Welsh Government's general principle is that the law relating to devolved matters should be made and amended in Wales, on this occasion given the policy alignment between all three governments, and the clear advantages given the subject matter of the law relating to England, Scotland and Wales being accessible in a single instrument, I consider that legislating separately for Wales would be neither the most appropriate way to give effect to the necessary changes nor a prudent use of Welsh Government resources given other important priorities.

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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 am copying this letter to Climate Change, Environment, and Infrastructure Committee, SeneddClimate@senedd.wales and Economy, Trade, and Rural Affairs Committee, SeneddEconomy@senedd.wales for their information.

Yours sincerely

A handwritten signature in blue ink that reads "Julie James". The signature is written in a cursive style with a large initial 'J'.

Julie James AS/MS
Y Gweinidog Newid Hinsawdd
Minister for Climate Change



Ein cyf/Our ref: MA/RE/2314/21

Huw Irranca-Davies MS
Chair of the Legislation, Justice and Constitution Committee
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9 December 2021

Dear Huw

The Welsh Government's Legislative Consent Memorandum on the Rating (Coronavirus) and Directors Disqualification (Dissolved Companies) Bill 2021

I am writing in response to your letter of 1 December to provide a formal response to the Legislation, Justice and Constitution Committee's (the Committee) report of 17 November on the Legislative Consent Memorandum for the Rating (Coronavirus) and Directors Disqualification (Dissolved Companies) Bill (the Bill).

I would like to apologise for any lack of clarity that has occurred in the handling of this legislation and I will be correcting the record for 23 November to clarify that the letter issued to the Committee on 20 November related to matters raised in relation to the Valuation for Rating (Wales) (Coronavirus) Regulations 2021 (the Regulations) and that the Committee had not received a formal response to its report on the Legislative Consent Memorandum for the Bill prior to the Plenary debate on the Legislative Consent Motion for the Bill on 23 November. I had intended to respond to issues raised by both the Committee and the Economy, Trade and Rural Affairs Committee in their respective reports by writing to all Members prior to debate as requested. I subsequently wrote to all Members on 22 November clarifying matters raised in both reports and I acknowledge that this did not constitute a formal response to either Committee's report.

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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 and any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

I wrote to all Members on 22 November, prior to the relevant debate, setting out how, when and why requests were made to extend the application of the Bill to Wales. The letter provided details on timings, firstly in relation to announcing our policy intent on 7 July and writing to the UK Government on 27 July, and secondly in making the Regulations which were laid on 1 November. My letter also set out, as far as possible, details of the financial implications of those timings.

Recommendation 1. The Minister should, in advance of the relevant consent motion debate, provide full details to all Senedd Members of how, when and why the Minister requested that the England-only Bill that was introduced to the UK Parliament was amended so that its application was extended to Wales. Such details should include an explanation of the delay between notifying Senedd Members on 7 July of her intention to seek amendments to the Bill and not then formally writing to the UK Government until 27 July.

My letter of 22 November refers.

On 7 July, I announced our plans for MCC Covid-19 appeals, noting that we would seek to include provisions in the Bill and pursue secondary legislation to prospectively prevent appeals whilst the Bill progressed. Following 7 July, my officials liaised with UK Government counterparts to lay foundations for provisions for Wales to be included in the Bill.

I subsequently wrote to the then Secretary of State for Housing, Communities and Local Government on 27 July asking for relevant provisions for Wales to be included in the Bill. A response was received on 3 September from the then Minister for Regional Growth and Local Government, confirming that relevant provisions for Wales would be tabled as an amendment at House of Commons Report Stage on 9 September.

Recommendation 2. The Minister should, in advance of the relevant consent motion debate, provide full details to Senedd Members of the reasons for this delay and any associated adverse impact on Welsh public finances.

As mentioned, I announced the Welsh Government's policy position on 7 July.

In tandem with developing provisions for inclusion in the Bill, the Welsh Government also recognised the need to make regulations to protect public finances while the Bill progressed through the UK Parliament and as a mitigation against the risk of the Bill falling.

While the UK Government did not consult before making its regulations, we considered it appropriate to carry out a technical consultation on our draft regulations. The six-week consultation closed on 27 September, with a summary of consultation responses published on 21 October.

Following the outcome of the consultation, the draft regulations were finalised and laid at the earliest possible date. The Regulations were laid on 1 November, coming into force later that day. From 1 November, the Regulations prevented appeals which sought to rely on Covid-19 related matters. Information is not yet available to illustrate the full effect of the Regulations: this includes data about the risk to Welsh public finances which might have occurred between 25 March, when regulations for England were laid, and 1 November, when the Regulations for Wales were made. However, the Regulations have provided protection against any relevant appeals lodged since 1 November and will continue to do so whilst the Bill progresses through Parliament or in the event the Bill falls.

Further, I note the Committee's remarks in its conclusions about information not included in the Explanatory Memorandum, interaction between the rating systems in Wales and England, and clarity on the approach which would have been taken if it had been possible to make provision in a Welsh Bill.

I am copying this letter to the Paul Davies MS, Chair of the Economy, Trade and Rural Affairs Committee for information, and would be happy to write to him separately should any further clarification be required.

Yours sincerely

A handwritten signature in cursive script that reads "Rebecca".

Rebecca Evans AS/MS

Y Gweinidog Cyllid a Llywodraeth Leol
Minister for Finance and Local Government

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Agenda Item 10

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Llywodraeth Cymru
Welsh Government

WRITTEN STATEMENT BY THE WELSH GOVERNMENT

TITLE **Devolved Tribunals in Wales**

DATE **09 December 2021**

BY **Mick Antoniw MS, Counsel General and Minister for the
Constitution**

I am pleased to confirm that the Law Commission's project to review the law governing the operation of the devolved tribunals in Wales and to make suggestions for reform has culminated in the publication of its report. The report has been laid before the Senedd, and is available at: [Devolved Tribunals in Wales Report](#).

The genesis of the Law Commission's work lay in the piecemeal development of the devolved tribunals in Wales. Each tribunal continues to be governed by the UK wide, England and Wales or Wales only legislation that established it. Moreover, that legislation spans many years and includes that made prior to devolution when tribunals were seen as part of executive rather than judicial functions of the state. Today, we all recognise the importance of the principle of judicial independence in the way in which tribunals operate and we also recognise the integrity of the Welsh Tribunals' judiciary in the exercise of their public responsibilities in Wales.

But because of the disparate statutory framework for tribunals in Wales, the existing rules and procedures for the devolved tribunals are complicated and inconsistent. This remains the case despite the changes made by the Wales Act 2017, which created the role of the President of Welsh Tribunals. There is no doubt, however, that the creation of the office of President and the defining in statute of the Welsh Tribunals marked a step forward towards a modern tribunal system for Wales. That journey now continues with the structural reforms identified by the Law Commission, which provide us with the road map towards building the devolved justice infrastructure of Wales.

The Law Commission's recommendations are far reaching. They include:

- creating a single, unified and coherent system of devolved tribunals, a First-tier Tribunal for Wales, together with an upper appellate body for Wales to provide a uniform route of appeal;

- incorporating the Welsh tribunals with other devolved tribunals in Wales into the First-tier Tribunal and arranged into appropriate chambers;
- extending the supervisory role of the President of Welsh Tribunals to all tribunals within the single system, and conferring a judicial role on the President to sit as a judge in the First-tier Tribunal for Wales and in the appellate body;
- standardising appointments, complaints and disciplinary processes; and
- creating structural independence for the administration of the tribunals in Wales, not only to uphold but to be seen to uphold the principle of judicial independence.

The Welsh Government strongly endorses the fundamental principle of the Law Commission's recommendations for a unified, single structurally independent system of tribunals in Wales. The reforms set out by the Commission provide for the creation of a structure for our tribunals in Wales that is simple, modern and fair. Not only do the Commission's proposals address the shortcomings in the current ad hoc structures in place in Wales, but they future-proof the system of tribunals, enabling new functions to be conferred by future legislation without having to create wholly new bodies and administrative arrangements. In short, the Law Commission's proposals go a long way to creating the capability for Welsh legislation to be enforced through Welsh institutions. In doing so, they chime with the findings of the Commission on Justice in Wales on the importance of building capacity in the justice system in Wales.

I would like to thank the Law Commission team, led by Commissioner Nicholas Paines QC, for the work that it has undertaken. We will now consider the detail of the Law Commission's proposals and engage fully with those stakeholders affected by them as we develop and take forward distinctive Welsh policy for a new, modern tribunal service that will be the cornerstone of our future justice system in Wales.